Mr. Speaker: Do not fees come under clause (2) of article 110? It refers to 'payment of fees for licences or fees for services rendered' (*Interruptions*) If there is a doubt, it is better to have it cleared.

Shri Kanungo: This is done by way of ample precaution

Mr. Speaker: If it is done by way of abundant caution, there is no harm

The question is.

"That the first proviso to Rule 74 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion for reference of the Companies (Amendment) Bill, 1959, to a Joint Committee be suspended"

The motion was adopted.

12.17 hrs.

COMPANIES (AMENDMENT) BILL

The Minister of Commerce (Shri Kanungo): On behalf of Shri Lal Bahadur Shastri, I beg to move

"That the Bill further to amend the Companies Act, 1956, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely — Sardar Hukam Singh, Shri H C Heda, Shri Satyendra Narayan Sinha Pandit Dwarka Nath Tiwary, Shri Shivram Rango Rane, Shri Radhelal Vyas, Shri N R M Swamy, Shri P T Thanu Pillai, Shri M Shankaraiya, Shri Jaganatha Rao, Shri Ajit Singh Sarhadi, Shri Radheshyam Ramkumar Morarka, Shri G D Somani, Shri Feroze Gandhi, Shri C D Pande, Shri Mulchand Dube, Shri Rohanlal Chaturvedi, Shri Arun Chandra Guha, Shrimati Sucheta Kripalani, Shri Narendrabhai Nathwani, Shri K T K Tangamani, Shri S Easwara Iyer, Shri M R Masani, Shri Yadav Narayan Jadhav, Shri Tridib Kumar Chaudhuri, Shri Surendra Mahanty, Shri G K. Manay, Shri Naushir Bharucha, Shri Lal Bahadur Shastri and the Mover,

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make, and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee"

Hon Members are aware that the principal act, namely, the Companies Act, 1956, which the present Bill seeks to amend was debated on the floor of this House at some length and in great detail and passed in November 1955 It was brought into force from the 1st of April 1956 As mentioned in the Statement of Objects and Reasons appended to the present Bill, the Act had barely been in force for 13 months when Government decided to appoint a Committee under the chairmanship of Shri A V Viswanatha Sastri a former Judge of the Madras High Court, to examine the structure of the Act as well as its contents with a view not only to removing its drafting defects and deficiencies, including practical difficulties in its working but also ensuring better fulfilment of the purposes underlying the Act The Committee submitted its report in November 1957 The Report was published and copies of it were made available to Members of both Houses of Parliament

In its Report, the Committee referred to the usual criticisms regarding

the lay-out and draftsmanship of the Act but came to the conclusion that the common impression that the Act was of inordinate length was not quite correct since its size did not appreciably exceed that of the corresponding English Act, 1948, on which it had been largely based. They also observed that although it would perhaps be possible to have a different lay-out of the Act on the basis of a subject-wise arrangement and a regrouping and recasting of its different provisions, this would have necessitated a re-writing of large portions of the Act and a complete re-arrangement of its sections. Well informed opinion expressed before the Committee was, however, almost unanimously against such a drastic or wholesale change After examining representations on this matter by various interests, the Committee expressed it as its considered view that it was too early to change radically either the structure of the Act or the basic policies behind it, particularly as it would cause considerable hardship to the business community and accountants and auditors who had with considerable effort just familiarised themselves with the scheme and the various provisions of the Act. In keeping with the above views, the Committee refrained from recommending changes on matters of major policy because, as they observed, "the decisions embodied in the Act on such matters were taken after great deliberation and very recently and it would be premature to alter such decisions at this stage"

As stated in the Statement of Objects and Reasons, the detailed recommendations of the Committee may be broadly classified in accordance with its terms of reference under the following heads: (i) amendments which seek to overcome practical difficulties by reducing the elements of rigidity in the statute or to ease the application of some of its restrictive provisions; (ii) amendments of a clarificatory nature designed to remove drafting defects and obsourities which had caused difficulties in interpretation; and (iii) amendments considered necessary for plugging loopholes and removing lacunae in the provisions of the Act so as to ensure better fulfilment of the purposes underlying the Act.

The present Bill is largely based on the recommendations of the Committee which have been very carefully considered by Government, and in some particulars modified in the light of the experience of the working of the Act gained in the past three years and partly also considering the views expressed by chambers of commerce and other interested persons.

The Bill consists of 212 clauses of which 208 clauses seek to make some amendments in the substantive part of the Act and the remaining 4 deal with the amendments to Schedules I, VI and VII to the Act and the insertion of a new Schedule IA The Notes on clauses appended to the Bill very well explains the reasons for the proposed amendments.

I may now briefly refer to some of the more important amendments sought to be made by the Bill under the particular classifications I have just referred to. As regards the amendments which are designed to overcome practical difficulties and to remove avoidable rigidity of some of the provisions of the Act, it will be noticed that the objective is sought to be achieved partly by exempting or vesting in the Central Government the power to exempt Chambers of Commerce, Clubs, Charitable Institutions and Nidhis and Benefit Societies from the strict requirements of the Act, in regard to the holding of annual general meetings, elections of directors, the age of directors and other matters of a like nature, *vide* clauses 9, 92 and 195, and partly by relaxing the requirements of law where compliance with its provisions may either, be needlessly difficult or involve labour and expense disproportionate to the results likely to be achieved.

There are a large number of amendments of this latter type included in

[Shri Kanungo]

the Bill, among which may be mentioned those dealt with in clauses 4, 30-35, 51, 107-111, 119, 155 and 196

Clause 4 of the Bill attempts to limit the scope of the present definition of the term 'relative' in section 6 of the Act This term has been used in several other sections of the Act so as to impose certain restrictions on directors, managing agents and secretaries and treasurers with the object of preventing them from conferring any undue advantage on their relatives or taking undue advantage of their position in securing benefits from transactions entered into in the name of their relatives It is appreciated that in many cases it may be inconvenient or even impracticable for a director of a company to ascertain whether one of the enumerated relatives is a partner or managing agent or director in any contracting firm or company with which a genuine transaction may take place in good faith The Committee, therefore, recommended a simpler and narrower definition of the term 'relative' Clause 4 of the Bill accordingly provides a revised definition of the term For the sake of convenience it is also proposed to specify all the relationships in respect of which the restrictions of the Act should be applicable Clause 210 of the Bill accordingly seeks to insert a Schedule of such relationships, Schedule IA

Clauses 30 to 34 of the Bill carry out some amendments to sections 138 to 142 of the Act relating to the registration of charges on the properties of a company and of memoranda of payment or satisfaction of such charges The object underlying these amendments is to dispense with the statutory requirement which section 138 at present imposes, that part satisfaction of charges should be reported by the company to the Registrar within a time limit of twenty-one days, a requirement which had caused some practical difficulties The powers of the Court provided under section 141 are also proposed to be enlarged so that, where through inadvertence or other sufficient reason, a report under section 138 regarding the satisfaction of a charge or the issue of debentures of a series under section 128 has not been filed with the Registrar, the Court may extend the statutory time limit

Section 187 of the present Act empowers a corporation to appoint a representative authorising him to exercise the same rights and powers on behalf of the corporation including the right to vote by proxy as the corporation could exercise as a member, debenture-holder or creditor The proposed amendment in clause 51 seeks to extend the same rights to a representative appointed by the President of India or a Governor of a State in whose name shares are now held in many companies This would remove some practical difficulties which are at present experienced when the President or a Governor is a member of a company

The amendments proposed in clauses 107 to 111 seek to clarify and liberalise the provisions of section 297 to 301 relating to contracts and arrangments entered into by a company with its directors or their relatives or firms and bodies corporate in which they are interested, and the maintenance of a register in which relevant particulars of such contracts etc are to be entered and seek to remove practical difficulties experienced by companies in complying with the provisions of these sections Amendments to section 314 are similarly made by clause 119 with the like object and the changes make the section more effective

Section 411 of the present Act requires the Central Government to consult the Advisory Commission on applications made to it under sections 408 and 409 alleging oppression or mismanagement or share transfers having prejudicial effect on the management of a company The view

has been taken that the section as it is implied at present requires every such application, however frivolous it may be, to be referred to the Commission. This was not the intention of the Legislature when this provision was inserted in the Act and, in any case, it would not be appropriate to refer all applications under these sections to the Advisory Commission without exercising any preliminary scrutiny to decide whether they are of a sufficiently serious character to require reference to the Commission. The Companies Act Amendment Committee preferred to maintain the *status quo* on the ground that until sufficient experience was gained of the actual working of the provisions of these sections, it was premature to amend them. However, in the light of the experience of the cases which have been already dealt with by the Department under these provisions in the past 3 years, it is proposed to omit sections 408 and 409 from the purview of clause (b) of section 411. Clause 155 of the Bill seeks to do this. It may, however, be mentioned that all appropriate cases under sections 408 and 409 would still continue to be referred to the Advisory Commission before final action under clause (c) of section 411.

Special mention may be made of the amendments which clause 179 seeks to carry out in section 530 regarding preferential payments in connection with the winding up of a company. The amendment purports to include compensation payable to workmen under Chapter V(A) of the Industrial Disputes Act, 1947, within the scope of the term 'wages' occurring in clause (b) of sub-section (1) of section 530. The effect would be that when a company is in the process of being wound up, lay-off and retrenchment compensation would rank equally with wages or salary earned by the employees of the company in respect of services rendered by them to the company to the extent specified in that section.

One other amendment of which specific mention may be made in this context is that proposed to be made to section 621 by clause 196 of the Bill. Notwithstanding the provisions of section 247 of the Criminal Procedure Code, Magistrates in several States have been refusing to exercise their discretion in favour of the Registrars of Companies to exempt their personal attendance before the Court. As Registrars do not always have full knowledge of the facts in a prosecution under the Companies Act but have to rely on records maintained in their offices and it is not possible for them to be present personally in every court within their extensive jurisdiction, this amendment seeks to provide that the personal attendance of the Registrar before the Court trying an offence would not be necessary unless the Court, for reasons to be recorded in writing, requires his personal attendance at the trial. This will facilitate the conduct of prosecutions in company cases.

The second category of amendments to which I have referred earlier, namely, those of a procedural or clarificatory nature designed to remove drafting defects and obscurities, represent by far the largest number of amendments included in the present Bill. These do not deal with matters of any high importance and I do not propose to take the time of the House in discussing this class of amendments. I may, however, state that it is proposed to accept most of the recommendations of the Committee in regard to such amendments. The notes on clauses appended to the Bill will explain their nature.

The third category of amendments to which I have referred, comprises those considered necessary for plugging the loopholes and removing lacunae in the the provisions of the Act so as to secure better fulfilment of the underlying purposes. I shall now deal with the more important of such amendments.

Clause 3 of the Bill seeks to make certain amendments to section 4 of the Act and is based on the recommendations of the Companies Act Amendments Committee in para 24 of

[Shri Kanungo]

its report. To avoid discrimination a private company registered in India which is a subsidiary of a foreign public company is now placed on a par with an Indian private company which is a subsidiary of a public company registered in India. To avoid any unnecessary hardship to a company in which there is no Indian shareholding interests, only a private company registered in India which is a wholly owned subsidiary of a public company incorporated outside India is sought to be exempted.

Since under the pattern of the Indian Companies Act, unlike the provisions in the United Kingdom Companies Act, even companies in which the bulk of the shareholding is by other corporate bodies and not by *bona fide* private individuals, are treated as private companies, it was felt that all private companies were not really private in the true sense of this word. A corollary of this view is that there should be some reasonable control over the conversion of public companies into private companies, so called under our Indian law. By an amendment of section 31 of the Act clause 11 of the Bill attempts to lay down that in future any conversion of a public company into a private company would require the prior approval of Government. It is considered desirable to subject any proposal for such conversion to Government's scrutiny so as to ensure that the conversion is not resorted to merely with the object of evading the restrictions placed on the management of public companies.

Similarly, another important recommendation of the Committee contained in paragraph 23 of its report is intended to restrict the privileges and immunities of private companies which are private only in form but are really owned by the public Clause 15 implements this recommendation with slight modification. It provides that where not less than 25 per cent of the paid up share capital of a private company is held by one or more bodies corporate such private company shall in future be treated as a public company for purposes of the Act

It also indicates the steps that should be taken by such a company in regard to the changing of its name and altering of its articles. It is, however, proposed to exempt a private company which is either a wholly-owned subsidiary of another Indian private company or is wholly owned by one or more foreign companies from the operation of this new provision. The first exemption is considered necessary in order to avoid an obvious anomaly. The second exemption is considered necessary in order to avoid any possible discouragement to foreign participation in industrial undertakings in India.

Clause 27 seeks to make some amendments to section 111 of the Act dealing with appeals to the Central Government against a company's refusal to register a transfer or transmission of shares or debentures The proposed amendment is designed (i) to empower the Government to prescribe a fee for an appeal made under this section, (ii) to require the company to disclose reasons for refusing to transfer or transmit shares or debentures even though its articles authorises it not to disclose such reasons, and (iii) to enforce the orders passed by the Central Government in such appeals. It is hoped that these amendments will make the provisions of the section more effective

Clause 62 of the Bill implements the recommendation of the Committee contained in paragraph 86 of its report. It intends to give statutory recognition to the practice or prudent company managements to provide for depreciation before declaration of dividends Opportunity has also been taken to lay down that dividends shall in future be distributed in cash. This is intended to discourage the practice of some comoanies which authorise declaration of dividends in

specie or pass on unmarketable shares held by them in other companies to their shareholders as payments in lieu of dividends.

Clauses 62 to 75 of the Bill are based on the recommendations of the Committee for strengthening the provisions in the Act regarding accounts and audit. They provide in particular for a proper period for preservation of company books, fix the responsibility for their due custody, enjoin that the Board's report shall be fully informative and up-to-date, require even private companies to file profit and loss accounts with the Registrar and make effective provisions for audit of branches.

On the subject of inspection and investigation of the affairs of companies it is proposed to make several amendments in the relevant sections of the Act on the lines suggested by the Committee so as to remove the defects and deficiencies of the present provisions brought to light in the course of working of the Act.

Clause 76 proposes certain amendments to section 234 which *inter alia* empowers the Registrar in the case specified to call for and inspect such books of accounts or documents as he may consider necessary.

Clause 77 lays down that where the Registrar has reason to believe that documents, books and papers relating to any company or its managing agents or secretaries and treasurers or their associates may be destroyed or tampered with, he may obtain the necessary authority from a first class magistrate to enter the premises of the company and seize such books and papers.

Clauses 78 and 79 propose to amend sections 239 and 240 of the Act so as to enlarge the powers of inspectors to enable them to examine the employees of the companies concerned and compel such companies to produce books and papers to him through the processes of the court. Much on the same as in the case of the Registrar, clause 80 seeks to empower the inspector, with permission of a first class magistrate, to enter the premises of the company or companies under his investigation and seize the books and papers whenever it becomes necessary to do so.

It is considered desirable that the Central Government should also have power to effect recovery of the cost of an investigation instituted *suo motu* or of the reports of Registrars from the company or such other party as it thinks fit. Clause 82 seeks to make the necessary amendments in section 245.

On the vexed question of the cornering of shares the Committee has made certain recommendations in paragraphs 99 and 156 of its report with the object of making it more difficult for unscrupulous persons to reap the benefit of cornering. Clause 84 of the Bill is largely based on the Committee's recommendation. It is provided in this clause that when any transfer of shares considered to be undesirable in the public interest is about to take place, the Central Government can prohibit such transfer and where such transfer has already taken place it can direct that the voting power in respect of the shares shall not be exercised for a period not exceeding three years.

In this context, mention may be made of another amendment which, it is hoped, will go some way towards preventing undesirable cornering by one company of shares in another company. By clause 138 of the Bill it is proposed to make some amendments to section 372 of the Act dealing with purchase by one company of shares of other companies in the same group, not only to make the intention behind this section clearer and its provisions more effective, but also to extend the principle underlying it to all investments by the company to which section 372 now applies in the shares of another company, though the two companies may not be in the same group. This will help to counteract the growing

[Shri Kanungo]

evil of the misuse of company funds for inter-company loans and investments which subserve no useful purpose but merely facilitate the building up of a bad or increased concentration of wealth and/or economic power in a few hands.

In regard to the difficult problem of the interlocking of company funds as suggested by the Committee, it is proposed to amend section 370 and close certain loopholes detected in the course of the working of the Act Clause 136 carries out the necessary amendments

Clauses 102 and 103 seek to make certain amendments in sections 292 and 293 of the Act dealing with the exercise of powers by the Board of Directors and restrictions thereon Most of these amendments are on the lines suggested by the Committee and are designed to liberalise the restrictions contained in these sections

Hon Members may, however, like to have their attention drawn to the amendments proposed to be made in sub-section (1) (b) of section 293 and the new sub-sections (6) and (7) proposed to be inserted in the section, which deal with a matter which has been raised in this House on more than one occasion While considering contributions sanctioned by the Board of Directors of a company under this provision, the Companies Act Amendment Committee recommended that every company should be required to disclose all donations made by its directors in the year of account to any political party giving particulars of the amounts donated and the name of the person or association or party to whom or to which such donations are made The relevant part of clause 103 of the Bill implements the Committee's recommendation with the amplification that any donation made for any political purpose to any individual or body should also be disclosed and that these provisions should be extended to all companies.

A large number of amendments, though in the main of a clarificatory nature, are also calculated to plug loopholes in the Act of which managing agents had taken advantage. Thus clause 59 puts an embargo on a company employing more than one type of managerial personnel As the result of the imposition of a ceiling on managing agents' remuneration provided in section 348 of the present Act and the other restrictions imposed by sections 356 to 359 on their functioning as buying or selling agents of companies under their management, soon after the commencement of the new Act, some persons gave up their managing agencies and got themselves appointed as managing directors in order to enable themselves or their erstwhile associates to be appointed as sole selling agents of the same companies on more advantageous terms of remuneration The amendments proposed in clause 104 are designed to regulate the appointment of former managing agents or their associates as sole selling agents for the same companies It is also proposed, on the lines of the Committee's recommendation, to lay down that no sole selling agent should be appointed in future in such industries as may be notified by Government except with Government's approval

Clause 124 seeks to insert a new section providing that no company shall appoint or employ as its managing agent another body corporate which is itself a subsidiary of another body corporate This provision has been considered necessary, since ordinarily a subsidiary is under the control of its holding company and possesses no initiative and freedom in any important matter of policy such as is obviously required of a company which sets out to act as the managing agent of another company So far as the existing managing agents, which are subsidiaries of other companies, are concerned, it is proposed by clause 127 amending section 346 to take power to regulate also any changes in the constitution of the body corporate which is the holding company of the managing agency company.

Another important change which is proposed to be made in regard to the managerial personnel of a company is that dealt with in clause 60 which *inter alia* seeks to provide a definition of the term 'remuneration' in relation to the various sections dealing with remuneration payable to officers in charge of management (*viz.* sections 309, 310, 311, 348, 352, 381 and 387) This definition, together with a provision for amending Schedule VI sought to be made by clause 211(b) (ii), requiring the full disclosure of managerial remuneration including commissions or other benefits, would fill a gap in the scheme of the Act The new sub-section to section 363 included in clause 134 by prohibiting waiver by the company of amounts overdrawn as remuneration by managing agents plugs a loophole Two other amendments, *viz*, those contained in clauses 125 and 126, concerning managing agents are designed to clarify that resignation of office by a managing agent would not absolve him from the liability of his acts of commission or omission during his managing agency and to prevent evasion of restrictions on transfer of his office without the approval of the Central Government, for instance by giving an irrevocable power of attorney to third parties after reserving a portion of the profits

I would also invite attention to a number of changes in the provision of the Act regarding liquidation Briefly they are calculated to enlarge the scope of courts in dealing with liquidation applications (*vide* sections 446,456 and 477), to give *locus standi* to the Registrars to approach the courts in regard to removal or taking action against liquidators in all clauses of liquidation so as to make the control sought to be assumed by Government under section 463 more effective; to make the provisions regarding rendering of accounts by liquidators even in cases of voluntary winding up more strict (*vide* clauses 173 and 184); and, finally, strengthening the provisions for avoiding fraudulent preferences generally on the lines of insolvency law—clause 180.

Experience has shown that in spite of repeated warnings, companies often fail to submit documents in time or delay their submission inordinately Prosecution for this default does not necessarily secure the desired result. On the lines suggested by the Committee, clause 139 seeks to authorise the Registrars to accept documents filed outside the prescribed time-limit on payment of the prescribed fee together with a penal fee If the House accepts the proposed amendment, it is intended that comprehensive administrative instructions will be issued to the field officers on this subject laying down a graduated scale of the penal fee.

Clauses 198 and 200 of the Bill implement two other recommendations of the Amendment Committee, which would go a long way towards ensuring the effective administration of the Act Several sections of the Act impose specific duties on company managements without laying down any sanctions. To ensure due compliance with such provisions of the Act and to strengthen the machinery for its enforcement, it is proposed to lay down (*vide* clause 198) a general provision which would render contravention of or deliberate default in complying with any of its provisions, for which no separate penalty has been prescribed, punishable as an offence. Instead of depending on the State Government prosecutors who are generally very busy officers, it is considered desirable that the Central Government should be able to appoint its own officers for the conduct of prosecutions arising out of the Act and also assume powers to direct or authorise any person to prefer an appeal from an order of acquittal passed by a court of law Clause 200 makes a provision on these lines.

Within the limited time at my disposal, it has not been possible for me to deal with the provisions of the Bill in greater detail, though some of the other amendments are also of

[Shri Kanungo]

some importance and I would have very much liked to touch on them also I have no doubt, however, that the Joint Committee would consider each of the proposed amendments very carefully and suggest such modifications to them as may appear to be necessary.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Companies Act, 1956, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely —Sardar Hukam Singh, Shri H C Heda, Shri Satyendra Narayan Sinha, Pandit Dwarka Nath Tiwary, Shri Shivaram Rango Rane, Shri Radhelal Vyas, Shri N R M Swamy, Shri P T Thanu Pillai, Shri M Shankaraiya, Shri Jaganatha Rao, Shri Ajit Singh Sarhadi, Shri Radheshyam Ramkumar Morarka, Shri G D Somani, Shri Feroze Gandhi, Shri C D Pande, Shri Mulchand Dube, Shri Rohanlal Chaturvedi, Shri Arun Chandra Guha, Shrimati Sucheta Kripalani, Shri Narendrabhai Nathwani, Shri K T K Tangamani Shri S Easwara Iyer, Shri M R Masani, Shri Yadav Narayan Jadhav, Shri Tridib Kumar Chaudhuri, Shri Surendra Mahanty, Shri G K Manay, Shri Naushir Bharucha, Shri Lal Bahadur Shastri and Shri Kanungo and 15 members from Rajya Sabha,

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee,

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make, and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee"

Shri Tangamani (Madurai): I request that copies of the hon. Minister's speech may be circulated to hon Members

Mr. Speaker: For what purpose? Today we are finishing it

Shri Kanungo: We will do it. Is it your desire that it should be distributed to the Members of the Joint Committee or to all the Members of the House?

Mr. Speaker: It will be circulated to the Members of the Joint Committee If any other hon Member wants a copy, he can have it from the Notice Office.

Shri H. N Mukerjee (Calcutta—Central) Mr Speaker, Sir, this Bill is going to a Joint Committee and therefore, it is necessary for me at the present stage to refer only to certain matters of general interest and to express the hope that the Joint Committee will go into the provisions of this measure with the care which is naturally expected of it We had in 1955-56 a voluminous Act, which was described to us as the biggest ever in the history of legislation in this country, with 658 sections and 12 Schedules We have now got the present Bill which has as many as 212 clauses

I remember how it was sought to be pointed out when the Act of 1956 was being discussed that there were many gaping lacunae in the measure in spite of the claim that it was massive and comprehensive The fact that in 1957 the Shastri Committee had to be appointed and the fact again that early in 1959 the Minister has to come before the House with another massive measure indicate

that there is something wrong with our "comprehensive" approaches so far.

I, therefore, welcome this Bill in so far as it is an effort to rectify the defects. But I feel that the very fact of the Minister having to come before Parliament after a very comprehensive piece of legislation—I know he had to come before Parliament because many difficulties cropped up —but that very fact suggests that there are basic maladies which have to be treated radically. But I am afraid that in this measure that radical treatment of basic maladies is still absent

I should like first of all to refer to the fact that Chapter 3 of the 1956 Act, which relates to the manag ng agencies is being sought to be amended not in essentials, not m a radical way but only in so far as certain inessentials are concerned I remember very distinctly that when the Companies Bill was before Parliament last time, it was the managing agency system which was described by speakers from all sides of the House as the villain of the piece. I do not mean to suggest that all managing agents were or are villains. Far from it. But the whole system was rotten and that was the idea which was expressed by all kinds of people. I remember in particular

Mr. Speaker: The hon. Member will please speak a little louder. Hon Members, who are sitting towards the end, are not able to hear him

The Minister of Commerce and Industry (Shri Lal Bahadur Shastri): It is not possible for me also to hear him

Mr. Speaker: He can come to the front.

Shri H. N. Mukerjee.....men from the Congress Party, like Shri Gadgil had expressed the hope that even before.....

Mr. Speaker: He can come to the front bench.

Shri H. N. Mukerjee: I think my voice is loud enough.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Fortunately, today it is subdued.

Shri H. N. Mukerjee: I will speak as loudly as possible.

Mr. Speaker: I would aske for increasing the volume of sound in the House also.

Shri H. N. Mukerjee: I remember distinctly that Shri Gadgil of the Congress Party had expressed the hope that the managing agency system should go altogether even before 1960, which was the target date more or less tentatively suggested in the course of the discussion on the Bill. But I fear that far from going the managing agency system has been given very much more than a breathing time The hon. Minister of Commerce and Industry, Shri Shastri, had told us in Parliament at the conclusion of the debate on the Demands of the Commerce and Industry Ministry that the renewal of managing agency agreements after 1960 would be considered on their merits and while considering the question of renewal it would be necessary to consider a shorter period of reappointment instead of the full term of ten years in every case. He also told us that the remuneration of managing agents need not necessarily be the maximum of ten per cent of net profits in every case. We welcomed that announcement when he made it in this House, but in the meantime, since August 15, 1958, quite a number of fresh managing agency contracts have been proposed to share-holders or concluded for the full term of ten years and at fully ten per cent of the net profits. Now this indicates that Government has not got a very clear idea as to what it should like to do.

In regard to the desirability of having less than ten per cent of the

[Shri H. N. Mukerjee]

net profits as the apportionment of the managing agents I feel that there ought to have been some provision in this amending Bill If it is felt by the Government that this maximum of ten per cent being provided is usually taken advantage of by all managing agencies, all and sundry, if it is the desire of the Government to see to it that the maximum is given only in exceptional cases, then surely some kind of a provision perhaps should have been made. I think the Joint Committee might give some thought to this matter.

I know also and the Ministry knows it very well; we were given a report on the working and administration of the Companies Act where a number of abuses, which had been noticed by the Administration, were given prominence. So, it ought to be very well known to Government that the Company Law Administration that the 1956 Act had devised was intended mainly to curb the powers of managing agents, but it had only a very partial success. It enforced greater publicity and drove the abuses of corporate management underground and they took recourse to subterfuges of different descriptions. Now what is necessary I feel is that these loopholes should be plugged properly and the trouble is that in the meantime a fairly large number of managing agents have resigned and have become selling agents, which in many cases is highly remunerative. It is perhaps always impossible to regulate. I know that in this amending Bill there is a provision that there should be no sole selling agents without Government approval. Now, this is in clause 104. I feel that this is not good enough. In the first place Government approval might be wangled by people who are influential with Government. In the second place no sole selling agents can be appointed, that is to say, more than one sole selling agents might be appointed. This is an occasion for loopholes to creep in. I do hope that something is done in order to plug this particular loophole about selling agents because this is a provision of which, I am sure, the managing agents—the leading elements among the managing agents—are going to take advantage.

I know also that the hon. Minister is very well aware of these deficiencies, but I fear that Government has not any very clear idea of the system which should replace the managing agency system. That is why they are not ready to abolish the managing agency system altogether. Now it may be that there are risks attendant upon the adoption of other systems but I wish the hon Minister as well as the Joint Committee try to examine the question of such developments as inter-company investments and indirect interlocking which, I am told, is going on exceedingly well, as far as big money interests are concerned. So, as far as that goes, I do wish that the hon Minister and the Joint Committee apply their mind very carefully to these matters

We notice that since the 1956 Act nearly all the leading houses have multiplied the number of their managing agency concerns to avoid the legal limitation of ten companies under the same managing agents. Now this is a matter which has also got to be tackled Under different names, under subterfuges of different descriptions—and if the new companies which are managed ostensibly by directors come into the picture and sometimes you cannot identify as to who these people are—the boards may be packed as they occasionally are with courtesy directors or nominees who are really puppets, who are satellites, who are individuals who might have a certain position in society. But that is sought to be exploited by the holders of big money because it is through these people, who wear a mask on behalf of the real controlling interests and who might be put on the boards of directors that such things are done. This is a way of evading the law,

essentially speaking, which also has got to be plugged. I do hope the hon Minister and the Joint Committee will apply their mind to this particular aspect of the matter also

In regard to the Company Law Administration, I feel also that very serious defaults have taken place On this point, serious observations have been made in their comments by our newspapers I am quoting now from the comments, which were made, though some time ago, that is, on December 23, 1957, by the Commercial Editor of the *Hindusthan Standard* At that time it will be recalled that the exploits of the Mundhra group of companies were very much in the picture At that time the Commercial Editor wrote —

"The Mundhra group of companies turned these provisions "

Provisions, specially of section 166 and section 210 of the Companies Act

"The Mundhra group of companies turned these provisions of the Act into a mockery Many a fifteen months has elapsed since the last balance sheet of some of the Mundhra companies was issued Not only that, in the case of Richardson and Cruddas the dividend declared has not yet been paid to the shareholders although section 206 of the Act clearly lays down that dividends declared by the company must be paid within three months Penalty for violation—seven days simple imprisonment and fine"

Now, the point of this was that the Regional Directorate of the Company Law Administration did not move quickly enough This matter has formed the subject matter of investigation later on, but the Mundhras were not the only exception The number of such recalcitrant companies was legion The Commercial Editor of the *Hindusthan Standard* made this further comment —

"In another instance a particular company has not issued any balance sheet since 1952 and meanwhile its funds are being mismanaged and misused for the purchase of directors' residence and so on and so forth"

The complaint is made on several occasions by the Commercial Editor of this newspaper that letters written to the Regional Directorate of the Company Law Administration are not responded to—not even an acknowledgment is sent

13 hrs.

I know things improved a little after the Mundhra phenomena came into the picture and it was elicited by a Question in Parliament on the 24th February last year—Starred Question 444—that in 1956-57 the Company Law Administration launched 572 prosecutions, while during the nine months from the 1st of April 1957 to the 31st December 1957 there were 760 prosecutions So, naturally I must concede there was some improvement But, as a matter of fact, considering the gravity of the problem and the number of instances of mismanagement, which were cropping up, the work of the Company Law Administration, I fear, was not good enough and this is a matter to which, I feel, the Minister in particular should give special attention

These big groups continue to function in our country There is the Birla Group, for example It was told in answer to an Unstarred Question—No 1080 on the 10th March 1958—that the three Birla Managing Agency Companies managed and controlled fifty companies of which twenty were subsidiaries, and according to the latest annual accounts their annual turn-over came to more than Rs 82 crores These companies do tremendous transactions and the way they do these transactions and cheat the country's exchequer of income-tax and sales tax and other things are sometimes exposed

Everybody has heard of the three books the *Mystery of Birla House*—two volumes, and *T T K and Birla*

[Shri H. N. Mukerjee]

House. I know there books are not even permitted to be sold openly in the market Newspapers do not accept advertisements of these books. I have told the Prime Minister about it; I have written to him; he knows about it. He told me he could not do anything about the sale of these books if there are certain interests which prevent the open sale of this kind of book. I remember once having quoted in this House an observation by foreign commentators that if this kind of book was published elsewhere, either the firm which is being maligned allegedly would come forward and sue the writer in a court of law or Government would step in and do something about it. But nothing of the sort is being done on account it is alleged of political influences possessed by certain houses.

This is the sort of thing which goes on. I cannot vouch for the accuracy of all that is said here or anywhere else, unless I have personal information myself, which I have not But I say this kind of thing, this kind of information, is sought to be withheld from the public gaze and the Government is also prevented from taking steps which are necessary to see that the country's exchequer is not cheated of its dues by the activities of certain financial interests operating in this way.

I have noticed in this amending Bill a certain attitude of softness towards foreign companies which I recall are doing very well in our country The flow of foreign business investment in this country has increased very significantly. In June 1948 it was Rs. 288 crores; in December 1953 it was Rs 419 5 crores; in 1955 it was Rs 480 64 crores and I am sure since then the volume of foreign business investment has grown I was reading in the *Reserve Bank of India Bulletin* lately that the return of investments on foreign companies is somewhat higher than the corresponding return of Indian Joint stock companies. And these foreign companies are still allowed to carry on their activities with impunity in so far as the interests of the Indian shareholders, wherever Indian shareholders are permitted to be there, are concerned.

I have just got some information which again has got to be investigated into with regard to the Dunlop Rubber Company, which I am told has got as one of its Indian Directors, as one of its 'mask' directors, a distinguished gentleman, who was at one time an Ambassador of our country and he is paid according to the information I have got a fairly large sum of money and is given a car in Delhi and he operates only in Delhi, while the Dunlop Rubber Company has its headquarters nearabout Calcutta And this takes place because they get this kind of cover And there are Indian shareholders who are hardly in a position to make their voice heard or presence felt, because they bring people from overseas by all kinds of subterfuges and put them on their Board of Directors. I am ready to send on this information I have got to the Minister and wish something is done in regard to these foreign companies who appear to treat our country as dumping ground for their own executives and who appear to continue to enjoy more facilities than they had even at the time when they were masters of India

My hon friend Shri Kanungo has referred in his speech to the change suggested in this amending Bill in regard to the point of contribution of the companies to the political parties And clause 103 is now laying down that donations to political parties, subject to the amplification that any donation made for political purposes to any individual or body should also be disclosed and the provision is extended to all companies.

Now, Sir, I feel that this is not good enough. In this House as well as in the other House, non-official

Bills have been sought to be introduced—my hon. friend Shri Bharucha is here—and it was sought to be put on the statute-book that companies should not be permitted to make their contributions to political parties. This was in pursuance of certain judgments pronounced in the Calcutta High Court as well as in the Bombay High Court and at least in one of those judgments it was said very clearly that from the political or the ethical points of view, it is completely undesirable for people who are in control of large sums of money, especially of public money in the shape of shareholders' money to contribute to the funds of political parties, because if they do naturally being human they expect perhaps some kind of quid pro quo

I remember how the Tata Iron and Steel Company when their report was published, disclosed that in 1957, the year of the General Elections, they had paid Rs. 10,30,000 to the coffers of the Congress Party: Rs. 6,00,000 to the All India Congress Committee; Rs. 3,30,000 to the Bihar Pradesh Congress Committee and Rs. 1,00,000 to the Orissa Pradesh Congress Committee. This was openly disclosed. Now disclosure is not enough. I say this because corporate income controlled by big money, apart from what they choose to pay as individuals, should not be available as political contributions Those who are leaders of big money interests can very well contribute to whichever political party they wish to as individual shareholders. That is a different matter. But these corporate assets which are in the control of a very few individuals,—whatever the ramifications of the Companies Act it cannot control everything as far as these companies are concerned, should not be at the disposal of people who might like to trade in them for purposes of political advancement.

This is a point which I need not labour because so many things have been said about it earlier But I feel the Joint Committee should try and give more attention to this matter and look up the proceedings in this House as well as in the other House regarding the non-official demand to abolish the very idea of Companies' contribution to political parties and then come to a mature judgment which we shall be later in a position to examine in this House.

I feel, therefore, that there are many lacunae in this Act and they have to be looked into and a lot more carefully than has been done so far.

I only want to refer to another point and with that I shall try to conclude. That is the myth which is sedulously circulated that there is hardly any such thing as big business in our country, that small shareholders abound everywhere and therefore we should not talk about this big money interest and all the rest of it. I remember having been told at some time that nearly half the Tata Iron and Steel Company's shareholders had holdings of less than one thousand rupees each. This kind of argument is flung in our fact to show that very small people are concerned in these companies and therefore we should treat them in a very lenient fashion Sir, I have every sympathy with the small shareholder whose interests generally go by the wall. But even so, taking the overall interests of the country I should say that these shareholders comprise a very infinitesimal proportion of our population. Even in America, I was looking up some literature on the subject and I found that an American sociologist, Wright Mills, has estimated that 98·6 per cent of all the American workers do not own any shares. More than 90 per cent of the American population own on shares at all. And I tried to make some very rough calculation, and that is this. We have about forty crores in our country. I do not think the total number of shareholders would come to more than 4,00,000 which is about ·1 per cent—it might be a little more or a little less, but it is not very much more or less than 1 per

[Shri H. N. Mukerjee]

cent. There is talk about the interest of the small shareholder. I have every sympathy with it, but too much should not be made of it. Actually, these small shareholders are more or less victimised by the other people, the bigger people who control everything as far as the set-up of the company is concerned. And therefore I feel that this argument regarding small shareholders being in a majority in our country should not be brought forward in order to have very lenient treatment as far as the administration of companies is concerned. On the contrary, we have to have very strong, strict control of the administration and in regard to such things as the managing agency system.

I would say again that the desire of the country, the desire of the House as far as we could ascertain it last time was that as soon as ever it is possible we should do away with the managing agency system altogether. But Government does not seem to have given a thought to it, because Government does not know what alternative apparatus can or ought to be put up in the place of the managing agency system. And therefore Government is trying to control the selling agency business and so on and so forth. But that is by no means sufficient, and therefore, I do wish more thought is given to it. Anyhow, it is a very imperfect world, and the Government lacks courage and the imaginative approach which alone can bring nearer a socialist pattern of society. And therefore, we cannot expect a real basic, radical measure.

In so far as this measure seeks to rectify certain defects it is certainly welcome. But I do wish it had gone a great deal farther than it has done so far. And that is why I say that the Joint Committee should take its job a little more seriously and produce something which would be a very much changed edition of the amending Bill which the Minister has just propounded.

Mr. Speaker: Shri Damani. I will call Shri Jhunjhunwala next and then Shri Bhattacharyya and Shri Barman, one after the other. Hon. Members may take fifteen minutes each.

Shri Damani (Jalore): Sir, the Company Law Amendment Bill, 1959 has chiefly been based on the recommendations made by the Sastri Committee. There are many important amendments proposed in the Bill. Some are for clarifying and for removing the defects in the parent Act; some are for removing the difficulties in the parent Act; and some are for tightening up the Company Law.

In doing so it would be observed that the Companies Act has become more difficult with respect to some clauses. Therefore I would like to suggest that the Joint Committee should consider some of the clauses which will create more difficulties in the way of the smooth working of companies.

If we go through the 210 amendments proposed in the Bill, we can see two points there: one, distrust of the management and, second, more emphasis has been paid on safeguarding the interests of shareholders.

As regards safeguarding the interests of shareholders, there would be no two opinions. It is the duty of the management as well as the Government to do the utmost to safeguard the interests of the shareholders. But we have, while doing this duty, to keep in mind that we do not make these laws so difficult that the smooth running of the companies becomes difficult.

We should also keep in mind that the growth of the corporate enterprise is not checked, because the corporate sector has done much to develop the industries in this country, and we should provide for sufficient smoothness in the law that it can develop.

I feel the Joint Committee should consider all this, particularly, how far it will affect the smooth working of companies, how far it will affect the development of business in corporate enterprise, how far it will encourage formation of companies, how far it will safeguard and protect the interests of shareholders, and how far it will contribute to the country's all-round development programmes. These are factors to which more importance should be given, and they are vital matters, so that the progress of the corporate sector is not withheld due to difficult laws.

Clause 15 proposes to insert a new section, 43A, which says that private companies which employ public money up to an appreciable extent, that is, in which shares up to 25 per cent of the paid-up capital are held by public or private companies, will be treated as public companies. If 25 per cent of the shares is held by a private company, then it will be treated as a private company. But if in that 25 per cent, 23 per cent is held by a private company and 2 per cent is held by a public company (making it 25 per cent), in that case that private company turns itself into a public company. That will create difficulties, because a small fraction will turn a private company into a public company. I therefore want to suggest that a proper percentage of the capital held by a public company in the private company should be mentioned, so that, according to that percentage, if the capital is being held by a public company, in that case it can be taken as a public company. It should not be that the combined capital of the private company and the public company makes a private company into a public company.

In regard to the conversion of public companies into private companies, it is proposed that the sanction of the Central Government will be necessary for the conversion of a public company into a private company. If we look into the Second Report on the working and administration of the Companies Act, 1956, for 1957-58, we will find that conversion during that year was 54, as against 227 in 1956-57. Further, the fact is that a number of companies that were so converted were originally private companies, most of them, or were *de facto* private companies. Subsequently they changed, due to the strict restrictions imposed on the public companies. Now we have tightened up the restrictions on the private companies also. Therefore, I do not think it necessary that Government sanction should be required for such conversion of public company into a private company, because, most of the rules are similar, and the rules that are applied to private companies are those which are applied to public companies and in the past, very few companies had done like this. I think the Joint Committee will go into this question.

I want to say a few words about the powers given o the Registrar. Under the proposed amendments, the Registrar has been given wide powers. Clause 64 empowers the Registrar to inspect books of companies for eight years which shall have to be preserved. I do not think such wide powers should be given to the Registrar. Because, when the account books of the company are audited by the auditors and then, the Income-tax department and other tax authorities examine them and make assessments, after all these inspections and assessments to require that the account books should be maintained for a long period of 8 years, I think, is not justifiable. I think some suitable adjustment is necessary. Otherwise, it will create many difficulties and harassment to the companies.

The Registrar has also been empowered to call for any books of accounts he might require in connection with a complaint lodged before him and seize the documents, books, papers with the previous permission of a magistrate. This power and au-

[Shri Damani]

thority is capable of being misused. I think the Joint Committee will also go into this matter and see that some more leniency is shown.

In the case of investigation by a Registrar, the expenses incurred by the Registrar are to be recovered from the company whether the complaints against the company are proved or not, and these expenses can be recovered as arrears of land revenue. I think that such drastic measures will create more harassment in the corporate sector. The expenses incurred by the Registrar can only be recovered if they find some defects in the books, papers and documents. In that case, the expenses can be recovered. If they do not find anything, why should the companies asked to pay the expenses? This should be considered; I hoped the Joint Committee will consider this aspect.

Regarding managing agency, many rules and regulations have been made and many laws have been tightened. Also regarding managing agency commissions, some alterations and suggestions have been made. Beyond that, I think the Government has not taken into consideration the most important thing and if they had taken that into consideration, that would avoid much of the difficulties. I want to suggest that a maximum limit of investment of the managing agency in the concern they manage should be fixed. In a concern that a managing agency manages, what should be their capital investment in that concern: that should be clarified. If it is clarified, many of the provisions will be not required, because, his own investment will be there and in that case, he will try to safeguard his investment to the best of his ability and that would help in many ways. I think the Government and the hon. Minister will consider this suggestion that a minimum or maximum limit for such investment should be provided.

An Hon. Member: Maximum?

Shri Damani: I mean minimum limit.

One amendment regarding loans to managing agents and their associates is contained in clause 135. Here, you find the word 'indirectly'. In this connection, I would submit that this word 'indirectly' should be clarified. Because, it is capable of being stretched by imagination. From this, many kinds of difficulties would arise. Therefore, I suggest that an explanation should be added as to how far this word 'indirectly' shall be streched.

13.26 hrs.

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

One thing we have to keep in mind. In business, money circulation is the most important thing. If, for the sake of the benefit of the concern, some advances are made to associate concerns, for development of business, such strict rules and regulations should not be framed because, business is business and everything cannot be done by law. We must consider the genuineness of the management, the persons who are handling the concerns.

One thing is surprising about the appointment of a manager. One amendment has been made in clause 147 which seeks to make the appointment of the manager subject to the Government approval. This is a most amazing amendment. Managers are appointed. According to this, the managers are placed on an equal basis with the managing director or whole-time director. I think the managers are only to help the managing directors or managing agents or whole-time directors. If the work of the managers is not liked by the managing directors, they can be replaced, or the managers can quit their office and join other concerns. There is no law for that. In that case, to

ask for the permission of Government or approval will be difficult. I do not think it is going to help. It will create so many difficulties. Therefore, I request that this should be considered and I hope the Joint Committee will consider this suggestion very seriously. Otherwise, it is going to affect very hardly.

Regarding Board meetings, I think this provision tightens the present section 285 and further sanction for exemption from the Central Government may cause delay. In view of the tightening of the definition of private companies and considering that true private companies are nothing but glorified partnerships or family concerns, to ask them to have compulsory board meetings at certain intervals will be very hard. If they have not got any business, why should they be asked to hold a board meeting and incur unnecessary expenditure? Therefore, I suggest that power should be given to the Registrar so that he can waive such rules and instead of asking the Government, the Registrar can deal with such matters in case of public companies.

It is proposed under clause 84 of the amending Bill to render cornering of shares by unscrupulous persons more difficult, and Government are seeking to take power in their own hands to restrict voting rights relating to any transfer of shares, should they consider such a step necessary in the public interest. It is provided that Government can direct that voting rights in respect of such shares shall not be exercisable by the transferee of those shares or any persons claiming through them such right, for such period as will not exceed three years.

In this connection, I want to point out that the relationship between the shareholders and a company is voluntary. During the last two years, only two or three applications were made under sections 408 and 409. So, I would say that sections 408 and 409 are quite sufficient to safeguard the interests of the company or of the managing agents. The proposed amendment will only create difficulties and will not be helpful either to the shareholders or to the managing agents. Therefore, I suggest that this matter should be considered carefully and some improvement should be made.

I am glad that opportunity has been taken to proposed changes aimed at overcoming difficulties expreienced by companies, and simplifying other provisions so that they are clearer and more helpful. The simplification of the definition of 'managing director' will remove difficulties experienced by many companies, especially banks.

In section 303 also, some most desirable changes have been made. Now, only the company in which changes in managerial personnel take place need notify the registrar, and not the other companies. That will avoid unnecessary botheration and also duplication.

Clause 119 removes the hardships under section 314, experienced by directors who lost their directorship if their relatives were appointed to an office of profit for any petty salary without special resolution. Up to a salary of Rs. 500 p.m. such appointments will not require any special resolution. This will facilitate the working of the companies, and no unnecessary difficulties will crop up in the future.

By another provision in clause 128 it is proposed to plug important loopholes by means of which managing agents could evade the restrictions as to the limit of remuneration. This is also desirable, and it will help the shareholders and the companies.

Further, clause 62 makes a very important amendment, and it says that it shall be obligatory for the company to provide for depreciation before declaring dividends which shall always be in cash. Normally speaking, this is a very sound one, since

[Shri Damani]

it involves only normal depreciation and not accumulated depreciation as provided under section 350 But in special cases there should be a saving clause whereby under certain circumstances this should be permitted

Lastly, I must add that this is a very important piece of legislation and must not be put through in great haste I hope the Joint Committee would consider all the points threadbare and suggest suitable improvements that may be necessary for the development of the corporate sector and for national industrial development

Shri Jhunjhunwala (Bhagalpur) As my hon friend Shri H N Mukerjee has pointed out, only three years before, we had an Act of 658 sections Now, we have before us another Bill, which will, of course, be enacted of about 212 clauses It is really surprising how within a period of two years Government have found it necessary to bring forward such a big Bill again after finding so many loopholes in the working of the parent Act

I have gone through the Bill, and I find that there are many salutary provisions There is a provision regarding the selling agency, which says that one cannot get the sole selling agency But have Government realised in what way this provision can be circumvented, and have Government been able to check any evasion in this regard in the past?

Sir, this Bill reflects a great deal on the administration If the administration had been all right, if the administration had been properly tightened I do not think there would have been any necessity to bring forward such a big Bill and in such a short time Now that this Bill has been brought forward, it means that the administration has not been able to create any impression on the wrong-doers The administration has totally failed to create any impression on them whereby they will be afraid of doing any mischief On the other hand, I find that the way in which the Act is administered makes the wrong-doer further emboldened to indulge in more and more wrong and anti-social activities I do not want to dilate on this aspect I am just giving a hint, and it is for the Joint Committee to ponder over it and find out why it has become necessary to bring forward a big Bill of this nature It will be more useful for the proper administration of the Act and for bringing about a socialistic pattern of society, to tighten the administration and find out the loopholes in the administration rather than to find out loopholes in the law here and there If only the administration can create an impression on the wrong-doers and the anti-social people indulging in anti-social activities the administration can do better

This Bill has two aspects One is that wealth should not be concentrated in a few hands Government with the aid of this company law are trying to check that and thereby bring about a socialistic pattern of society I would say that Government have totally failed in this I find that the hon Minister is taking notes since I have said that Government have totally failed, of course, he will reply later on and say that Government have not failed that they have prosecuted this person, that person and so on and that so many other things have been done But the criterion or the test is what effect it has produced, and actually into whose pockets the money has accumulated

There were several provisions regarding selling agency But can Government tell me whether they have been successful in checking any malpractices in this regard in the past?

Then, again, a definition of 'relatives' has been given, and so many

restrictions have been put on the appointment of relatives, the terms and conditions of service of the relatives and so on. But Government have to find out how these things have been circumvented

There was one point which was brought out very strongly last time, and that was that there should be at least a representative of the minority shareholders in the board of directors Of course, the voice of the majority will prevail and should prevail, I do not say that it should not prevail At the same time, I also believe in the principle that there should not be any interference in the management of a company or a business firm The moment there is undue interference, unnecessary interference, the business cannot run I believe in this principle But, in view of the way in which the management is being carried on to the prejudice of society and to the prejudice of the shareholders, it is very necessary that there should be a representative of the minority shareholders on the Board of Directors, so that at least there will be a check and they will be able to bring to the notice of the Government the things that are happening

There is a very salutary provision which is being introduced in this Bill, that in the annual report only the speech of the Chairman of the Board should not be advertised, but the other discussions that take place at the annual general meeting should also find a place

I said just now that Government should find out a way so that there can be representation for the minority shareholders They should not interfere to the prejudice of the working of the compay, but certainly they should put their point of view before the Board of Directors, and their views should be properly incorporated in the proceedings, so that when the time comes Government can see when the company has done wrong, or the minority shareholders

I was referring to companies being administered to the prejudice of minority shareholders or against the interests of the socialist pattern of society Many a time the company law administration says that the management has gone to the court, the books are not shown to them, they are not allowed to inspect the books of the subsidiary companies where there are many loopholes, and that they can do nothing I do not want to quote instances, but I have found one gentleman saying "What can I do, when the people sitting in my department in Bombay or Calcutta do not even care to reply to my letters and do not care to carry out my instructions?" Similarly, people in Bombay say "What can we do? We are doing our best here We are putting in all labour possible here but the people sitting in Delhi are simply bossing over us and do not do the real thing" That is the state of the administration

As I have said, there are many salutary provisions brought into this Bill, for instance regarding the issue of duplicate certificates, giving dividends within a prescribed period, in cash providing for depreciation before declaring dividend etc All these things are there, but, as I have said, unless the administration is tightened up, and unless the companies are made to feel that they have to comply with the law though you may have an Act with thousands of sections, it will not help the situation

I do not want to go into details My hon friend, Shri Damani, was saying that there is a provision for recovering the money from the companies, but I say there should be a stricter provision There are several sections under which if a company does not supply the shareholders the required information or the required documents, does not give them inspection within a particular time, does not even send them the dividend warrants, does not even send them notice of a meeting, there are penalties of Rs 50 per day, Rs 100 per day or Rs 1,000 in a lumpsum as the case

[Shri Jhunjhunwala]

may be All these things are there, but what is to be done for realising them, for getting the companies penalised for such wrongs?

A shareholder holding Rs. 10,000 worth of shares has to run to Bombay or Calcutta wherever the Company's registered office is and file a petition there, if the company is in Bombay, saying that the company has not supplied him the required information or document, and that it should be punished under the particular section I would ask the hon Minister if it is possible for the shareholder to do that. If he approaches the company law administration, it does help him in some cases, but in cases particularly where the shareholder is poor, they say that he has got the right, and he can go to court Is it possible for him to go to court and get the company fined? It is impossible I would suggest for the consideration of the Joint Committee that the Registrar or the central administration here should be empowered to impose a fine and realise it from the company If the company or the managing agent has got any grievance against the decision of the Registrar, they can go to court and say that they have been wrongly fined If the court upsets the order, it is all right But my submission is that the shareholders should no be asked to go to court to start with since they cannot do it

There is a very beautiful provision here Whatever wrong the managing agent or an officer of the company may do, the company's funds are utilised for defending him, if any shareholder or the Government brings any case against him The interests of the company in many cases are quite different from those of the managing agent. The interest of the company is the interest of the shareholders But there for defending a wrong-doer you are utilising the money of the shareholders. Why? If a shareholder fights, he has to find money for himself The company does not come to his help But here the other party, the M.A etc, is wasting the money of the company and goes on fighting from court to court up to the Supreme Court. I would like the Joint Committee to give its thought to this matter properly and see that a company's fund is not utilised for that purpose Provision should be made to the effect that if a particular person or managing agent is found guilty and if it is found that it was done not in the interest of the company but for the benefit of the managing agent, he should be held responsible for it and the company's fund should not be utilised for that purpose These two points are very important and I can say that if they are attended to, it will help a great deal in better administration and in bringing offenders to book

I have already said that I do not want to dilate on the different clauses at this juncture I shall do so when the Bill comes back from the Joint Committee But I have made some general observations and I would request the Joint Committee to find out where the mistake lies, what is it that has led Government to come with such a long Bill again, whether the defect lies in the administration or somewhere else

With these words, I support the Bill and the Motion for referring it to the Joint Committee in the hope that they will take note of the suggestions I have made

Shri Aurobindo Ghosal (Uluberia): The Companies (Amendment) Bill is mainly drafted on the suggestions of the Companies Act Amendment Committee under the chairmanship of Shri Viswanatha Sastri Out of 210 clauses of this amending Bill, the majority relate to procedural changes covering a very wide range. The provisions generally aim at the prevention of cornering of shares and inter-locking of companies. The important amendments relate to ensuring a more effective regulation of the managing agency system and enforcing effective com-

pliance with the provisions of the Companies Act by public and private limited companies.

Previously due to bad drafting and ambiguity in the use of words, interpretation used to vary from court to court and the offenders also used to get cover under this confusion. Public companies used to be converted into private companies in order to avoid the restrictions and limitations imposed on public companies. Duplicate shares used to be issued unscrupulously. This has come out very prominently in the Mundhra case.

Now, I am glad to find that under the provisions of the Bill, the approval of the Central Government will be necessary before this conversion. But I would have been more glad if the amendment suggested by the Companies Act Amendment Committee had been accepted in this Bill. I would draw the attention of the Joint Committee to the recommendation of this Committee on page 20 of their Report. They suggest the inclusion of a proviso to section 3(I)(iv) as under:

> "Provided, however, that any private company in which shares to the extent of 25 per cent. or more of the paid up capital are held by one or more companies, public or private, shall be deemed to be a public company."

It is provided that the permission of the Central Government should be obtained before converting a public company into a private company, but the specific amendment suggested by this amending Committee has not been accepted. I would like to draw the attention of the Joint Committee to this. More than 80 per cent. of the capital of limited companies are held by middle class people. Sometimes dividends used to be given for pampering the shareholders. Profits used to be liquidated by the item of depreciation, at the cost of shareholders. Now, it is well that an obligation has been imposed on the company managements to provide for depreciation before the declaration of dividends. Further, dividends shall have to be paid in cash instead of in the shape of shares of other companies owned by the management. In addition, the date for payment of dividend has also been fixed. The practice of deferring the annual general meeting was generally resorted to by all sorts of companies, big and small, on different pleas. On this ground, several hundred cases were filed, as we find from the Report of the Department of Company Law Administration.

I am glad that in this Bill, the liability of holding annual general meeting has further been tightened. Another prevalent *vice* relates to drawal of remuneration in excess of the limits prescribed by the directors. This has been stopped by inserting provisions for taking action.

As regards the system of managing agency, I would have been more glad if the system had been abolished. But still, under this Bill the system has been tried to be modified or tightened. The Bill debars a person holding the office of managing director or a public or private company from holding a similar office in another company simultaneously. Managing agents have been stopped from charging any commission from the company under their management on sales made to it by other companies under their managing agency. The appointment of firms or corporate bodies as managers has been prohibited even in the case of private companies which are not subsidiaries of public companies. The remuneration of a manager, whether in the form of salary or otherwise, shall not in future exceed 5 per cent. of the net profits. The Bill further empowers Government to recover from the companies cost of investigation under the Public Demand Recovery Act for cases instituted either *suo motu* or on the report of the Registrar, as arrears of land revenue.

Retrenchment or lay-off compensation could not be so long described as part of wages for including it as a

[Shri Aurobindo Ghosal]

preferential charge, under section 530 of the Act, but now the Bill has made a very welcome provision saying that compensation due to workmen under the Industrial Disputes Act shall be treated as wages for liquidation purposes.

But I have not been able to agree on one point, that is, with regard to the disclosure of donations made by companies to political parties. The grievance was not in regard to the secrecy of it, but in respect of the very principle of the system. High Courts have passed strong remarks against the system. The issue has been the subject of discussion in this House also. Every time the hon. Minister gave an assurance that it would be looked into when the next amending Bill was brought forward. But here I have been very much disappointed not to see any change in the attitude of Government to this abnoxious system The Sastri Committee did not go into the propriety of the system because it is political. They have said on page 113 of their Report:

> "Whether lobbying and financing of political parties or candidates for elections should be prohibited in the interests of the public, is a broad question of public policy. It has been the subject of special legislation in America. The case of companies could not be considered in isolation and contributions from other sources, such as bodies corporate, partnerships, societies, trusts, trade unions and even from individuals might have to be regulated or prohibited by a comprehensive enactment."

Therefore, they did not go into this matter on that ground. I would like the Joint Committee to ponder over this and consider the pros and cons of the system and see whether our public life would not be vitiated if the system is retained in our company law and the business community is allowed to make gifts to political parties for their own interests.

14 hrs.

Now, I would like to say a few words regarding the Company Law Administration Department. The duty of the department is to be like a watch-dog and see whether the companies are following or implementing the provisions of the company law. This Department, I think, should be revitalised and remodelled. We know that in the Mundhra affair no action was taken against this gentleman for violation of the different provisions of the Companies Act and all action was taken only after his main offence was detected in public

Regarding the dumping of foreign executives in foreign companies, which has been mentioned by my learned friend, Shri Mukerjee, I would also say it is true because I know some of the foreign companies where the foreign executives are given service contracts and the terms of service include passage even for their dogs to England. The companies are compelled to pay them. Not only it is so in Dunlop but in many other companies like Kilburn Meneil Berry, R.S.N., I G N and S G. Co etc. If the contracts and affairs of these companies are examined many more things may be discovered

Finally, I would request the Joint Committee to weigh the amendments seriously so that we may not be called upon to bring in amendments off and on.

Lastly, the percentage of dividend which, under section 23A of the Act, has to be declared has been changed at least half a dozen times. I hope we may be saved from the accusation which used to be made about the old Greeks that they passed their laws when they were drunk and considered them when they were sober.

Shri Barman (Cooch-Bihar—Reserved—Sch. Tribes): Sir, first of all, I want to make a submission that, in a big Mill like this, introduced only

a few days before, if the hon Minister has got to read out a note explaining the several provisions of the Bill, it would be quite useful for the Members if that note is circulated at least a day before Today the hon Minister has read out a long note explaining certain provisions of this Bill But it was not possible for hon Members like me to be benefited by whatever intelligence he tried to impart to us I would only request through you, Sir, that in such cases the Ministry may be asked to circulate such notes at least a day before

This is a Bill comprising of 210 clauses along with Schedules And, it was not possible for us in the midst of other duties to go through it even clause by clause I shall not, therefore, try to say anything about the various provisions of this Bill, but, I shall confine myself to one particular object to which I want to draw the attention of the Joint Committee also

In the second annual report for the year ending March 31, 1958, it has been reported very significantly how a few capitalist owners of companies behave in such a way and manipulate in such a way that, practically, being in commmand of a substantial number of shares, they can use the company's fund or the company's property as they like and, ultimately, defraud ordinary small shareholders in a way which is quite patent from page 43 of this report

I shall simply mention the salient features and say how these sorts of things go on On page 43, in the paragraph on investigation under 247, it has been revealed by enquiry that although the shares of a company were registered in the names of certain individuals, most of them were benamidars and the true beneficiaries were some fat companies all of which belonged to a particular group and in which a single individual had a vital financial interest. The said individual was the real person who was ultimately financially interested in the success or failure of the company Then, what did he do?

As regards the directorate, one argument is that the Board of Directors can check any kind of mismanagement or any kind of fraud that might be perpetrated by a single big shareholder Here in this investigation, it has been revealed that although the affairs of the company were ostensibly managed by its directors, most, if not all, of them owed their directorship to the said individual and he was, accordingly, in a position materially to influence and shape the policies of the company Although the company earned substantial profits during the period beginning from 1951 to 1954 no dividend was declared Naturally, when the ordinary shareholders did not get any dividend for 5 years, they did not think it profitable at all to keep those shares and the value of the shares sagged so much that that said individual and his agents purchased, at prices which were in some cases much below their face value, those shares If this sort of things had been detected in one investigation, I beg to submit that there are several such companies in which such things have occurred

What does it lead to? In our mixed economy, when we are unable to enter into all sorts of production in the public sector, we have to rely very much on the private sector so that production in the industrial sector may increase to meet the needs of our country For that we want share capital to be invested not only by big persons but also by small people who can invest a little in companies But, if Government fails in protecting the small shareholders against the big who manipulate matters in this way as has been evidenced in this investigation, it will, naturally, be no incentive to any person to invest any money in our private industrial enterprise So, was it not the duty of the Government, while coming forward with such a big bill containing 210 clauses, to make provisions so that such things may not occur? What about the companies in which these things have occurred already?

[Shri Barman]

In the course of a statement by the hon Minister, I heard him say that in order to prevent such cornering of shares certain provision has been made by clause 84 of the Bill. When I went through the provisions that have been framed, I found that it is only in future contingencies, that this clause, if enacted, can operate Clause 84 of the Bill says as follows.

"(a) after sub-section (2), the following sub-section shall be inserted, namely:—

'(2A) Where as a result of transfer of shares in a company, a change—

(a) in the composition of the Board of directors, or

(b) where the managing agent is an individual, of the managing agent, or' " and so on,

"of the company may take place and the Central Government is of the opinion that any such change would be prejudicial .." etc

It clearly means that this clause, when enacted, can operate only in case of future contingencies. But so far as the mischief that has already been done in the past, this clause does not offer any remedy whatsoever.

Here again, I beg to submit that this provision may not be a salutary one I do not know whether it is a salutary one Now, in the free market, when a person who has got money purchases some more shares, it will be very difficult to say, and it would be difficult for the administration to judge, whether that person has purchased all those shares for the purpose of cornering and for having a predominent voice in the concern. He may be an honest purchaser. So, in such cases, we give an unlimited power of discretion which again is a very uncertain thing in the hands of the administration. So, whatever might be the effectiveness of such a provision like this, my main submission is that it offers no remedy so far as the wrong that has already been done is concerned. Unless you can remove those defects in the administration of companies, the incentives for the small shareholders in the companies that are already there, will not be beneficial to them, and naturally the small shareholders will not purchase the shares in companies when they know that Government cannot do anything to remedy any wrong committed upon them by the big shareholders I do not know how this can be set right. It is of course for the experts to devise some amendments. But my own submission is that as in the case of other fields, here also we can impose certain restrictions The present rule is, one share one vote. I know of certain companies which existed before, where there was a certain gradation of voting rights After the last Bill was passed in 1956, those provisions became inoperative, and at present each share carries one vote. So, as soon as any big shareholder finds an opportunity, he purchases a substantial number of shares in his own name or in the name of the benamidars and if he gets control of 25 per cent of the shares in the company it is sufficient for him to dominate the affairs of the company. Some of the shareholders generally do not attend meetings knowing fully well that it would not be possible for them to have any predominent voice over one or a few big shareholders. Naturally they do not come and our experience shows that though here is a general meeting, there are certain signatures of attendance practically the business is transacted only by a few who have got certain interests in it and who dominate the affairs of the company My proposal is that if there be a gradation of voting rights attached to shares, such as, say, up to 25 shares, each share will carry one vote, and beyond that, for every 10 shares, two votes may be cast, it will

be good. Ultimately I propose that there should be a maximum voting right for each shareholder whatever might be the number of votes. If such a limitation could be introduced in the voting rights of shareholders, I do not think that will detract in anyway the incentive of private people coming in to set up companies and promote them.

I have just given an indication. The Government may decide, by their own judgment, what should be the limitation and what should be the gradation for the voting rights, but until and unless such things are done, in future also the Government would be helpless, and as in the case of clause 86, they will try to give discretionary power to the administration from time to time which the administration may sometimes use properly and sometimes also misuse it. But if such limitations are imposed in the case of company administration also, I think that will give some relief.

My friend Shri Jhunjhunwala has spoken about the socialist pattern of society. I do not think this Companies Bill can be very helpful in that regard. But, at the same time, I think that Government have some obligation and a duty to protect the small shareholders and restrict the avarice of the big capitalist. I have only submitted a suggestion of mine to you and to the House and for the consideration of the Joint Committee as to whether any remedy can be found in this regard.

श्री राम कृष्ण गुप्त (महेन्द्र गढ़). उपाध्यक्ष महोदय, कम्पनीस एक्ट, १९५६ को एड करने के लिए जो बिल पेश किया गया है, उसका मैं स्वागत करता हूं। मैं समझता हूं कि इस तरह के बिल की बहुत ज्यादा जरूरत थी। इस के लिए एक कमेटी भी मुकर्रर की गई है और कम्पनी एक्ट, १९५६ के तहत अब तक जो सालाना रिपोर्टस पेश की गई थीं, उन में भी इस जरूरत का एहसास किया गया है और इस बात पर जोर दिया गया है कि इस एक्ट को जरूर एमेंड किया जाए।

जहां तक मैं समझता हूं, इस एक्ट को एमेंड करने का मकसद यह है कि कम्पनी एक्ट के तहत जो एडमिनिस्ट्रेटिव मशीनरी है, वह ज्यादा मजबूत और एफिशेंट हो और कम्पनीज के ऊपर सैंट्रल गवर्नमेंट का होल्ड ज्यादा हो और साथ ही साथ इस एक्ट को सिम्पल किया जाए जिस से कि लोग इसको आसानी से समझ सकें और बेलेंस शीट वगैरह ठीक तरह से पेश हों। इसके साथ ही साथ यह भी जरूरी है कि आडिटर्स वगैरह मुकर्रर करने में भी गवर्नमेंट का हाथ हो। इन तमाम चीजों को महसूस करते हुए मैं समझता हूं कि यह जो बिल पेश किया गया है, यह तमाम जितनी चीजें हैं, उनको पूरा नहीं करेगा। इस को ध्यान में रखते हुए में मैं चन्द तजवीजें हाउस के सामने पेश करना चाहता हूं और चाहता हूं कि ज्वायंट कमेटी उन पर विचार करे जिस से कि जो डिफैक्ट्स सालाना रिपोर्टस में बतायें गये हैं, उन डिफैक्ट्स को आसानी से दूर किया जा सके।

सब से पहला सवाल यह है कि जब कभी पब्लिक कम्पनीस को प्राइवेट कम्पनीस में कनवर्ट किया जाता है तो उस सूरत में कोई ईफैक्टिव पाबन्दी या रेस्ट्रिक्शन इस बिल के द्वारा नहीं लगाई गई है। इस बात का जिक्र अभी मेरे दोस्त श्री घोषाल ने भी किया था और उस से ज्यादा दुःख की बात यह है कि जो कमेटी मुकर्रर की गई थी और उस कमेटी ने जो सिफारिशें की थी इस चीज के बारे में, उन सिफारिशों को भी नहीं माना गया। कमेटी ने इस बात पर जोर दिया था :—

"We therefore recommend that a proviso be added to section 3(1), Part IV, in these terms:

'Provided, however, that any private company in which shares

[श्री राम कृष्ण गुप्त]

to the extent of 25 per cent or more of the paid-up capital are held by one or more companies, public or private, shall be deemed to be a public company'."

यही नहीं, दूसरे सैकशन में एमेंडमेंट करने की जो तजवीज कमेटी ने की थी, उसको भी नहीं माना गया बल्कि उसको चेंज कर दिया गया है जिस का जिक्र पेज ३० पर किया गया है —

"Provided that no resolution which has the effect of converting a public into a private company shall have effect unless the Central Government approve of the same."

और जो इस बिल में सैकशन है, उसका मतलब यह है कि रेजोल्यूशन को पेश किया जा सकता है और इस रेजोल्यूशन पर फैसला भी हो सकता है लेकिन बाद में उसको गवर्नमेंट को रिफर किया जाएगा और गवर्नमेंट की राय लेने के बाद उस पर अमल हो सकता है। लेकिन कमेटी की यह राय थी कि इस किस्म का रेजोल्यूशन भी मीटिंग में गवर्नमेंट की इजाजत के बगैर पेश नहीं हो सकता। मेरी समझ में नहीं आता है कि इस तजवीज को क्यों नहीं माना गया। मैं समझता हूं और मैं इस पर जोर देना चाहता हूं कि हमें इस बात की तरफ सब से ज्यादा ध्यान देना चाहिये। यह मैं इसलिये कहता हूं कि पिछले दो तीन सालों में बहुत सी पब्लिक कम्पनीस को प्राइवेट कम्पनीस में कनवर्ट किया गया है जिस का मकसद यह था कि पब्लिक कम्पनीस पर इस एक्ट के तहत जो पाबंदियां लगाई गई थीं, उन से बचा जाए। इस तरह से जो सालाना रिपोर्ट्स पेश की गई हैं, उन में भी इस तरफ इशारा किया गया है और कहा गया है कि पब्लिक कम्पनीस को प्राइवेट कम्पनीस में चेंज किया जा रहा है और ऐसी सूरत में मेरी सब से पहली तजवीज यह है कि इन दोनों बातों पर विचार किया जाए और ज्वायंट कमेटी ऐसी कोई क्लाज इस में जोड़े, इस बिल को इस ढंग से एमेंड करे जिस से कि पब्लिक कम्पनी को प्राइवेट कम्पनी में कनवर्ट न किया जा सके और अगर कनवर्ट किया जाए तो उस पर भी वही पाबन्दियां लगें जो कि पब्लिक कम्पनी पर लागू होती हैं। यह बात मैं इसलिए भी कह रहा हूं कि बहुत सी ऐसी पब्लिक कम्पनीज हैं, जिन में कि करोड़ों रुपये का सरमाया लगा हुआ है और उनको प्राइवेट कम्पनीस में तबदील कर दिया गया है जिस का कैपिटल बहुत थोड़ा था। पिछले दिनों चन्द सवालात के जवाब में इस बात का जिक्र किया गया था। डालमिया सिमेंट फैक्ट्री जिसकी वैल्यू १ करोड़ ५२ लाख के करीब थी, उसको एक प्राइवेट कम्पनी में कनवर्ट कर दिया गया, जिस का नाम स्वदेश निर्माण कम्पनी था और जिस का पेड अप कैपिटल तकरीबन ५०,००० था। इस वास्ते मैं समझता हूं कि इस तरफ ध्यान देने की बहुत ज्यादा जरूरत है।

दूसरी तजवीज जो मैं पेश करना चाहता हूं यह है कि इस कमेटी को रिपोर्ट में जो मौजूदा एक्ट के तहत जो सैकशन २७५, का यह जिक्र किया गया है -

"Section 275 restricts the number of directorships capable of being held by an individual to 20. Section 316 restricts managing directorships to two companies and section 332 limits managing agencies to ten companies."

मैं चाहता हूं कि इस लिमिट को भी कम किया जाए। इस रिपोर्ट में भी इस बात का जिक्र किया गया है कि जब एविडेंस पेश किया गया तो यह कहा गया —

"There are on the other hand complaints that the limit of 20 directorships and 10 managing agencies is too high and that there is a tendency for a few

businessmen and the members of their families to concentrate in their hands enormous industrial power by virtue of their position as managing agents of a large number of public families."

मेरे कहने का मतलब यह है कि इस सैक्शन को भी अमेंड करने की बहुत ज्यादा जरूरत है । आज हम देखते हैं कि हिन्दुस्तान की जो बड़ी बड़ी कम्पनियां हैं उन पर चन्द बड़े बड़े लोग, चन्द बड़ी बड़ी बिग फैमिलीस छाई हुई हैं और इसका जिक्र अभी इस हाउस में भी किया गया है और यह चीज तभी दूर हो सकती है जब कि इस सैक्शन को भी एमेंड किया जाए । इस में यह भी कहा गया है कि यू० के० और यू० एस० ए० में इनकी तादाद बहुत कम है ।

"We have been informed that in practice the average number of directorships held by an individual in the U.K. or U.S.A. is much less than the number permissible under our Act."

मेरा पूरा विश्वास है कि ज्वायंट कमेटी इस बात पर भी विचार करेगी कि जो आज इसकी इजाजत है कि बीस कम्पनियों तक का एक शख्श डायरेक्टर मुकर्रर हो सकता है, उसकी तादाद को भी कम किया जा सके और यह बहुत जरूरी है । मैं समझता हूं कि यह इस लिये भी जरूरी है कि इन कम्पनियों का जो रुपया है जो और शेयर होल्डर्स का इंटिरेस्ट है वह जभी महफूज़ हो सकता है और साथ ही साथ कम्पनियों के इंतिज़ाम में और बैलेंस शीट्स में गड़बड़ी वगैरह हो जाती है वह भी जभी दूर हो सकती है जब कि इस किस्म की पाबन्दियां लागू की जायें ।

एक दो और बातें हैं जिन की तरफ मैं आपका ध्यान दिलाना चाहता हूं । बहुत सी कम्पनीस ऐसी हैं जिन के लिए ट्रस्ट मुकर्रर कर दिये जाते हैं और कर दिये गये हैं । मेरी समझ में नहीं आता कि इस एक्ट की प्राविज़न्स इन ट्रस्ट्स के ऊपर क्यों लागू नहीं की जाती । आजकल बहुत सी ऐसी शिकायतें सुनने में आती हैं कि ट्रस्ट ज्यादा तर जो बनाये जाते हैं, इसलिए बनाये जाते हैं ताकि इन कम्पनीस को इनकम टैक्स की प्राविजंस से या कम्पनी एक्ट की जो प्राविजंस हैं, उन से बचाया जा सके । इस वास्ते मैं इस चीज़ पर भी जोर देना चाहता हूं कि इस बिल में एक ऐसी क्लाज़ भी रखी जाए ताकि अगर किसी कम्पनी की आमदनी के लिये ट्रस्ट मुकर्रर किया जाय तो जहां तक इस कम्पनीज़ एक्ट की प्राविजंस का ताल्लुक है, वे जरूरी उस ट्रस्ट पर भी एप्लाई हों । दूसरे हम देखते हैं कि जितने लेबर ऐक्ट्स हैं वह तो ट्रस्ट्स पर अप्लाई होते हैं लेकिन कम्पनी ऐक्ट उन पर अप्लाई नहीं होते । उस पर अप्लाई न होने से बहुत सी दिक्कतें रास्ते में आती हैं । जो लेबर ऐक्ट के प्राविजन्स हैं उन का जो मकसद है वह इस की वजह से पूरे तरीके से हल नहीं होता । इस लिये मैं इस बात पर भी जोर दूंगा कि इस ऐक्ट के सिलसिले में ज्वायेंट कमेटी इस चीज पर विचार करे ताकि कम्पनीज ऐक्ट, १९५६ के जो प्राविजन्स हैं वह जो ट्रस्ट्स वगैरह बनाये गये हैं उन पर भी अप्लाई हों ।

चौथी बात इस सिलसिले में मैं यह कहना चाहता हूं कि, जैसा कि अभी मेरे दोस्त श्री बर्मन ने भी जिक्र किया, और पिछले साल जो रिपोर्ट पेश की गई थी उस के अन्दर सैक्शन २४७ के तहत जो इन्वेस्टिगेशन हुये उन की मिसाल भी दी उस में साफ तौर पर यह भी कहा गया है :

"Prima facie there were contraventions of the provision of section 49 of the Companies Act, 1956."

मैं यह मालूम करना चाहता हूं कि इस कम्पनी के खिलाफ क्या ऐक्शन लिया गया । यह ठीक है कि ऐक्शन लिया भी नहीं जा सकता था क्योंकि इस एक्ट में कोई ऐसा क्लाज नहीं है जिस की तहत आप ऐक्शन ले सकते इस लिये इस बात की आज सब से ज्यादा जरूरत

[श्री राम कृष्ण गुप्त]

है कि ज्वायेंट कमेटी इस बात पर भी विचार करे। अगर कोई एन्क्वायरी हो और उस एन्क्वायरी में कम्पनी के खिलाफ जो इल्जामात हैं वे साबित हो जायें तब भी अगर कोई ऐक्शन उस कम्पनी के खिलाफ न लिया जा सके तो मेरी समझ में नहीं आता की ऐसी एन्क्वायरी करवाने का मकसद क्या है। इसलिये मैं चाहूंगा कि इस किस्म का क्लाज भी इस एक्ट में रक्खा जाय जिस से कि ऐसी कम्पनी के खिलाफ ऐक्शन लिया जा सके। माननीय मंत्री जी ने भी हाउस में इस बात का जिक्र किया था और मैं समझता था कि जब यह बिल पेश किया जायेगा तो उस में इस किस्म का कोई क्लाज जरूर होगा। मैं ने इस बिल को बहुत गौर से पढ़ा, लेकिन मुझे यह देख कर बड़ा दुःख हुआ कि इस मे इस किस्म का कोई क्लाज नहीं है।

जो दूसरी एनुअल रिपोर्ट है इस में यह दर्ज है।

"In course of a recent debate on the First Report of the working of the Companies Act, 1956, in the Lok Sabha the need for administrative integration of the working of the Companies Act with that of the Industries Development and Regulation Act was pressed by many Members of Parliament. The Minister of Commerce and Industry assured the Low Sabha that the problem was already under his consideration and he hoped to take appropriate action at an early date."

मैं ने यह बात इस लिये कही कि मैं इस का मतलब यही समझता हूं कि माननीय मंत्री जी के दिमाग में कोई ऐसी तजवीज थी और वह इस ऐक्ट को इस ढंग से अमेंड करना चाहते थे जिस से कि इंडस्ट्रियल डेवेलपमेंट ऐंड रेगुलेशन ऐक्ट के तहत वे किसी कारखाने का इंतजाम गवर्नमेंट अपने हाथ में ले सकें। इस बिल में भी कोई ऐसा क्लाज होना चाहिये। अगर सैक्शन २४७ के तहत कोई इन्वेस्टिगेशन हो और वह सही साबित हो तो उस कम्पनी का इन्तजाम भी गवर्नमेंट अपने हाथ में ले सके, यह अधिकार होना चाहिये। जब तक ऐसा नहीं किया जायेगा तब तक कम्पनियों की हालत सुधर नहीं सकती और जिस मकसद के लिये यह बिल पेश किया गया है वह पूरा नहीं हो सकता।

इस सिलसिले में मैं यह भी कहना चाहता हूं कि इस बिल के द्वारा इस ऐक्ट की रिग्रुपिंग और रिकास्टिंग करने की निहायत जरूरत है। यह जो सालाना रिपोर्ट पेश की गई उस में भी इस बात की तरफ इशारा किया गया है। यह एक्ट बहुत लम्बा है, इस के सेक्शन बहुत ज्यादा हैं। बहुत से ऐसे सेक्शन हैं जो कि एक ही सब्जेक्ट से डील होते हैं लेकिन वह अलग अलग रखे गये हैं। इस से काफी दिक्कत पैदा होती है। मैं इस बात पर जोर दूंगा कि इस को दुबारा रिग्रुप किया जाय। इस के लिये मैं एक मिसाल देना चाहता हूं। मेनेजीरियल रेम्यूनरेशन के सिलसिले में बहुत से सेक्शन्स हैं जो कई जगह अलग अलग चैप्टर्स के अन्दर हैं। उन तमाम को एक जगह पर रिग्रुप करने की बात बहुत ज्यादा जरूरत है। मुझे पूरा विश्वास है कि ज्वायेंट कमेटी इस पर भी विचार करेगी और इस ऐक्ट को दुबारा इस ढंग से रिग्रुप और रिकास्ट करेगी जिस से तमाम सेक्शन जो एक ही सब्जेक्ट डील करे वह इकट्ठा हो जाये। और इस तरह से इस ऐक्ट को सिम्पल किया जाय।

आखिर मे मैं दो तीन बातें इस ऐक्ट के तहत जो कम्पनी ला ऐडमिनिस्ट्रेशन की मशीनरी है उस के सिलसिले में भी कहना चाहता हूं। यह जो सालाना रिपोर्ट पेश की गई है उस में उन्होंने अपनी दिक्कतों का जिक्र किया है। मुझे पूरा विश्वास है कि इन चीजों का भी पूरा ध्यान रक्खा जायेगा। उन्होंने रिपोर्ट में इस तरह से जिक्र किया है.

"The Registrars of Companies went into these complaints and

wherever necessary sought guidance from the Regional Directors. Serious cases, such as complaints about mis-management, misappropriation of funds, fraudulent dealings, manipulation and falsification of accounts, refusal to register the transfer of shares, irregular constitution of board of directors and unauthorised grant of loans in contravention of the provisions of the Act were forwarded by the Registrars of Companies"

उन्होंने आगे चल कर कहा कि यह भी है कि जब इन तमाम चीजो की तहकीकात करने की कोशिश की गई और बुक्स और बलेन्स शीट्स रजिस्टर्स वगैरह हासिल करने की कोशिश की गई तो वह हासिल नही हो सके क्योकि यायद ऐक्ट के अन्दर कोई ऐसे प्राविजन नही थे । ठीक है, इस बिल में एक इस किस्म का क्लाज भी है जिस की तहत अगर बुक्स वगैरह उन को सप्लाई नही की जायेगी तो वह कोर्ट के अन्दर दरख्वास्त दे कर उन कागजात को हासिल करने की कोशिश कर सकते है । मैं समझता हू कि जो हालात हो रहे है उन को मद्दे नजर रखते हुए यह अमेंडमेंट काफी नही होगा क्योकि इस तरह से काफी देर लगेगी और उन बुक्स वगैरह को जाया कर दिया जायेगा । इस लिये मेरी यह अपील है कि इस बात पर भी विचार किया जाय और उन को पूरी ताकत दी जाय ताकि वह उन कागजात को डाइरेक्टली बिना किसी केस को कोर्ट मे रिफर किये हुए आसानी से हासिल कर सके ताकि सीक्रेट ऐड काफिडेशल डाकुमेंट डिस्ट्राय नही किये जा सके ।

इन चन्द शब्दो के साथ मै फिर अपील करता हू कि इन तमाम बातो पर ज्वायट कमेटी विचार कर क्योकि अब इस बात की सब से ज्यादा जरूरत है कि जो प्राइवेट कम्पनिया है उन का इन्तजाम ठीक हो । मेरी तजवीज यह भी है कि एक ऐसा परमनेन्ट कमिशन मुकर्रर किया जाय, इस एक्ट मे तो कोई ऐसा क्लाज नही है, लेकिन जब यह बिल अमेंड किया जा रहा है तो उस के द्वारा यह क्लाज जरूर रक्खा जा सकता है जिस से कि तमाम जो बडी-बडी कम्पनिया हैं, जिन के पास काफी सरमाया है, उन की डीलिंग्स और उन के इन्तजाम के बारे में गवर्नमेंट तहकीकात कर सके क्योकि आज जब भी किसी कम्पनी के अन्दर कोई शिकायत पैदा होती है और उस की इन्क्वायरी करने की कोशिश की जाती है तो उस में काफी समय लगता है । पिछले दिनो डालमिया कन्सर्न्स के बारे मे जो कमिशन मुकर्रर किया गया, एक और कम्पनी को रेफर करने का सवाल था, उस में तकरीबन ८ या ९ महीने लग गये । अगर काफी वक्त दूसरी पार्टी को मिल जाय तो वह इस अर्से में तमाम कागजात वगैरह को छिपा देता है जिस से इन्क्वायरी से कोई खास मतलब हल नही होता । इसलिये मेरी यह अपील है कि इस ऐक्ट मे कुछ ऐसा सेक्शन जरूर होना चाहिए जिस से कि अगर किसी कम्पनी के बारे मे शिकायत हो तो उस के खिलाफ फौरन एन्क्वायरी शुरू हो सके और अगर उस एन्क्वायरी से कुसूर साबित हो जाय तो कुसूर करने वाले है उन के खिलाफ ऐक्शन लिया जा सके । इस सिलसिले मे मुझे इतना ही कहना है और मुझे आशा है कि ज्वायेंट कमेटी इन तमाम बातो पर जरूर विचार करेगी ।

Shri C. K. Bhattacharyya (West Dinajpur) Mr Deputy-Speaker, Sir, I would like to draw attention of the hon Minister to the misuse that is just now being made of the Companies Act in the newspaper world. Parent companies are being fragmented with the result that the employees are being deprived of their legitimate dues and rights The management, who have under their control several newspapers are setting up separate companies with little or no capital for each of the constituent newspapers This process has commenced since the Wage Board under the Working Journalists Act announced their decision This is being followed with a view to pass on the contingent liabilities of

[Shri C. K. Bhattacharyya]

the old company to the new company. The result, as I have stated, is that the employees at a future date would be deprived of the statutory benefits conferred on them by the Industrial Disputes Act and the adjudicators' awards under the Industrial Disputes Act and under the Working Journalists Act. The shareholders of the new companies, if a scrutiny is made, will be found to be mostly belonging to the group of shareholders of the old companies and if further scrutiny is made the directors of these new companies would be found to be none other than trusted men and employees of the old companies. This has happened at Allahabad, at Delhi, at Bombay and at Madras. I do not know whether it has happened elsewhere.

The setting up of *benami* companies becomes possible only through loopholes in the Company Law. Therefore in amending the law steps should be taken to prevent the formation of such *benami* companies so that the employees may not be defrauded of the benefits conferred upon them by other legislation. The Company Law has been mainly drafted with an eye protecting the interests of the shareholders. Many of my hon. friends here have just now spoken about the protection of small shareholders. I am putting in a plea for the protection of the interests of the workers because in the running of the company the contribution that the workers make is no less important and their interests also require equal protection.

Sir, unfortunately, neither the original law nor the present amendment guarantee any effective machinery through which the interests of the employees may be protected. Certain expenditures are charged and shown in the accounts as *bona fide* expenditure, although, in practice, these payments are made to promoters or managers. This puts the workers in difficulty when they come out with any demand for bonus or for any improvement of their working conditions. In spite of having a vast business, it is found possible for the companies and the management to show a loss. In an industrial dispute the workers find themselves pushed to the wall. Therefore, it is essential that the Company Law should be so amended as to guarantee that the workers get an opportunity to see that the accounts of the company show their real financial condition. That is my request to the hon. Minister.

Then again, the workers find themselves in difficulty when a company goes into liquidation. Although the workers' salaries have a preferential claim on their assets, in fact, the workers do get nothing. On paper their liabilities are shown, but it transpires that the machinery and other assets of the companies have already been mortgaged or a floating charge has already been created. What happens is this. The mortgagee and the charge-holder take possession and the workers are left completely stranded. This is a position which requires to be remedied.

There is one thing more in this connection. The maximum amount realisable is also very low, being Rs. 2,000. This has no relation to the present salary structure and does not do justice to the workers or to the working journalist under the Working Journalists Act. The then Finance Minister, Shri Chintaman Deshmukh in 1956 gave an assurance that he would come in with another amendment to remedy these defects in the Company law, but up till now nothing has been done and even in the present amendment excepting a small provision regarding retrenchment compensation, there is nothing proposed to remove these defects.

Sir, I have referred to the *benami* transfers which have become a great danger nowadays for the workers. Under the Industrial Disputes Act

there is a statutory responsibility on the employers to pay notice pay, retrenchment compensation, etc. These liabilities accrue from time to time, although they might be only contingent liabilities to be paid at a future date. The same is the case in respect of gratuity and other retirement benefits for some classes of employees, as in the case of working journalists under the Working Journalists Act, or by Industrial Tribunals in the case of others. In order to avoid these obligations, private enterprises, especially those who run private limited companies, enter into these questionable deals which have resulted in the employees being deprived of their legitimate dues.

The Industrial Disputes Act provides that when a concern changes hands, employees have to be paid the notice pay, compensation, etc., and other dues But the proviso to section 25(ff) also mentions that where a new owner assures the same terms and conditions of service and takes over all the liabilities and assures continuity of service, the services of the employees can be transferred to the new owner without any obligation to pay immediately all the dues Thus the new owners take over in such cases the entire past liability in respect of the employees What the employers do is that they transfer their business and liabilities to the new owners under *benami* ownership without corresponding tangible assets transferred to the new companies which may meet the requirements of the workers at any time that they may be due to them Under the new Companies Act while they take over the legal liabilities, they have in fact no assets to meet these liabilities In all these cases if the legal veil of the new companies are torn as under, it will be found in fact that the owners are one and the same and the new owners are the *benamidars* of the old owners They have no fixed assets and they acquire all legal obligations of the old business.

These companies have usually capital much below Rs. 5 lakhs and hence do not require the sanction of the Controller of Capital Issues. That is one of the loopholes through which these companies come into existence. Being private limited companies, none of the transfers of business comes up before the Company Law Administration either at any time for scrutinising or sanction This is another loophole through which these *benami* companies are being formed. These are, in fact, though not in law, a violation of the spirit of the company law Being contingent liabilities, they need not be shown in the balance sheet either and hence the question of solvency of the company also does not arise on paper. In many instances the employees may not even be aware of the terms and conditions of these transfers All that they are told is that the new owners have undertaken to employ all the employees under section 25(ff) and the provisions of the Industrial Disputes Act would be complied with. It is only later that they learn to their regret that the new owners have no funds or assets to discharge their obligations

Sir, the Government of India through various legislations have conferred rights on the employees and this Parliament is a party to these legislations We must see that these are not circumvented by unscrupulous businessmen resorting to such transactions and throwing out employees in such large numbers. The new Company Law and the amendment that is being proposed should provide that transfer of ownership or sale of a part of business should be notified to the Registrar of Joint Stock Companies and that Company Law Administration should also know them and their sanction would be required for such transfers Before giving such sanction the Registrar must hear the employees and if he is satisfied that a *mala fide* transaction is envisaged, he should refuse the transaction He should be permitted to impose condi-

[Shri C. K. Bhattacharyya]

tions that ensure sufficient assets to be transferred to the new companies to meet the statutory obligations of the old company to the workers.

Sir, in cases of closure and winding up not only the salaries, but the gratuity, notice pay, retrenchment compensation and all other benefits can be converted into cash and made the first charge to be realised from the assets of the company. What I suggest is this. The director should be made personally responsible for these payments, even if the company's assets are not sufficient and the arbitrary limit of Rs. 2,000 which as I have said has no relationship with the present salary structure should be removed. These are my submissions to the hon. Minister and the Joint Committee that is going to be formed should kindly go into the defects of the Company Law and in the interest of the workers and employees should remove them.

Shri Supakar (Sambalpur): Mr. Deputy-Speaker, the Companies Act of 1956 was enacted after a good deal of deliberation for a period of about two years, on the basis of a report submitted by a committee under the chairmanship of Shri Bhabha. And the Government took steps almost immediately after the passing of the 1956 Act, one year after that, to set up the Sastri Committee to see how the 1956 Act worked. I am glad to note that that committee has submitted a comprehensive report about the difficulties that are experienced in the working of the Companies Act. But my feeling is that the new Bill that is placed before the House does not take into consideration most of the serious difficulties that have been pointed out by the Committee. Not only that. The difficulties that are pointed out, the criticisms that are made in Parliament and outside, are not given sufficient weight by the Government while framing the Bill. I hope that these points will receive due consideration at the hands of the Joint Committee.

I shall make a very brief reference to three important points which, I thinks, the Joint Committee may take into consideration. My first point relates to the public sector companies. You know, Sir, about the development of the public sector: we have now many government companies, and many more in the future are likely to crop up. With the formation of these public sector companies there is bound to be some sort of competition, at least some apprehension of competition with the companies, in the private sector. And therefore the private sector has been looking on government companies with a little apprehension.

The Sastri Committee makes a brief reference to section 620 and says:

> "It has been represented by a Chamber of Commerce that Government companies should be placed on the same footing as other companies. Section 620 is of a wide and sweeping character and it is desirable that these companies should, as far as possible, be put on the same footing as other public companies. It appears, however, that only exemptions of a minor character have so far been granted."

Whatever be the actual facts regarding the concessions that are offered to the public sector companies, the law as it stands should not give an appearance of discrimination in favour of the public sector company, having regard to our Constitution.

In this connection, to give a proper perspective and to see the other side of the picture, namely, how the public sector companies suffer in competition and in comparison with the private sector companies, I shall draw your attention to some points that have been made by the different reports of the Estimates Committee, regarding the handicaps of the public sector companies and request the Joint Committee to see if they could

do anything to remedy these defects I draw your attention to the comments contained in the report of the Estimates Committee on the two Shipping Corporations, which was recently presented to the House There, at page 12, the report discusses both the pros and cons of the public sector companies, the benefits that they derive and the handicaps that they suffer from It is stated there

> "The Committee heard divergent views with rgeard to the relationship subsisting between the Government and the Corporations On the one hand, it was alleged that by virtue of the appointment of the senior officers of Government to manage the Corporations, the latter were treated as extensions and parts of Government departments and were given preferential treatment in various ways They were not allowed to function on commercial lines and, instead, were given full Government support, in season and out of season, thereby preventing them from growing up, on their own, into virile, self-contained, efficient and prosperous business units"

The other side of the picture is that these public sector companies are over-bureaucratised with officials who have to devote a lot of time to official business, that is to the business of their departments, and that they have very little spare time for the management of these companies, and that the rules of red-tape stand in the way of the proper functioning of these government companies

I may just read one more paragraph, paragraph 37, from the same report before I go over to the other point

> "The Committee feel that there are many mis-conceptions with regard to the nature of responsibility attaching to Government in relation to the public undertakings and the nature and extent of checks and controls that have to and can be exercised over them by Government. They, therefore, suggest that the whole question may be reviewed comprehensively and a sound and well defined relationship established between the companies and the Government"

I believe that the Government so far as the legislation on the point is concerned and regarding the management itself, from an executive standpoint may look to these matters

Now I come to another point which has been a subject of keen controversy in this House I refer you to the discussion on the amendment of the Company Law, which was moved by Shri Naushir Bharucha last year, on 18th April, 1958. And the subject related to payment by the companies to political funds and parties You will remember, it was then contended that between contribution to political parties and bribery there is not much different And the Sastri Committee only avoided giving a definite opinion on these matters on the plea that it did not like to enter into political questions which should be tackled from the political standpoint, and that it was rather beyond the scope of its enquiry I would suggest, if you want to improve the political life of the country and set up a high moral standard, we must do something in the matter, and having regard to public opinion we must make a definite amendment that not merely any political contributions should be publicised in newspapers but we must put a definite stop to political contributions and put a complete ban on any contribution by a company to any political party

Now I come to my third point regarding the managing agency system You will see that the recommendation, the latest amendment of the Government, is that so far as the government companies are concerned,

[Shri Supakar]

in future they will have no managing agency for government companies. Regarding the other companies, however, the Government is not able to make up its mind and lay a definite policy on this subject. In this connection, may I quote from page 129 of the Sastri Committee report? It is stated:

15 hrs

"The Government do not appear to have laid down any policy regarding the future of the managing agency system The Chairman of the Advisory Commission informed us that in considering applications for appointment or reappointment as managing agent, the Commission principally concerned itself with the question of remuneration. Further, renewals have been granted on a liberal scale and such reappointments will not terminate on 15th August, 1960, notwithstanding the provisions of section 330 It is true that these appointments and re-appointments are made without prejudice to any action the Government may take under section 324 It is now desirable that the Government should formulate a definite policy so that by the 15th August, 1960, action can be taken under section 324 and the present state of suspense removed"

I believe it was originally understood when the 1956 Act came into being and then the attitude of the Government was, let us see how it works, by 1960, we shall be in a position to see how it works and then we shall be in a position to come to a definite conclusion Since the 1956 Act was passed, we have covered practically three years and only one year has to go Since the new Bill has come into being, the Government should have been able to assess the working of the managing agency system and should have been able to come to a definite conclusion. I see that, so far as the Government companies are concerned, they are of the definite opinion that the managing agency system should go. There is no reason why they should not be and the Joint Committee should not be able to come to a definite conclusion that it should be put an end to as soon as possible even for other companies

Shri Narayanankutty Menon (Mukandapuram) Sir, during the last session, when the annual report of the Company Law Administration was discussed in this House, when a series of complaints were raised both regarding the loopholes contained in the Act and also regarding the application of the provisions of the Act, the hon. Minister of Commerce and Industry gave a categoric reply that, to meet the criticisms levelled on the floor of the House in that discussion, a new amending Bill was being brought as soon as possible The *prima facie* understanding at that time was that most of the criticisms made on the floor of the House on that day were valid criticisms with which the hon. Minister more or less agreed, and, in order to eliminate those defects in the statute on which those criticisms were based, a new amending Bill would be brought But, when the new amending Bill has been introduced, it is a sad disappointment that most of the loopholes that were in the original Act, and most of the sections on which the criticisms were mainly based in that discussion are retained intact, even though a voluminous amending Bill has been brought, most of the amending sections relating to procedural matters

It was said that the amendments to the Companies Act would be largely based upon the recommendations made by the Sastri Committee, because it was that Committee which was to review the working of the Act since it was passed in 1957 and suggest amendments if called for When we read the Sastri Committee's report in the light of the assurances made by

the hon. Finance Minister in 1957 during the 69 hours of discussion that took place on the original Bill on the floor of the House, I am reminded of an old Munsif in one of the South Indian princely States, about 100 years ago A law graduate who did not practise was appointed as a munsif by the then Maharaja He sat to hear cases There was a suit upon a pronote where the plaintiff claimed that Rs 100 was borrowed from him and the defendant did not pay it back. The defendant's counsel contended that the money was not being taken from the defendant The learned Munsif was so puzzled that he consulted his clerk whether the money was to be paid out of the Munsif's pocket

So much evidence has been let in before the Sastri Committee in the light of the criticisms and also assurances made by the Finance Minister in 1956

Mr Deputy-Speaker: That must have been a very happy time

Shri Narayanankutty Menon: It was happy time I said, it was 100 years ago when the times were more happy than today

Shri Sastri, obviously with his juridical mind and his peaceful mental set up, decided that he should not traverse much into controversial problems and he should give certain indications regarding innocent procedural matters The Sastri Committee left all questions of serious controversy, which were the subject matter of controversial discussions and assurances when the original Bill was discussed on the floor of this House to be decided again on controversies on the floor of the House When this motion for sending this Bill to a Joint Committee is being considered, I wish to point out only certain very important aspects which are to be incorporated in the new Bill and certain defects inherent in the original Act itself, which were left by the then Finance Minister to be decided by passage of time and the behaviour of certain incorporated agencies in the country

We could not understand why this Bill itself is being referred to a Joint Committee A Bill, if it involves certain controversial principles, will certainly have to be sent to a Select Committee Especially, in this Bill, when only technical procedural matters are involved and only incidentally certain basic sections of the original Act are being touched, it will be merely an elaborate process to protract the passage of the Bill that it is being referred to a Joint Committee Anyway, the Government has taken the decision that the Bill should go to a Joint Committee But, when the Bill goes to a Joint Committee, we have got a right to demand from the hon Minister of Commerce and Industry, what is the position of the Government regarding the most important controversial issues upon which categorical assurances from the Finance Minister were there on the floor of the House in 1957

Later on during the Question Hour and during the discussions, once I remember, the hon Home Minister himself intervened to say, regarding accounts of foreign companies, that, if required, legislation will be brought in as soon as possible in order that the Government at least will get a correct picture of the accounts of the companies In spite of all these things, when we see the amendments here, all those lacunae have been left as they are and nothing has been done to remedy the situation

The first important point that I place before the Commerce and Industry Minister is the question of managing agency itself A lot of controversy was there in the House and from all parts of the House, irrespective of political opinions, wholesale condemnation came that the managing agency system in the country has become out-dated in the present context. At that time, after elaborate speeches made in support of the managing agency system, the reply given by the then Finance Minister was a compromising reply that before we end this system, let us give it some time and see whether it is going to behave properly and a time limit has been fixed for this purpose

[Shri Narayanankutty Menon]

for the managing agencies to survive. Is it not the duty of the Commerce and Industry Minister, when he comes before this House to amend the Companies Act, to say how managing agency has behaved during the last three years, since the 1956 Act has come into force? Not only that. He has not told the House how the managing agencies which were the subject matter of so much criticism from all parts of the House in 1956 have behaved for three years. Our experience shows that not in a single case the managing agency has tried at least on its own efforts to improve matters. But, we are seeing deterioration on every side.

The Finance Minister, while replying to the debate on the original Bill, touched at length on the necessity of continuing the managing agency. When we are now speaking again on this amending Bill, it is necessary to submit before the hon. Minister of Commerce and Industry once again that the managing agency system in India, which is not existent in any other country today, came into existence here because of certain historical reasons. They themselves said, that primarily the managing agency used to help in getting finances for the limited companies at that time; and in order to get additional finances for their business, managing agencies were necessary. Secondly, it was stated that because a single managing agency system will have under it many a company of a similar nature, the pooling of the managerial experience and the pooling of the technical personnel would be possible, and, therefore, this would economise in the working of the companies.

Now, when we see the picture of the public and private limited companies today, the nature of the business they are doing and the nature of the business that managing agencies are doing, we come to the one and the only conclusion that the managing agency system cannot fulfil either of those conditions. I shall quote one or two examples for the hon. Minister to look into carefully and to ascertain whether the conditions which were there for the existence and continuance of the managing agency system were there at least in the case of one public limited company. I know the instances of two or three companies in my own constituency, a cross-section of which gives a glaring example of how the managing agency system is not only not functioning for the advantage of the industry concerned but is functioning for the utter disadvantage of the industry.

There is a company called the Fertilisers and Chemicals Limited, Travancore. That company has a capital of about Rs. 4·25 crores, of which Rs. 3 crores belong to the State of Kerala. The Madras Government also have got a share. A company from Madras was given the managing agency of that company from the very beginning, and the managing agency firm has a subscribed capital of Rs. 60,000. The Industrial Finance Corporation has given a loan of Rs. 2 crores to the Fertilisers and Chemicals Limited, Travancore. At no stage in the company's history, ever since the managing agents have come into power in the company, will you find that even Rs. 2 lakhs of additional working capital have been supplied by this managing agency firm. This company with a capital of Rs. 60,000 acts as the managing agency for the primary purpose of finding out capital for the Fertilisers and Chemicals Limited, Travancore, with a commission of 10 per cent. on the overall net profits of the Fertilisers and Chemicals Limited, Travancore.

As regards the second condition namely whether the technical personnel and the experience of the managing agency firm is available for the better advantage of the Fertilisers and Chemicals Limited, this company has under its management no other fertilisers company; it has got some other little companies in Madras, but no fertiliser companies at all. As a result,

the managing agents could appoint only raw hands to the Fertilisers and Chemicals Limited, Travancore. The raw hands have to be trained at the expense of the original company. Because of the non-availability and non-existence of properly trained technical personnel, this important company, almost in the public sector, which is so vital as far as the Plan is concerned, had to suffer to the extent of 50 per cent. in production, for the last ten years did not also make any profit till the year 1955.

As a matter of fact, till 1955, the balance-sheets of the company disclose that the company was absolutely losing. But in 1956, you will find that it made a profit of Rs. 8 lakhs, because it got subsidy for the fertilisers produced for the Government of India. Actually, the Government of India paid the profits, and because of that, profit was shown. In 1957, extraordinarily, on the eve of the application to be made for the renewal of the managing agency system, you find a profit of Rs. 40 lakhs being made; for the first time in the course of 11 years, the company has made a profit of Rs. 40 lakhs. And how is the Company Law Administration or the Government of India or any other Government competent to look into the matter as to how this company made Rs. 40 lakhs profit? It is by manipulation of accounts, by adopting a new system by which reserves, depreciation and provision for rehabilitation etc., were calculated, just on the eve of the application being made to the Government of India for the renewal of the managing agency system, that the company comes and shows a profit of Rs. 40 lakhs, with the net result that as per the agreement, the managing agency company with an invested capital of Rs. 60,000 gets 10 per cent. commission, that is, it gets Rs. 4 lakhs as profit in 1957, and that too, by manipulation of accounts and by cutting down the depreciation which really ought to go into the accounts of the company. There are so many other things left to be said about the company. But I was only pointing out how a managing agency company, which had no relation to the fertiliser industry, which could not pool any technical personnel because it had no technical personnel, and which had absolutely no advantage in working a fertiliser factory for twelve years, and which was a managing company with a capital of Rs. 60,000 was making enormous profits at the expense of the original company. The Sindri Fertilisers, which started eight years after the Fertilisers and Chemicals Limited, Travancore, could run with I.C.S. officers and newly trained technical personnel and could make a profit and fulfil the quota of entire production within a few years; but we find that this company even after twelve years did not produce even 50 per cent of it capacity, and that too at the cost of the foreign exchange of the country, because this company which can manufacture such a lot of material as fertilisers is not manufacturing it deliberately, because the managing agency company did not want, in their own way, to fulfil the production target. This example shows how the managing agency in that company has certainly failed; it has worked to the detriment of the shareholders of that company. Now, after twelve years, this managing agency has made only one contribution, the contribution of manipulated accounts, and at the cost of production and also loss to the shareholders for all these years.

Then, there is another company, called the Travancore Rayons. The Travancore Rayons company with a capital of about Rs. 3 crores has got a managing agency called the M.C.T. company. The invested capital of the M.C.T. company is very small. The M.C.T. company has got no experience in the rayon industry. As a matter of fact, rayon was a new industry at that time. The M.C.T. company's directors, acting as the managing agents of the Travancore Rayons, with a small and little investment as compared with that of the Travancore Rayons, have sat tight for the last ten years as the managing agents of the Travancore Rayons. And what is the total amount of profit that they have made for a negligible investment of Rs. 50,000? The Travancore Rayons

[Shri Narayanankutty Menon]

purchase the entire pulp from the foreign countries, at the expense of our foreign exchange, and the M.C.T. company has got enormous commission for the purchase of the entire pulp in the foreign lands. And what happens really is that the entire commission that has been paid on the purchase of the pulp is remitted in the foreign lands in the banks, in the name of the directors of the managing agency company, namely the M.C.T. company. And the directors of the M.C.T. company go to America and to Western Germany every other fortnight with family, and spend money there on business trips connected with other business, and spend the foreign exchange, also not showing actually what is the actual credit of foreign exchange that they have got.

The same M.C.T. company, under different names in Bombay, Madras and Calcutta, gets the sole agency for the entire rayons produced in the Travancore Rayons, and gets an overall commission of 15 per cent. on the same. Therefore, this company which has not got any experience in the rayon industry, with a very little invested capital has got the entire monopoly of importing rayon pulp for the Travancore Rayons, gets a commission in foreign exchange, remits that commission, not in the records, but by secret accounts in the banks of America and Western Germany; and the directors of the M.C.T. company are going there and staying just like any other industrialist, with family, for business connected with the managing agency firm but completely unconnected with the Travancore Rayons. Their application also is coming up before the Government of India, and they are confident that the application will be favourably considered.

These are the two classical examples. If you go into the details of other companies, you will find the very same thing, a small capital investment, sitting tight over the affairs of the company, draining out the entire profits of the company, lack of technical personnel, as far as the managing agency is concerned, and so on. They train these technical personnel at the cost of the company; they send them to America or to Western Germany or to England every other fortnight, to the advantage of the managing agency company, because the employees who are there belong to the managing agency company.

In 1956 hon. Members from all sides of the House maintained that the managing system had become outdated and that it should not live for one moment more to the cost and detriment of industrial progress in India. I therefore hope that the hon. Minister will reconsider the position and bring in a provision in the Joint Committee whereby managing agency in the public and private companies ceases by 15th August, 1960.

The second important point is regarding the foreign companies. It is a pity that in many instances, this Ministry as well as the Ministry of Steel, Mines and Fuel and the Ministry of Finance, have come to a very difficult position. I myself do not understand what the real position is as far as the accounts of the foreign companies are concerned. From direct experience I can say that the foreign companies are not bound by any law to give a correct accounting to the Government of India itself. The hon. Minister of Steel, Mines and Fuel at least seven times has told me on the floor of this House that the detailed accounts of the oil companies in India have never been known to him, and one day when he said that some sort of legislation would be required, the hon. Home Minister intervened and said that if necessary, legislation would be brought forward.

Today the position is this, that the original investment of the oil companies in this country is completely unknown to anybody. The figures shown in their balance sheets which are filed, if at all filed, do not bear any relationship to the actual capital invested. These companies are keeping certain accounts which have absolutely no reality as far as the circumstances are

concerned. I will point out only one or two instances where the company's accounts do not show the real position of the invested capital to the detriment both of the Exchequer, and also, as pointed out by my hon. friend Shri C. K. Bhattacharyya, of the workers who are said to be real partners in the industry by the Government of India.

The Burmah Oil Co., had an invested capital of Rs. 16 crores in 1948. Nobody knows whether it was brought by them. In 1956 the invested capital of the company had increased to Rs. 57 crores from Rs. 16 crores. It is an agreed fact that not one pie has been brought by the company either from Burma or Great Britain or any other place where its associated companies are situated. How did Rs. 16 crores multiply to Rs. 57 crores?—by the simple process which the company adopted last year when the new refineries were going to be taken over, namely, revaluation of the entire stock of the company. When these people are adopting this process of revaluation, and inflated capital is shown in their balance sheets, I ask the hon. Minister whether the Government has got any power to control this process by which they get more and more returns in the matter of income-tax, bonus and many other advantages. What is the power with the Government if a company today with a capital of Rs. 1 crores, revalues its entire assets, which is not subject to audit, and say that their capital now is Rs. 25 crores with consequent return on that capital, interest for that and all other considerations?

The Kanan Devan Hills Produce Co., a mighty plantation company, which had been in the news some six months back, is controlled by the Finlay group of industries, and is a glaring example. In 1953 the capital of this company as disclosed by the Finlay group of industries was £11 lakhs. This is not the original capital, but as valued by the company. In 1955 this was £37 lakhs. How was this achieved?—by the simple process of revaluation of the land of the company. By this process the company has increased its capital without actually bringing in any capital at all. We find there are certain cases pending in which the workers wanted the accounts of the company, and now the High Court has said that the company is not bound to produce any accounts.

In this company the General Manager gets an overall cash payment of Rs. 17,000 a month; the Deputy General Manager, with his responsibility allowance, gets Rs. 7,000; 28 other foreign managers get Rs. 2,500 each with enormous paraphernalia; 1,500 managerial and supervisory staff come within the pay group of Rs. 500 to Rs. 1,000. This is the establishment maintained by them. The General Manager gets sumptuary allowance, car allowance and so many other allowances which are not subject to income-tax. This is the way in which they behave. What is the power in the hands of the hon. Minister or the company law administration to prevent this inflation of capital and expenditure indulged in by these companies?

This morning I read a judgment of the Supreme Court which is certainly, as far as we are concerned, most disturbing. Shri C. K. Bhattacharyya has referred to it, and it is regarding the guarantees as far as the private and public limited companies are concerned regarding the claims of the workers. The learned Judges have said that as far as the balance sheets are concerned, in the case of public or private limited companies the industrial tribunals have to accept the figures shown in them, and unless extraordinary circumstances exist, the industrial tribunal has no business to look into the accounts of the company. That is a very disturbing state of affairs, especially in the case of companies which inflate their capital and expenditure, and have so many hidden expenditures. I can bring many such cases to the notice of the hon. Minister. Companies make lakhs and lakhs of rupees as profit, and ultimately the workers ask for bonus, and the balance sheets are to be accepted as *prima facie* evidence of the correctness of the state of

[Shri Narayanankutty Menon]

affairs and the trading results of the company, and the workers have to go back from the court without getting a single pie as bonus Therefore, something will have to be done, and the company law administration and the statute should have control over inflation of capital and also the expenditure of these foreign companies Unless that is done, the workers will not get their share, the Government of India will not get their share, and these companies will go on making profit, subdued profit, without the knowledge of anybody concerned

I make an earnest appeal to the hon Minister that considering all these points, he will have to review the amendment that he has brought forward Unless the amendments are reviewed in the light of the realities of the situation, apart from the report of Shri Shastri, the purpose of this amending legislation, and the intention with which it is brought by the Government, will be defeated I therefore hope that in the Joint Committee the Government will itself take the initiative to plug these loopholes, so that the rights of the workers and the Government will be guaranteed and the thorough mismanagement of these companes will be prevented

Pandit Munishwar Dutt Upadhyay (Pratapgarh) The company law was overhauled only two or three years ago The old Act against which there were a number of complaints was repealed, and we took quite a long time in preparing the present one But even then it was considered that if any defects were found in the working of this law, steps would be taken to amend it It is according to that stipulation that this amendment has come before us

What I want to submit especially in this connection is that the report of 1958 has given us almost up to date all the drawbacks in the working of the Act that have been found either by the Committee that was appointed or by the administration I do not think any hon Member here could go any further in pointing out these defects, because on the most serious defects that could be expected from the complaints that we had when we were considering the law three years back, the Report is very emphatic I would simply read out a few instances and you will find that nothing has been left out that could be said against the working of the Act.

The main point to be considered was whether there should be any restriction on the income of the managing agency which used to increase somehow or other, by hook or crook This has been accumulating at the cost of shareholders There was no check Even the checks that we provided could not work successfully Attempts were made in the Act to see that these checks could be effective, but in spite of those attempts and these provisions, we find that even now breaches of these provisions are so frequent

They have said that even now commissions are being charged on bank overdrafts In order to increase their remuneration indirectly, some managing agents and directors of companies have started to receive commission on bank overdrafts and other loans guaranteed by them Then they have emphasised that instances have also come to light where relatives of directors who, by and large, were reported to be men of no substantial means have acted as guarantors and received relatively high rates of commission in lieu of the services said to have been rendered as guarantors to the loan

These complaints were made at that time and if they are being repeated, although we have made provisions to check these tendencies, it only shows that there is some loophole I do not know how far the provisions made in the present Bill shall be adequate for this purpose I shall just refer to some of the drawbacks pointed out in the report One relates to contracts with associates of managing agents This is a contrivance to increase the income

of the managing agents. Section 348 of the Companies Act restricts the managing agents' remuneration in any year to 10 per cent of the net profits of the managed company and section 198 restricts the overall managerial remuneration in any year to 11 per cent of the net profits of the company. Sections 356 and 358 prohibit the appointment of the managing agent or his associates as buying agents of the managed company or as selling agents of the goods produced by the company. Section 360, however, requires the approval of a company to be obtained through a special resolution in respect of any contract. etc. with the managing agent or his associates in lieu of the rendering of any service other than that of the managing agents. In one case, it has been found that two associates of the managing agents were appointed on substantial remuneration as attorneys for the managed companies and entrusted with the purchase and sale of goods for the company. So they were attorneys and they were also appointed as buying and selling agents. The arrangement was approved by the company by a special resolution under section 360 of the Act. This device seems to have been adopted by the managing agents apparently to augment their own earnings.

So in spite of the fact that we have made a provision to the effect that there should be a special resolution to approve these proposals, still there has been absolutely no effective check. Sometimes the resolutions go even further than what the managing agents or the managing committee suggest. We have seen in certain cases here that the managing committee has suggested only an emolument of, say, Rs 850 for a particular person related to the directors, but the shareholders in the general body meeting have gone to the extent of saying that he should be given Rs. 1,500 per month, although he probably did not deserve even Rs 850.

Shri V. P. Nayar (Quilon): What percentage of the shareholders attended that meeting?

Pandit Munishwar Dutt Upadhyay: I do not know how they passed that resolution giving something more than what was suggested. So it appears that even this check made in the Act is not effective. How it is manoeuvred by them, it is very difficult for me to say. But these things are being done.

Therefore, we have to have better checks; otherwise, I do not think we can in any way restrict the income the managing agents are even now trying to make in spite of the Act we have passed.

Again, in one case, the resignation of a managing agent was accepted and he was appointed selling agent. Probably the income from being selling agent was much higher than that obtained by being managing agent on account of the restrictions we have placed. We have not placed any restrictions on the income of the selling agent; therefore, he resigns his post as managing agent and immediately becomes selling agent.

Then employment of relatives has also been mentioned This was also complained of before and it was then considered that some provision should be made in the Act to prevent it. But it has been found that relatives who do not deserve to be in certain posts were appointed The instance that I cited of a person who was recommended Rs. 850 and was appointed on Rs. 1,500 is one in point.

There is another instance which I find. Some shareholders who were probably relatives of managing agents were allowed to have a tour abroad. They were given travelling allowance of quite a large sum I do not know how they could do that. These people were neither officers of the company nor directors, nor had anything to do with the management

Dr. M. S. Aney (Nagpur): They are the masters of the officers of the company.

Pandit Manishwar Dutt Upadhyay: They are the masters In spite of the provisions made, somehow or other, they find some loophole and through that increase their income

The defintion of 'relatives' was discussed in the Report of the Committee that was appointed and the suggestion made is that it should be restricted It may be that there may be a restriction of the term 'relatives', but I do not know if any kind of restriction would be helpful Unless you try to cover all possible relatives, there would be some loophole through which they will employ people again to defeat the provisions we make in the Act

Some hon Members were making complaints, but then very serious complaints have been made in the Report itself I think the amending Bill has tried to cover most of those complaints, although I am not sure how far it shall be an effective check on the tendencies that we see among these managing agents to increase their emoluments, still the provisions that have been made do really intend to have some sort of restriction on the increase of their income

Only one more point and I have done As regards the Companies Act which was passed only three years ago, the main thing that was discussed was the income of these agents and also the manner in which they were trying to become managing agents of a number of companies By that also they increase their income

Some cases were cited by another speaker I think I should not take much time over it I should say that the number of companies allowed to be managed by a particular managing agent should be further decreased The number that is there is such that somehow or other, by direct or indirect methods, a man may have a number of companies and earn lakhs although that was not the intention of the legislation that we considered when passing the Companies Act last time So, I would submit that there should be restriction on that Let us have these amendments and again let us see how far we succeed in imposing the restrictions that we want to have in this legislation

श्री रामसिंह भाई वर्मा (निमाड) श्रीमन्, कम्पनीज (अमेंडमेंट) बिल को सिलेक्ट कमेटी को सौंपने के लिये जो मोशन रखा गया है, उसका मैं समर्थन करता हू । इस विषय में मुझे ज्यादा बोलना नही है । क्योकि जब इस बिल को सिलेक्ट कमेटी को सौंपा जा रहा है, तो फिर सिलेक्ट कमेटी की रिपोर्ट आने के बाद ही इस पर अपने विचार जाहिर करना उपयुक्त होगा, लेकिन मैं आपके द्वारा सिलेक्ट कमेटी के माननीय सदस्यो के सामने कुछ थोडा सा निवेदन करना जरूरी समझता हू ।

जहा तक कम्पनीज एक्ट का सवाल है, एक माननीय सदस्य ने समाजवादी पेटर्न की बात कही । मैं उससे सहमत हू, क्योकि दर-असल ऐसे ही कानून देश में क्राति ला सकते है, जिन से देश को देश की जनता को, देश के धन को और उसमें लगे हुये लोगो को फायदा पहुचे । जहा तक कम्पनीज एक्ट का सवाल है हमारे देश में जो औद्योगिक उत्पादन के साधन है, उनके द्वारा हमारे देश की सम्पत्ति बढे, देश की जनता को उसकी जरूरत की वस्तुए प्राप्त हो, उसमें लगे हुए लोगो को रोजी मिले और जो पूजी उसमें लगाई जाये, उस को नुकसान न पहुचाते हुए पूजी लगाने वाले लोगो को उसका उचित मुआवजा मिले, इसको रेगुलेट करने के लिये कम्पनीज एक्ट एक बडी भारी चीज है । अगर इसमें खामिया है, तो समाजवादी पेटर्न नही, पूजीवादी पेटर्न बन सकता है—जो कि पहले था—और अगर इसको ठीक ढग से, सावधानी से अमल में लाया गया, तो वह इस देश में समाजवाद को जल्दी से जल्दी लाने मे सहायक हो सकता है । लेकिन हमने देखा कि १९५६ में इस एक्ट में जबर्दस्त क्रातिकारी सुधार किये गये और हमें ऐसा

लगा कि इस एक्ट में जो सुधार किये गये हैं, उन के कारण प्राइवेट सेक्टर में काफी सुधार होगा, उसका फ़ायदा जनता को, इंडस्ट्री को और काम करने वाले लोगों को मिलेगा। लेकिन श्रीमन्, अनुभव यह हुआ कि एक्ट की धाराये तो बढ़ी, लेकिन उनसे फायदा कुछ भी न हुआ। हनुमान जी की पूछ बढ़ी थी लका को जलाने के लिये, लेकिन पूछ बढे और लका न जले, तो उसके बढने का कोई फायदा नही है। यही हाल उस कम्पनीज एक्ट का हुआ है, क्योकि व्यापारी लोग बडे चतुर आदमी होते है और उनकी चतुराई को कानून से पहुचना हमारे लिये एक समस्या है। कम्पनीज एक्ट की भी यही दशा रही है, जिसका मुझे पूरा अनुभव है, क्योकि जिस तरह धार्मिक लोग गीता रामायण सिरहाने रख कर सोते है, उसी तरह मैं भी कम्पनीज एक्ट को सिरहाने रख कर सोता हू— मै भी हमेशा बेलेंस-शीट्स देखने वालो मे से हू। जब पार्लियामेट में प्राफिट-शेयरिंग का सिद्धान्त स्वीकार किया गया है, तो मुझे भी यह देखना पडता है कि अमुक कारखाने ने कितना कमाया, डेप्रिसियेशन और डिविडेड कितना हुआ और उसमें से मजदूरो को कितना बोनस मिलेगा, उनका वेतन कितना बढेगा। कम्पनियो के सचालक इस एक्ट मे से निकलने और बचने के लिये जितना मिसमेनेजमेंट करते है, वह बेशुमार है। इसलिये मै मानता हू और कहना चाहता हू कि इस विषय मे जितनी खामिया है, उन सब की जवाबदारी कम्पनी ला एडमिनिस्ट्रेटर के डिपार्टमेंट की है। एक तरफ तो वह कम्पनीज एक्ट को अमल में लाने के बारे में लापरवाह है और दूसरी तरफ मालिक लोग इसका सारा नाजायज फायदा उठा रहे हैं। इस कानून की धाराये हम चाहे कितनी ही बढाये, लेकिन उसके अमल का क्या हाल है? जब भी कोई बात उनके सामने लाई जाती है, तो हमसे कहा जाता है कि जाच-पडताल कर रहे हैं, ऐक्शन लेने के लिये विचार किया जा रहा है और फिर कहते हैं कि गवर्नमेंट उस पर कोई कार्यवाही करना नहीं चाहती है। इस प्रकार कम्पनीज एक्ट की धाराओ के बिल्कुल विपरीत कार्य हो रहा है और हम उन बातो को डिपार्टमेंट के सामने लाते हैं, फिगर्ज और तथ्य देते हैं और बताते हैं कि इस सम्बन्ध में क्या कुछ हो रहा है, तो उत्तर में हमको बताया जाता है कि हम उसकी जाच कर रहे हैं, गवर्नमेंट उस पर विचार कर रही है और फिर हमें यह कहा जाता है कि गवर्नमेंट उसके बारे में कोई कार्यवाही करना नही चाहती है। इसका मतलब क्या है? हम देखते है कि फटे जूते चुराने वालो को सरकार जेल में बिठा देती है, लेकिन जो लाखो करोडो रुपये हज्म जाते है, उनके सम्बन्ध मे वह कहती है कि हम कोई कार्यवाही करने के लिये तैयार नही है। यह एक बडा सवाल हमारे विचाराधीन है। इस तरफ कम्पनी ला एडमिनिस्ट्रेशन को टाइट करने की जरूरत है।

मैंने एक बेलेंस-शीट देखा, जो कि एक बडे भारी उद्योग का बेलेंस-शीट है। लाखो रुपये कमाये गये है। वह बेलेंस-शीट ३० जून १९५८ तक का है। जुलाई महीने में बारिश पडी और उसके कारण कारखाने के माल को नुक्सान पहुचा। लेकिन उन्होने चेज करके यह दिखा दिया कि ३० जून, १९५८ पर जो क्लोजिंग स्टाक था, जुलाई माह में पानी पडने के कारण नो लाख का नुक्सान हुआ वह ३० जून तक के हिसाब मे से कम कर दिया गया। मेरी समझ मे यह बात नही आती है। इस को देखने की जरूरत है। जुलाई में पानी गिरता है और माल को नुक्सान पहुचता है, लेकिन ३० जून तक के साल का जो मुनाफा और नुक्सान है, उस मुनाफे और नुक्सान में से, दूसरे साल के माल को जो नुक्सान पहुचता है, वह किस तरह से कम कर निकाला जा सकता है? मान लीजिये कि ३० जून तक के साल का ज्यादा प्राफिट है और उसमे से अगले साल के दस लाख आपने निकाल दिये, तो आप कम से कम नो दस लाख रुपये का इनकम टैक्स बचा

[श्री राम सिंह भाई वर्मा]

सकते हैं । उस का प्रभाव डेप्रिसियेशन पर भी पड़ेगा और मजदूरों को जो बोनस मिलेगा, उसमें भी कमी होगी । मैं यह जानना चाहता हूं कि क्या इस तरह के बैलेंस-शीट्स को कम्पनी ला एडमिनिस्ट्रेशन के रजिस्ट्रार महोदय नहीं देखते हैं, क्या वह उनके यहां नहीं जाता है और जब कोई सूचना उनको दी जाती है, तो उस पर ध्यान क्यों नहीं दिया जाता है । बड़ा आश्चर्य लगता है कि दर-असल कोई सुनने वाला नहीं है, कोई देखने वाला नहीं है ।

जहां तक डेप्रिसियेशन का सम्बन्ध है, इनकम टैक्स के नियमों द्वारा यह ठहरा दिया *गया है कि वह किस परसेंटेज में लिया जाये ।* मेरे पास एक बैलेंस-शीट है और मैंने एक कारखाने का डेप्रिसियेशन देखा है । इधर नेपा मिल चली थी और उधर वह कारखाना चला था । एक करोड़ रुपये का प्राफ़िट साल में हुआ और होता है, लेकिन जब हम डेप्रिसियेशन का हिसाब देखते हैं, तो आश्चर्य होता है । यह ठीक है कि अलग अलग कारखाने होते हैं—कोई कैमिकल का होता है और कोई दूसरा होता है । उन की मशीनरी, प्लाट और बिल्डिंग वगैरह को जो क्षति पहुच सकती है इसलिये डेप्रिसियेशन के रेट्स में फ़र्क हो सकता है, लेकिन एक कारखाना पांच सात वर्ष में लगी हुई लागत के करीब डेप्रिसियेशन निकाल ले, तो आश्चर्य होता है । डेप्रिसियेशन निकालने में फर्स्ट, सैकंड और थर्ड शिफ्ट्स का ध्यान रखना होता है, लेकिन ऐसा किया जाता है कि सेकंड थर्ड शिफ्ट चलती तो है, लेकिन उसका सिर्फ थोड़ा सा हिस्सा चला दिया और पूरे प्लाट का डेप्रिसियेशन निकाल लिया । इस प्रकार ८७, ८८ लाख रुपये का डेप्रिसियेशन निकाल लिया । कम्पनीज एक्ट के अनुसार डेप्रिसियेशन निकालते हुए इस बात को देखना होता है कि एक शिफ्ट चलती है, दो शिफ्ट्स चलती हैं या तीन शिफ्ट्स चलती हैं और तीनों शिफ्ट्स में जितना हिस्सा चलता है, उसके हिसाब से ही डेप्रिसियेशन निकाली जानी चाहिये । यह नहीं हो सकता है कि नाम मात्र के लिये दूसरी या तीसरी शिफ्ट में दस बारह आदमी रख दिये और थोड़ा सा हिस्सा चला दिया और कह दिया कि दूसरी या तीसरी शिफ्ट चलती है और दूसरी या तीसरी शिफ्ट का डेप्रिसियेशन चार्ज कर लिया । अगर डेप्रिसियेशन की रकम ज्यादा निकालेंगे, तो प्राफिट का हिस्सा कम हो जायेगा और उसके कारण मजदूरों का जो बोनस का क्लेम होता है, वह उनको नहीं मिलता है । सुप्रीम कोर्ट और इंडस्ट्रियल कोर्ट ने बोनस का फ़ारमूला तय कर दिया है कि डेप्रिसियेशन, टैक्सेशन और डिविडेंड निकाल देने के बाद जो रकम बचेगी, उस में से बोनस दिया जायेगा । लेकिन डेप्रिसियेशन की जो रकम जमा हो, उसमें से उस प्लाट को बढ़ाया जाता है या उसके जरिये से दूसरा कारखाना लगाया जाता है । यह बहुत अच्छी बात है । आप एक कारखाने के दो करें, तीन करें, दस करें या हजार करें इसमें कोई एतराज की बात नहीं है । लेकिन जब आपका उद्देश्य यह है कि उसमें लगे हुये लोगों को पूरा फ़ायदा मिले तो मेरा निवेदन यह है कि आप जो भी धारायें बढ़ायें, उसके साथ साथ अपनी एडमिनिस्ट्रेशन को भी मजबूत करें ताकि वह आखें खोल कर देख सके और अगर कोई ऐसी बात होती है, जो कि नहीं होनी चाहिये तो उचित कार्यवाही कर सके । श्रीमान्, आपने डिविडेंड ठहरा दिया है । लेकिन आज हो क्या रहा है । आज हो यह रहा है कि कारखाने प्राफिट करें या न करें, लेकिन जो डिविडेंड है, वह बैलेंस-शीट निकलने से पहले ही जाहिर कर दिया जाता है और बता दिया जाता है कि वह इतने परसेंट देना होगा ।

पार्लियामेंट के अन्दर हमारे माननीय सदस्य शेयरहोल्डर्स के साथ बड़ी सहानुभूति प्रदर्शित करते हैं । लेकिन मैं पूछना चाहता हूं कि शेयरहोल्डर्स हैं कहां और कितने हैं ?

इन शेयरों को तो आज बड़े बड़े लोग हज्म करके बैठ गये हैं । लगभग ५१ परसेंट या उससे भी ज्यादा के शेयर तो मैनेजिंग एजेंट या डाइरेक्टर के होते हैं, उसके खुद के शेयर होते हैं और जो बाकी के होते हैं उनमें से कितने ही उनके सालो के नाम, फूफा के नाम, बुआ के नाम या दूसरे रिश्तेदारों के नाम से होते हैं । गरीब आदमी के मुश्किल से नाम मात्र के शेयर होते हैं और इन गरीब शेयरहोल्डर्स के नाम से सारा डिविडेंड और सारा डेप्रिसियेशन निकाल लिया जाता है । इस सब का नतीजा आज यह हो रहा है कि जितने भी काम करने वाले मजदूर हैं तथा जो कंज्यूमर हैं, उनको इसकी भारी कीमत चुकानी पड रही है । अगर आप एक्ट के अन्दर संशोधन लाना चाहते हैं तो मैं चाहता हूं कि इसके बारे में भी कोई संशोधन लायें ताकि ऐसी चीजों की रोकथाम हो सके । साथ ही साथ आप एडमिनिस्ट्रेशन को मजबूत बनायें ।

मैं मानता हूं कि उद्योग में जो पूंजी लगी हुई है, उसका रिटर्न उनको बराबर मिले और मैं इसके विरुद्ध नहीं हूं । अगर रिटर्न नहीं मिलेगी तो कोई पूंजी लगाने के लिये तैयार नहीं होगा—आपने छ परसेंट या आठ परसेंट जो कुछ भी ठहराया है, या ठहरायें । यह भी आप देखें कि कारखाना चलता रहे, उसको किसी प्रकार की हानि न पहुंचे और इसके बारे में सावधान रहना भी गवर्नमेंट का काम है । मैं तो समझता हूं कि कारखाने किसी मालिक के नहीं हैं, देश की जनता के हैं और ये गरीब जनता के हित में हैं कि ये कारखाने चलते रहें और इसके लिये मैं यह भी चाहता हूं कि जो मजदूर हैं या जो कंज्यूमर हैं, वे भी कारखानों को बराबर सहयोग देते रहें । लेकिन आज यह हो नहीं रहा है । मैं चाहता हूं इस ओर भी आप ध्यान दें ।

आप कम्पनी एक्ट में संशोधन करने जा रहे हैं और आप कहते हैं कि अगर मुनाफा होगा तो दस परसेंट और अगर नुकसान होगा तो कम से कम ५०,००० रुपया कमीशन मिलेगा । मेरे पास एक बैलेंस-शीट है और उसको मैंने देखा है और उसमें यह दर्ज है कि एक डायरेक्टर साहब ने ४५,००० रुपये लिये, दूसरे ने ३६,०००, तीसरे ने ३०,००० और इस तरह से १ लाख ११ हजार उन्होंने नुकसान में कमीशन ले लिया । अब आपकी जो ५०,००० की लिमिट है, वह कहां गई है । ऐसी हालत में किस तरह से इतना रुपया ले लिया जाता है, इस ओर भी एडमिनिस्ट्रेशन का ध्यान जाना चाहिये । क्या इस तरह की चीजें आपके विभाग की नजरों में नहीं आती हैं, और अगर आती हैं तो क्या कारण है कि कोई कार्यवाही नहीं की जाती है । यह बात नहीं है कि यह चीज केवल प्राइवेट सैक्टर में ही होती हो, मैं बताना चाहता हूं कि यह पब्लिक सेक्टर में भी होती है । मेरे पास एक बैलेंस शीट मौजूद है और वह गवर्नमेंट के एक कारखाने का है और उसको देखने से पता चलता है कि उसके जो मैनेजिंग डायरेक्टर साहब हैं, वह उसमें नुकसान होने पर भी ५७,००० रुपये ले गये हैं । अब यह आपका कारखाना है और आपके वे डायरेक्टर हैं और आपकी ही सारी चीज है ।

श्री लाल बहादुर शास्त्री : कौनसा वह गवर्नमेंट का कारखाना है ?

श्री रामसिंह भाई वर्मा : नेपा मिल । उसका बैलेंस शीट और रिपोर्ट भी मेरे पास है ।

श्री लाल बहादुर शास्त्री : कब का बैलेंस शीट है ?

श्री रामसिंह भाई वर्मा लास्ट ईयर की रिपोर्ट है और इसको भोपाल के अन्दर विधान सभा में पेश किया गया था । यह मेरे पास है ।

श्री लाल बहादुर शास्त्री : माननीय सदस्य को शायद मालूम नहीं है कि इस कारखाने में काफी परिवर्तन हो चुके हैं । कैपिटल स्ट्रक्चर वगैरह बदल चुका है और प्रबन्ध इत्यादि सारे का सारा दूसरा हो गया है ।

श्री रामसिंह भाई वर्मा: प्रबन्ध बदलने के पहले की ही मैं बात कर रहा हूं। मुझे मालूम है कि पहले प्रबन्ध मध्य प्रदेश और सेंट्रल गवर्नमेंट दोनों का मिल जुल कर था लेकिन अब प्रबन्ध बदल चुका है और इस बदली हुई प्रबन्ध व्यवस्था के पहले के बारे में ही मैं बात कर रहा हूं। इस चीज़ को मैं आपके सामने इसलिये ला रहा हूं कि यह पहले की चीज़ शायद आपके सामने अभी नहीं आई है और अब आ जाये।

मैं प्राफिट की बात कर रहा हूं। आज आपने प्राफिट का एक फार्मुला ठहरा दिया है और कह दिया है कि अगर प्राफिट होगा तो दस परसेंट से ज्यादा नहीं दिया जायेगा, अगर लास होगा तो ५०,००० से अधिक नहीं दिया जायेगा। अगर इसको आप कड़ाई से अमल में लायें तो कारखाने बहुत अच्छी तरह से चल सकते हैं। लेकिन आज हो क्या रहा है। आज कम पैसा देने की बात भी की जाती है। मैं तो समझता हूं कि मैनेजिंग डायरेक्टर को कमीशन की एक पाई भी नहीं मिले तो भी वे तैयार हो जायेंगे। क्यों तैयार हो जायेंगे यह बात भी मैं आपको बतलाना चाहता हूं। आज उनके लिये कमाई के काफी रास्ते खुले हुये हैं। ट्रेवलिंग एलाउंस के नाम से आज वे काफी ले जाते हैं। इसके नाम पर मैंने देखा है कि कम्पनी के पैसे से वे लोग विलायत की सैर करते हैं, स्वास्थ्य सुधार के लिये, इलाज करवाने के लिये योरोप गये हों और जितना भी खर्चा हुआ वह सारे का सारा कम्पनी के जिम्मे डाल दिया गया है। आपने उनको मोटर देने की इजाज़त दे रखी है, रहने को बंगले दे रखे हैं। मैंने देखा है कि जब लड़का पैदा होता है तो उसके लिये एक दूसरा बंगला बनना शुरू हो जाता है। मैंने देखा है कि उस के लड़के की शादी होने वाली होती है और जिस बंगले में वह रह रहे थे, उसमें गुंजाइश नहीं थी तो कम्पनी के पैसे से दूसरा बंगला बनवा लिया गया और लड़के को दूसरे बंगले में रहने का प्रबन्ध कर दिया गया। लास के नाम पर आज कारखानेदार एक्साइज और सेल्ल टैक्स में कमी करवा रहे हैं। तो मैं कहना चाहता हूं कि इतना अधिक मिस-मैनेजमेंट बढ़ने लग गया है कि जिसका कुछ ठिकाना ही नहीं है फिर कमीशन की ज्यादा परवाह क्यों करें। अगर आप हम लोगों का सहयोग चाहते हैं तो गवर्नमेंट को इस संबन्ध में हमारी मदद भी करनी चाहिये।

मेरा दुर्भाग्य है कि मैं अंग्रेजी नहीं जानता हूं और जितनी भी कार्यवाही कहीं होती है वह सब की सब अंग्रेजी में होती है। हिन्दी मैं थोड़ी बहुत जानता हूं और जो कुछ होता है उसको मैं सुन समझ लेता हूं, देख लेता हूं, पूछ लेता हूं। और उसी आधार पर अपनी बात कहता हूं। लेकिन जो फैक्ट फिगर्स मैंने आपको दिये हैं, उन पर मुझे पूरा विश्वास है, पूरा भरोसा है, और उसमें कोई मीन मेख नहीं निकाली जा सकती है।

तो मेरा निवेदन है कि जब तक आप कम्पनी ला एडमिनिस्ट्रेशन को नहीं बदलते हैं, उसको मजबूत नहीं बनाते हैं और इस खरीद और बेचान का जो तरीका आज है, उसको नहीं बदलते हैं, तब तक अच्छी तरह से काम नहीं हो सकता है। आज होता क्या है, बिल के आधार पर वाउचर बनाये जाते हैं। जब आडिटर आते हैं तो वे कहते हैं कि कानून के अनुसार हिसाब किताब रखा गया है और जो बिल था उसके अनुसार रकम चुकाई गई है और वाउचर बनाये गये हैं। लेकिन देखने में आया है कि एक कारखाने के अन्दर एक चीज़ ५०० रुपये की आई और दूसरे कारखाने के अन्दर वही चीज़ और उतनी ही मात्रा में ११०० रुपये की आई। एक में ५०० की और दूसरे में ११०० की क्यों आती है? इसका कारण यह है कि जहां पर ११०० की आती है, जहां पर ११०० का बिल आता है, वहां पर मालिक ने अपने सम्बन्धी से उस चीज़ को मंगाया होता है, इसलिए उसका ज्यादा चा

करने की उसको छूट दे दी जाती है। पहले जमाने में हम देखते थे कि कम्पनियों में एक हिसाब रजिस्टर होता था पब्लिक और दूसरा होता था प्राइवेट। लेकिन आज परसनल एक और रजिस्टर भी होने लग गया है। आज एक की जगह तीन पब्लिक रजिस्टर होते हैं, एक प्राइवेट और एक परसनल। ये सब क्यों होते हैं, यह मेरी समझ में नहीं आया है।

श्रीमान्, मैंने थोड़े से विचार आपके सामने रखे हैं और मैं चाहता हूं कि ज्वायंट कमेटी इन पर विचार करे और यह जो खरीद बेचान का तरीका है इस में भी चेंज लावे। मैं चाहता हूं कि कोई ऐसा तरीका ढूंढा जाये जिससे कि एक तो कारखाने ठीक तरह से चलें, बराबर चलें, दूसरे कंज्यूमर्स को लाभ बहुत पहुंचे, तीसरे उत्पादन में कमी न आवे, राष्ट्रीय आय बढ़े और साथ ही साथ काम करने वाले जो श्रमिक हैं, उनको भी फायदा पहुंचे। ऐसा अगर हुआ तो हमारी पार्लियामेंट का सारा देश जयजयकार कर उठेगा। इस वास्ते मैं कहना चाहता हूं कि जो कानून बनाया जा रहा है, उसके ऊपर बराबर अमल होना चाहिये और सख्ती के साथ इसकी धाराओं को लागू कर पालन कराया जाना चाहिये।

श्री स० म० बनर्जी (कानपुर): उपाध्यक्ष महोदय, यह जो बिल ज्वायंट कमेटी के पास जा रहा है इसके बारे में बहुत से माननीय सदस्यों ने तफ़सील के साथ अपने विचार रखे हैं और सुझाव दिये हैं। इस वास्ते मैं समझता हूं कि अगर बहुत सी चीजें मैं न ही कहूं तो अच्छा रहेगा।

सवाल केवल यह है कि जितनी भी लिमिटिड कम्पनीज हैं या कंसर्नस हैं इनके वाकई में जो कुछ भी पैदा होता है, उसका एक उचित भाग मजदूरों के पास जाता है जोकि वहां काम करते हैं? बैलेंस शीट की बात अकसर की जाती है। मजदूर आन्दोलन में रह कर जो मुझे थोड़ा सा तजुर्बा हासिल हुआ है और जिस की वजह से मैं मिल मालिकों के नजदीक भी आया हूं और उसके आधार पर मैं यह सोचने के लिये मजबूर हो गया हूं कि क्या वाकई में बैलेंस शीट में सही तसवीर, सही आंकड़े होते हैं या नहीं होते हैं। यह कहना तो मुनासिब नहीं होगा कि बैलेंस शीट को गलत तरीके से बनाया जाता है क्योंकि ऐसा कहने का मेरे पास शायद कोई सबूत न हो। लेकिन आम तौर पर मैंने देखा है कि इस खूबी से और इतने अच्छे ढंग से उसको बनाया जाता है कि हर एक के अन्दर यह दिखाने की कोशिश की जाती है कि जितने भी सरमायादार देश के हैं चाहे वे सूती मिल मालिक हों या ज्यूट मिलों के मालिक हों या दूसरे किसी उद्योग के मालिक हों, उनको कोई मुनाफा नहीं होता है और अगर उनसे पूछा जाता है कि वे उन उद्योगों को क्यों चलाते हैं तो वे कहते हैं कि देश हित में है, राष्ट्र के हित में है, इस वास्ते चला रहे हैं। लेकिन जो आम तौर से बैलेंस शीट ट्रिब्यूनल या एडजुकेटर के सामने रखे जाते हैं, उससे साबित यह हुआ है कि जो आंकड़े उसमें दिये गये हैं, उसमें काफी हिस्सा गलत है। वह इस तरीके से बनाये जाते हैं कि सही तस्वीर न सरकार को मालूम होती है और न वह कर्मचारियों के सामने आती है। उस में एक धुंधलापन हमेशा रहता है और मान लेना पड़ता है इस वजह से कि सरकार के पास भी कोई ऐसी मशीनरी नहीं है जिस से वह उस की जांच कर सके। कुछ कम्पनियों को मैं ने भी देखा। वहां पर हर चीज के सिलसिले में लोगों को परेशानी हो जाती है यह जानने में कि सही चीज क्या है। मैं माननीय मंत्री महोदय से निवेदन करना चाहता हूं कि एक तरफ तो हम कम्पनियों को कंसेशन आफटर कंसेशन देते जाते हैं, और अगर उद्योग को जिन्दा रखना है तो सही हद तक मिलना भी चाहिये, लेकिन इस के बदले में लोगों को क्या मिल रहा है? मैं आप को पत्रकारों की मिसाल देता हूं। माननीय मंत्री जी को यह मालूम है कि इलाहाबाद में अमृत पत्रिका चल रही थी, वह अचानक बन्द कर दी गई। मालूम हुआ कि वह एक नई कम्पनी के हाथ में चली गई। उस में "नार्दर्न इंडिया" जोड़ दिया गया। उस नार्दर्न इंडिया को चलाने वाले कौन थे? क्या कैपिटल उस के पास था? अगर इन तमाम चीजों की जांच की जाय तो आप को

[श्री स० म० बनर्जी]

सही तरीके से मालूम होगा कि चूंकि वेज कमेटी की रिपोर्ट आने वाली थी और हो सकता था कि मालिकान के खिलाफ पत्रकार बन्धुओं के फायदे की कुछ बात उस में हो, इस लिये उस को बन्द कर दिया गया। साथ ही दूसरे नाम से उन्होंने उस को चलाना शुरू कर दिया। आप के सामने जीती जागती मिसाल मद्रास की है। एक्स्प्रेस ग्रुप के तकरीबन ७ अखबार अचानक बन्द कर दिये गये और वहां पर काफी पत्रकार बन्धु और उन में काम करने वाले जो कर्मचारीगण हैं वे आज बेकार हैं। दूसरी जगह से और दूसरे नाम से उन अखबारों को चलाया जायेगा। जब भी मैं इस सदन में यह सवाल श्रम मंत्री या दूसरे मंत्रियों के सामने रखता हूं तो एक लाचारी की तस्वीर, बेबसी की तस्वीर मैं उन की आंखों में देखता हूं। इस की वजह क्या है? वेज कमेटी की रिपोर्ट के निकलने से पहले, मैं इस सदन के सदस्यों को विश्वास दिलाना चाहता हूं जो कि मुझ से काफी योग्य हैं, हम देखेंगे कि हर एक अखबार इस तरीके से नाम बदल कर या जगह बदल कर निकलेंगे और ऐसे हालात पैदा कर दिये जायेंगे कि वेज कमेटी की सिफारिशों का फायदा शायद किसी पत्रकार बन्धु को न हो। "बाम्बे क्रानिकल" की हालत यह है, दूसरे एक्स्प्रेस ग्रुप के अखबार भी इसी तरीके से चल रहे हैं। हमारे पत्रकार बन्धु यह हालत देख चुके हैं और मैं समझता हूं कि आप को यह सुन कर ताज्जुब होगा कि एक्स्प्रेस ग्रुप में प्राविडेंट फंड का १० लाख रुपया जमा नहीं किया गया है। गो इनका साहब शायद देश के ज्यादा हितैशी हैं। उन से पूछा जाये कि आखिर यह सब क्यों हो रहा है। मैं चाहता हूं कि इन चीजों की जांच की जाये और जांच कमेटी में यह चीज भी आय। हम इंडस्ट्री की मदद करना चाहते हैं, इंडस्ट्री को जिन्दा रखना चाहते हैं तो साधनों के होते हुए सरकार भी उन को सुविधायें मोहैय्या करे, मजदूर भी उद्योग को जिन्दा रखने के लिये कूर्बानी देने को तैयार हैं लेकिन अगर उस कुर्बानी का फायदा सिर्फ मालिकों को हो, डाइरेक्टर्स को हो, मैनेजिंग एजेन्सी को हो, और जो काम करने वाले मजदूर हैं यह फाकेकशी करते रहें, तो यह मेरी समझ में नहीं आता है। मैं समझता हूं कि इस के बारे में जांच होनी चाहिये।

16 hrs.

माननीय मंत्री जी का ध्यान मैं अपने कानपुर शहर की तरफ ले जाना चाहता हूं। आप ब्रिटिश इंडिया कारपोरेशन को लीजिये। अब मूंदड़ा साहब ने उसे लिया है, लेकिन मूंदड़ा साहब से पहले की बात मैं कहता हूं। ब्रिटिश इंडिया कारपोरेशन एक एसी कंसर्न थी कि अगर किसी आदमी को दो जगह से आफर मिले मुलाजिमत करने के लिये, एक सेंट्रल गवर्नमेंट में एम्प्लायमेंट के लिये और एक ब्रिटिश इंडिया कारपोरेशन में मुलाजिमत के लिये, तो मैं यह यकीन के साथ कह सकता हूं कि दोनों जगहों में से वह शख्स पहले ब्रिटिश इंडिया कारपोरेशन में काम करना चाहता था क्योंकि वह बहुत अच्छा कंसर्न था। आज वह कैसा खराब हो गया है। मूंदड़ा साहब ने जो खराब किया वह तो किया ही, मैं विश्वास दिलाता हूं कि मैं उन की सट्टे बाजी की बात नहीं कर रहा हूं, उस से पहले जब वह कंसर्न गोरे सरमायदारों के हाथों में था, तब उन के मैनेजिंग डाइरेक्टर्स की हालत बता रहा हूं। अभी मेरे भाई श्री रामसिंह भाई वर्मा ने कहा है कि नये नये बंगले बना दये गये। अगर वह मेरे साथ कानपुर चलें तो मै दिखलाऊंगा कि किस तरह से लाखों रु० उन लोगों ने जाया किये हैं। आज ब्रिटिश इंडिय कारपोरेशन जो है उस को देखिये। पहले तो राजनीति से उस का सम्बन्ध भी हो सकता था, लेकिन आज उसकी हालत इस तरह से होती जा रही है कि हमारे मंत्री जी भी कहते हैं कि कानपुर काटन मिल के बारे में कि दैट फैक्ट्री हैज टु बी स्क्रैप्ड। आखिर राजनीति सम्बन्धी स्क्रैप की यह प्रेरणा कैसे हुई? मैं तो कहूंगा कि अगर काले और गोरे सरमायेदारों के बीच

में पड़ कर वहां के कर्मचारियों की हालत आज यह हो रही है तो मौका आ गया है कि हमारी सरकार सख्ती से कदम उठाये, और इस कंसर्न को अपने हाथ में ले। उस की बैलेन्स शीट्स को देखें। एन्क्वायरी बैठाये ताकि आज ऐसी कंसर्न में जो हजारो लोग भूखे मरते जा रहे हैं, वह आगे न हों। मैं माननीय मंत्री जी को धन्यवाद देना चाहता हू कि उन्होंने कानपुर में मजदूरों की गिरती हुई हालत को सम्भालने की कोशिश की। इस के लिये शायद धन्यवाद देना ही काफी नही होगा, मैं उन का आभारी हू, लेकिन इस के बाद भी आज उन की हालत सुधर नही रही है। मैं तो आप से कहता हू कि आप उन लोगो की हालत को देखिये कि उन कम्पनियो में क्या हुआ है। आज हालत यह है कि वहा के १० हजार मजदूरों को अपने बर्तन तक बेचने की नौबत आ गई है। उन की फाके कशी इतनी बढ चुकी है कि कही ऐसा न हो कि कुछ दिन बाद वह मरघट की तरफ यात्रा करे। अगर ऐसी हालत हो गई हो तो क्या वक्त नही आ गया है कि उन कसर्नस को देखा जाये।

दूसरी चीज जिसकी तरफ मैं ध्यान दिलाना चाहता हू वह राजनीतिक पार्टियो के बारे में है। राजनीतिक पार्टियो के बारे में मुझे इतना ही कहना है कि, मै पहले भी कह चुका हू और आज भी नम्र निवेदन करना चाहता हू और यह निवेदन इस लिये करता हू कि मै समझता हू कि राजनीति कही एसी चीज न हो जाये कि देशवासियो के मन में राजनीति के नाम से घृणा हो जाये। राजनीति एक पवित्र चीज है और अगर उस पवित्रता में कोई एसी खोट आ जाये जिससे लोगो के दिल में राजनीति के बारे में घृणा पैदा हो जाय तो वह हिन्दुस्तान ही नही, किसी भी देश के लिये बहुत ही खराब चीज होगी, जिस का असर हमारे ऊपर भी और आने वाली जनरेशन के ऊपर भी होगा। अभी चन्द दिन हुए मेरे सोशलिज्म दोस्त प्रोफेसर हीरेन मुकर्जी ने कहा था, मैं भी महसूस करता हूं कि हमारी लेफ्ट पार्टी जो है आज उस के आदर्शों में इतनी कमी आ गई है, उन के उद्देश्य आज इतने खराब हो गये हैं कि जिस की वजह से वह बगैर टाटा कम्पनी से चन्द चान्दी के खनकते हुए डले लिये हुए चुनाव नही जीत सकते। क्या हो गया है उन के आदर्शों को? उन के वह उच्च आदर्श, जो उन्होंने रोज गाधी जी के चरणो में बैठ कर सीखे थे, वे क्या हुए? उन आदर्शों के रहते हुए आज उन को क्यों जरूरत पडी टाटा कम्पनी से या इस्को से पैसा ले कर चुनाव जीतने की?

एक माननीय सदस्य कम्यूनिस्ट पार्टी भी लेती है।

श्री स० म० बनर्जी. आप कम्यूनिस्ट पार्टी की बात न करे। इसी पर बहस कीजिये। आप चाहे जितना रुपया लीजिये लेकिन मंजूर कीजिये कि आप में यह खराबी है। मैं उस पर भी आऊगा। आप जो चाहिये कीजिये मुझे इस पर कोई एतराज नही है लेकिन इस चीज को मानिये तो। इस से पहले मेरे मित्र ने कहा कि यह तो चैरिटी है। अगर यह चैरिटी है तो आपने कांग्रेस सस्था का नाम आप अनाथाश्रम या विधवाश्रम रखिये, हमें उस से मतलब नही, और लीजिये जितनी चैरिटी आप चाहते हैं। मै निवेदन करता हू कि आज यह सवाल नही है कि क्या करते हैं। लेकिन आप का आजादी के आने में, हिन्दुस्तान को स्वतत्र कराने में, बहुत काफी हिस्सा रहा है। आप के पीछे एक इतिहास है। अगर आप चाहते है कि इस तरीके से १० लाख रुपयों में इन चीजो और इन सिद्धान्तो को खत्म कर दें, मैं तो समझता हू कि यह आप के लिये अच्छा नही है। इस लिये आप को कोशिश करनी चाहिये कि आप देखें कि कही राजनीति से हमारे देशवासियो को घृणा न पैदा हो जाये।

इन शब्दो के साथ मैं दुबारा माननीय मंत्री से निवेदन करूगा कि कम से कम इतनी

[श्री स० म० बनर्जी]

जरूरत तो हमारी सरकार में हो कि वह इस के बारे में देखे। बैलेंस शीट्स को चैक करे और जिस कंसर्न में आप समझते हैं कि मिसमैनेजमेंट है, स्क्रूवैंडर है, कुनबा परस्ती है और इस तरीके से उस को आज बांटा जा रहा है, उस को आप रोकें और उस के लिए उचित व्यवस्था करें। आज होता यह है कि यह कम्पनियां आपस में ही अपने खानदान वालों में सब कुछ बांट लेती हैं और इस सिलसिले में मैं आपका ध्यान यहां से सोनीपत की ओर ले जाना चाहता हूं जहां पर कि एटलस कम्पनी है और उस में आप देखेंगे कि अगर पिता मैनेजिंग डायरेक्टर है तो उसका पुत्र डायरेक्टर है। जो चीजें यहां एम्पोर्टेड हो रही हैं और उनका जो एक दफ्तर खुला है उसके भी वही मैनेजिंग डायरेक्टर हैं। आपको यह सुन कर ताज्जुब होगा कि एक सिक्युरिटी आफ़िसर जिस ने की यहां की कुछ चीजों को लोगों के सामने जाहिर करने की कोशिश की थी, उसको मरवा डाला गया। वह एक एक्स डिप्टी सुपरिनटेंडेंट आफ पुलिस है। मैं चाहता हूं कि आप इन चीजों को देखें और प्राइवेट सैक्टर और पब्लिक सैक्टर में भेद न डालें। हमारी नीति पीसफुल को-एग्जिसटेंस की है और इसलिये यह दोनों सैक्टर एग्जिस्ट करें लेकिन कम से कम यह जो चीजें हो रही हैं, गड़बड़ियां हो रही हैं, मिसमैनेजमेंट होता है और यह जो कम्पनियां कुनबा परस्ती कर रही है, तो इन चीजों को और नबा-परस्ती को यदि आप ने दूर नही किया तो मैं आपको चेतावनी देना चाहता हूं कि केवल आप को ही नहीं वरन् सारे देश को नुकसान होगा। और उस नुकसान में काफी बड़ा हिस्सा आपका भी होगा। इसलिए मैं आशा करूंगा कि मैं ने अखबारों के बाबत जो बात कही है, माननीय मंत्री उस पर अवश्य ध्यान देंगे और जो इन्वायरी की बात कही है उस पर भी माननीय मंत्री ध्यान देंगे।

मैं मंत्री महोदय और सदन के सामने खास कर कानपुर के मजदूरों की गिरती हुई हालत रखना चाहता हूं। यह वही कानपुर शहर है जो कि कभी मैनचैस्टर आफ इंडिया कहलाता था आज उस कानपुर में आप मजदूरों की बस्तियां यदि जा कर देखें तो आपको ऐसा मालूम पड़ेगा जैसे कि वह उजड़ी हुई हैं। मजदूरों की हालत बड़ी ही दर्दनाक और दयनीय है और जब मैं उनको बारिश और लू, धूप में रिक्शा चलाते देखता हूं तो दिल में दर्द होता है और मैं समझता हूं कि हमारे मंत्री महोदय को भी इन बातों को सुन कर काफ़ी दर्द होगा। मैं चाहूंगा कि इन चीजों की जांच करने के बाद ऐसे कानून बनाये जायें अथवा उन में ऐसे संशोधन लाये जायें ताकि आज जो गड़बड़ी, लापरवाही और भ्रष्टाचार फैला हुआ है वह खत्म हो।

मैं आशा करता हूं कि मंत्री महोदय इन चीजों पर गम्भीरतापूर्वक विचार करेंगे और जिन को वह सही समझेंगे उन पर चलेंगे भी या उन को कम से कम लागू करने की कोशिश करेंगे। मैं मंत्री महोदय को विश्वास दिलाना चाहता हूं कि इन खराबियों को दूर करने के लिए जितनी भी मजदूरों और श्रमिकों की कुर्बानी की जरूरत पड़ेगी, हम आपको देंगे।

Shri Lal Bahadur Shastri: Mr. Deputy-Speaker, Sir.....

एक माननीय सदस्य : कृपया हिन्दी में बोलिये।

Shri Lal Bahadur Shastri: May I speak in Hindi?

An Hon. Member: No.

Mr. Deputy-Speaker: It is for the hon. Minister to choose any language he likes.

Shri Narayanankutty Menon: We can understand English. That is the reason why we want you to speak in English.

Shri Lal Bahadur Shastri: Mr. Deputy-Speaker, Sir, my colleague,

Shri Nityanand Kanungo, has already dealt with the main aspects of the provisions of this Bill.. I have nothing much to add at the present stage as this Bill is being referred to the Joint Committee and I have no doubt that it will receive the closest attention of the members of the Joint Committee.

There are many minor and technical amendments proposed but besides them, there are very important and vital amendments suggested in the old provisions of the Act. I was a bit surprised to hear the hon. Member from Orissa, Shri Supakar, say that there is no provision which he considered to be important enough for this measure to be brought before the House. From his point of view he felt that it was not necessary at all for this measure to be brought before this House. To an extent Shri Menon also said the same thing.

As I said, I am somewhat surprised over that statement because if they will carefully go through the Bill they will find that we have made important provisions in the amending Bill so far as the cornering of shares is concerned and so far as inter-company transactions and loans are concerned. We have also made provisions to see that private companies do not convert themselves into private limited companies without the approval of Government. We have taken powers for inspecting the papers and documents of the companies. All these steps have been suggested through the amendments which are placed before the House. The amending Bill contains all those provisions. In the circumstances, I feel that this Bill deserves a more serious consideration by the House as well as by the Joint Committee.

I am indeed thankful to Shri Mukerjee for having made a very constructive speech, although he was fairly critical of the working of the companies, specially of the foreign companies in this country.

16.18 hrs.

[SHRI BARMAN in the Chair]

I must say that I am not fully satisfied with the way in which our Company Law Administration has been able to function during the last few years.—I am not talking of the last one year—and specially since the last Companies (Amendment) Act was framed, that is, in the year 1956. After that it took some time to put up the Company Law Administration on a sound footing and preliminary work had to be done. It was, therefore, not possible for them to take immediate action in regard to various cases of maladministration which prevailed in different companies. But during the last one year and a half I think adequate action has been taken, which was conceded by Shri Mukerjee himself. Large number of cases—more than 1,200 in one year were looked into and prosecutions were launched against a number of companies. But this Bill is placed before the House because—one of the main considerations of bringing forward this amending Bill is that the administration is not adequately empowered at the present moment to look into the maladministration of companies or even inspect their accounts and other documents fully—the power has to be further given to the administration so that they can examine papers and documents more closely. At the present moment the Registrar has got very inadequate powers. He can inspect the balance sheet and the papers connected with the accounts; he cannot go beyond that. If he wants any other papers pertaining to the balance sheets or accounts, he is not entitled to ask for them, unless he gets special authority from the High Court to do so. In the amendment we have suggested that the Registrar can go into the papers concerning the balance-sheets and accounts and some other document, if he finds it necessary to look into them. It will not be necessary for him in every case to go to the High Court. He can approach the magistrate and the magistrate will give him the necessary authority. The

[Shri Lal Bahadur Shastri]

magistrate himself can make a search and find out the papers or the Registrar can ask for those papers No extra action may be called for, if the papers are submitted as it will suffice for the purpose of the Registrar

I am merely putting this as an example that we do not have adequate powers to deal with companies in many matters, especially in regard to the production of documents, etc. In fact, there have been considerable delays Papers have not been submitted and the Registrar went on waiting So, we thought this situation should be remedied. If there are delays and if the Registrar has not got adequate powers, practically the inspection comes to an end. Not only the Registrar, but we have in this amending Bill authorised the inspectors to look into cases and make necessary enquiries and see to it that the documents needed are submitted to the inspector or to the Registrar I therefore feel that the amending Bill now before Parliament will help to remove most of the admitted deficiencies in the present law and the further steps we have taken, and we propose to take, if necessary, in future will help us in strengthening and reinforcing the administration

The main point that has been raised by any hon Members of the House is about the managing agency system I would like to make it clear that the law does not enjoin any abolition of the managing agency system It is true it empowers Government to abolish managing agencies in particular industries, if it so desired If Government come to the conclusion that the managing agency should be abolished in a particular industry the power is there provided in the present Bill But there is a regular procedure also provided for the same I think hon. Members know that there has been some confusion about the abolition of the managing agencies by a particular date The Bill merely provides that by the 15th of August 1960 all the managing agencies will come to an end, provided they do not seek for renewal of the terms of their managing agency. So on the 15th of August 1960 the managing agency of those companies who do not come forward to renew their agencies will naturally come to an end. But those companies, or managing agencies which will conform, or which will submit or apply to Government for renewal of their agencies, their cases will have to be considered by the Company Law Advisory Commission and ultimately by the Company Law Administration and Government

Shri Supakar: Why was that date-line fixed?

Shri Lal Bahadur Shastri: That date-line, as far as I think was fixed, because in between if Government considered it necessary it might look into, or investigate into any particular one, two or three industries or any number of industries If such an enquiry is held and ultimately Government feels convinced by the recommendations of that enquiry that the managing agency in those particular industries should come to an end, it will come to an end, it will have to be abolished

I might make it clear that this matter, as I said during the course of the discussion on the Demands for Grants, is receiving our serious attention what shall we do, what are the industries in which investigations will have to be started—all these things have to be carefully considered But I might tell Shri Mukerjee that even in the case of renewals, where we have given renewals to managing agencies, we have taken care to see that even if the period has been renewed by ten years, it is subject to the condition only if the Government does not review the position regarding the managing agencies before that period The proviso is there If we have given renewal to a managing agency in some sugar factory, or sugar industry, and after two years we come to the conclusion that the managing agencies in the sugar industry should

come to an end, even if we have given them ten years' life, the managing agency in the sugar industry will come to an end. We have made it quite clear in the terms of the renewal that the managing agencies will come to an end when Government have so decided We have taken that care

Similarly in regard to commission, to which Shri Mukerjee made a reference. It is true that in the past generally 10 per cent was given as commission to managing agencies I made an announcement only a few days back—it is true. But even before that we had taken some action in certain cases in which the commission was reduced to 5 per cent instead of 10 per cent I personally looked into a case in which the profits went up from a lakh and a half to about five or six lakhs The remuneration of the managing agents was therefore rising up very high I asked why should it be necessary for us to agree to the 10 per cent limit being sanctioned The Advisory Commission also looked into the matter and ultimately we reduced the profits or the remuneration from 10 per cent to 5 per cent So, we have been taking action I do not wish to mention the name of the company, but I may tell the House that it was one of the big concerns in India It is true that the general practice has been that of giving the maximum commission as well as the maximum period In regard to both, we have taken the necessary precautions, as I have told the House before

As regards remuneration in future we shall have to depend on the advice of the Company Law Advisory Commission The Company Law Advisory Commission knows the policy of Government, and I am sure the Company Law Advisory Commission will function in that context, in the back ground of the policies announced by Government.

Well. Sir, as regards foreign companies I need not say much. But when Shri Mukerjee says that we have some soft corner for them or that we are somewhat lenient to foreign companies, I do not think he is fully justified in saying that. I shall merely tell him that one of the amendments which we have suggested will go to show that we are trying to put the foreign companies on a par with the Indian companies This is sought to be ensured by the exercise of regulatory power by Government. There is an anomaly at present which is sought to be removed by an amendment in clause 3 under which it is proposed to place a private company registered in India which is a subsidiary of a foreign company at par with similarly placed Indian private company. There has been a distinction and the treatment has been different between the subsidiary companies registered in India and the subsidiary companies of a foreign company, that is one which is registered outside India So, now this anomaly is being removed And this will prove that we want to deal with them on an equal level, we do not want to make any distinction

As regards oil companies, I cannot say much at the present moment It was said that these oil companies do not file their accounts before the Registrar, that they do not, as the hon Member said, properly file their accounts As far as our information goes, they have to submit their accounts to the Registrar, but under section 594 of the Act, only the accounts relating to their Indian business will have to be filed in detail in accordance with the provisions. Simultaneously, for its world business, the accounts filed with the Registrar in the country of origin of the parent company are also filed This is also in accordance, it is said, with the provisions of other Companies Acts like the U K Act Well, the complaint that the oil companies do not disclose other details, about profits etc, is a matter to be settled by agreement with the companies where Government participates in their business; and the concerned Ministry, I hope, will take steps to get the information required

Shri Menon also referred. .

Shri Narayanankutty Menon: Regarding the oil companies, what I stated was this. The Minister for Steel, Mines and Fuel said that from the accounts that are filed under the statute with the Registrar of Joint Stock Companies the actual trading results of the companies could not be ascertained, and the details cannot be called for because statutorily there is no provision for it. That is what he said, and he said that he will consider enacting legislation in order to have power to call for the information to know the real trading position of the companies.

Shri Lal Bahadur Shastri: I do not know. I will examine that. But some reciprocatory provisions may have to be made with other countries, Commonwealth countries and other countries. There might be certain intricacies. But, as the hon. Member has said, we can have a discussion with the concerned Ministry and this matter can be further looked into.

Shri Menon referred to a company of Kerala, the Fertilizer factory. I have had some discussions, about that factory and its working, with the Minister concerned in Kerala some time back and also with some of the officers of the Kerala Government. Well, there has been some dispute, some difference of opinion, which gradually increased, between the Government as shareholders and the managing agents. When they came here they themselves felt after some discussion, and I also emphasised, that if these differences could be patched up it will be helpful for the industry so that it may grow up and expand. But it seems that the differences have furher widened. I am not aware fully of the latest position, but I got some paper only last night in connection with this factory and about its present working. However, I would like to tell Shri Menon that the Kerala Government has got a majority share and they can in the meetings of the board take any action they like. As majority shareholders they might do what they think proper, but, of course, as Government they have to keep certain things in view; and they have been taking rather a mild line because they felt that this industry must grow and it must be helped. Otherwise, as majority shareholders, they could have any resolution passed in the Board and the managing agency could be eliminated. But in any case, the 15th of August, 1960 is there, and on that day if the majority of the shareholders do not want it, the managing agency will come to an end automatically.

Shri Mukerjee said something about sole selling agents, and he said that the provision is good so far as it goes. When the Bill was drafted I had also looked into it, but just now I also felt that this matter in so far as the appointment of sole selling agents is concerned—because that word "sole" has been used—deserves further examination. Because, it might, to an extent, be misused, and instead of having one agent, there may be two or three and they may distribute the profits among themselves. So this lacuna perhaps has to be avoided. But I cannot make any definite suggestion at the present moment. However, I agree that it should be further looked into. And there is a Joint Committee which will certainly pay attention to this matter.

I might also tell him that in so far as the delay in the presecution of compames is concerned, there is an amendment suggested under section 166 of the Bill which will help us in expediting taking action against companies or launching prosecutions.

The intricate questions of cornering of shares and interlooking of shares have also been dealt with in the Bill; and, as Shri Mukerjee said, there have been recently some cases in which cornering of shares or inter-company transactions have created a difficult situation and action had to be taken against them at a later stage. However, I agree that it is necessary to prevent them and therefore these amendments are being proposed, so that we can take action at the initial

stage. I may tell Shri H. N. Mukerjee that at the back of my mind I also have an idea about the amendments regarding interlocking and inter-company transactions to prevent concentration of economic power in a few hands.

I need not say much about the question of companies giving political contributions. I have said enough on that subject and I need not repeat the arguments that I advanced on one or two occasions in this House as well as in the other House. Shri S. M. Banerjee has given a nice sermon or lecture to us. He is entitled to do so. He said, what has happened to us, we are taking money from the Tatas. I do not know. Of course, money is contributed. But, he perhaps forgets that we used to take funds before also from these people, big or small. We were not polluted then. I am talking of the British days. pre-Independence days. Then, according to Shri S. M. Banerjee's view, we were not polluted. But, now, he thinks it will have an adverse effect on us. I am not, I must say frankly, very much enamoured of getting political contributions from companies. But, as recommended by the Sastri Committee, I have agreed that there should be disclosure of the contributions made.

So far as the maximum amount of Rs. 25,000 is concerned, from the companies' point of view, it is not a very big sum. But, it is necessary that there should be no underhand dealing, no contribution which is not put before the public. The public should know that a particular sum has been given by a particular company. It is for the public to judge merits of the members of the party which agreed to take that contribution. Once it is made public, whatever grievance or complaint there might be, practically comes to an end. Therefore I felt, let the old provision remain, but a provision for disclosure should be made so that there remains no secrecy about the contributions. I would, however. say that I have an absolutely open mind and I am not committed to any particular thing. Let the Joint Committee say, let the House consider this matter and if they want to make any changes, I shall, of course, not come in their way.

I do not want to take more of the time of the House. I hope that the Joint Committee will give thought to these matters and perhaps the Bill might come back in a form which would be more acceptable to the Members of this House.

Mr. Chairman: The question is:

"That the Bill further to amend the Companies Act, 1956, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:—Sardar Hukam Singh, Shri H. C. Heda. Shri Satyendra Narayan Sinha, Pandit Dwarka Nath Tiwary, Shri Shivram Range Rane Shri Radhelal Vyas, Shri N.R.M. Swamy, Shri P. T. Thanu Pillai, Shri M. Shankaraiya, Shri Jaganatha Rao, Shri Ajit Singh Sarhadi, Shri Radheshyam Ramkumar Morarka, Shri G. D. Somani, Shri Feroze Gandhi, Shri C. D. Pande, Shri Mulchand Dube, Shri Rohanlal Chaturvedi, Shri Arun Chandra Guha, Shrimati Sucheta Kripalani, Shri Narendrabhai Nathwani, Shri K. T. K. Tangamani, Shri S. Easwara Iyer Shri M. R. Masani, Shri Yadav Narayan Jadhav, Shri Tridib Kumar Chaudhuri, Shri Surendra Mahanty, Shri G. K. Manay, Shri Naushir Bharucha, Shri Lal Bahadur Shastri and Shri Kanungo, and 15 members from Rajya Sabha;

"that in order to constitute a sitting of the Joint Committee the quorum shall he one-third of the total number of members of the Joint Committee;

"that the Committee shall make a report to this House by the last day of the first week of the next session;

"that in other respects the Rules of Procedure of this House rela-

[Mr Chairman]

ting to Parliamentary Committees will apply with such variations and modifications as the Speaker may make, and

"that this House recomends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee"

The motion was adopted

16.45 hrs

COST AND WORKS ACCOUNTANTS BILL

The Deputy Minister of Commerce and Industry (Shri Satish Chandra): Sir, I beg to move

"That the Bill to make provision for the regulation of the profession of cost and works accountants, as passed by Rajya Sabha, be taken into consideration"

This Bill was discussed in this House in the last session and referred to a Joint Committee of the two Houses The Joint Committee looked into every section very carefully and after detailed discussions made certain amendments in the Bill The Bill as it has emerged from the Joint Committee represents the greatest common measure of agreement among the Members

Some amendments have now been moved in the Bill as emerged from the Joint Committee and I find that out of six amendments, notice for which has been received, five are from Shri Prabhat Kar who was a Member of the Joint Committee and took a very active interest in its proceedings All the points that have been raised by him in his amendments were discussed at great length and we were unable to convince him in the Committee It would be difficult for me now at this stage to convince him when the collective wisdom of all the Members of the Joint Committee could not do so during the long discussions that took place there

I do not wish to state in detail the object of the Bill It was stated by me when the Bill was discussed originally It has also been discussed thoroughly in the Joint Committee I only wish to point out some of the important changes made by the Joint Committee In clause 2 of the Bill, the definition of the expression 'cost accountant' has been amended and this designation is now available to all persons who are members of the proposed Institute of Cost and Works Accountants, irrespective of the fact that they are actually in practice or not It was demanded that the provision in this respect should be brought in line with a similar provision in the Chartered Accountants Act and it has been done

The Joint Committee was of the opinion that the Central Government should not have the power of hearing cases in regard to misconduct of members of the Institute and the provisions contained in clauses 21 and 33 of the original Bill have been amended so as to vest the power of final disposal on matters relating to misconduct, in the High Court The High Courts will now be vested with power to hear appeals in the more important cases Some of them will, of course, be disposed of by the Council of the Institute of Costs and Works Accountants Appeal in more important cases will lie with the High Courts

Another change made by the Joint Committee relates to clause 12 in which the tenure of the office of President or Vice President has been reduced to one year A longer tenure was provided in the original Bill But, there was an apprehension that it may put some men in the saddle in the Institute and they may exercise their authority in arbitrary manner.