

श्री हुक्मदेव नारायण यादव]

जल भजवा दिया और जेल में जाने के बाद आज के जमाने में जो मैजिस्ट्रेसी की हालत है वह तो आप सब को मालूम ही है, दूसरे दिन उनको जमानत मिल गयी लेकिन उस ईमानदार और कर्मठ अफसर को जहां पुरस्कार मिलना चाहिए था वहां उस के बजाय उसका तीन, चार दिनों के अंदर तबादला कर दिया गया। यह किस सरकार ने किया मुझे नहीं मालूम लेकिन अगर बिहार की सरकार ने किया है तो केन्द्र की सरकार को हस्तक्षेप करना चाहिए कि अगर वह अफसर ईमानदारी से काम करता है और एक सरकारी उपक्रम को इतने लाखों-लख के घाटे में चल रहा है और अगर उस कारखाने में चोरी हो रही है, उसने अगर हिम्मत करके उस को पकड़ने का काम किया तो उसके लिये उसको मुआवजा यह मिलता है कि उसको इसके लिए दंडित किया गया, ऐसा करके तो सरकार साफ यह कहती है अपने सरकारी कारवानों के जनरल मैनेजर्स को कि जितनी चाहे चोरी करो चाहे जो कुछ करो और अगर तुम को कोई पकड़ने का काशिश करेगा तो उस अफसर को इसी प्रकार दंडित किया जायेगा। मैं चाहता हूं कि इस मामले की सी० बी० आई० से जांच करायी जाय। इसी प्रकार वहां की कोल माइन्स में लाखों रुपये का सालाना का कोयला, करोड़ों रुपये का कोयला चोरी से बाहर चला जाता है। उस मामले की भी जांच होनी चाहिए और कोयले की चोरी में भी जो लोग या अफसर हों उन को पकड़ा जाना चाहिए। तो मैं इस सवाल को उठा कर चाहता हूं कि सरकार इस पर अपना वक्तव्य देने कि केवल स्पेशल मेशन के तौर पर इस सवाल को उठाने की यहां पर कार्यवाही हो जाये। इस पर आप बहस कराइये ताकि और दूसरे कई घोटाले

भी प्रकाश में आ सकें और उस अफसर के साथ जो ज्यादाती हुई है उस के संबंध में मैं आप की मार्फत सरकार से मांग करता हूँ कि भारत सरकार उस में हस्तक्षेप करे और उस अफसर के साथ जो ज्यादाती हुई है उस के स्थान पर उस को उचित न्याय दिया जाय। इस के साथ-साथ उन कारखानों में जो ऐसे चोर लोग हैं उन को पकड़ने की सरकार कार्यवाही करे।

THE COMPANY SECRETARIES BILL, 1980

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS
(SHRI SHIV SHANKAR): Sir, I move:

"That the Bill to make provision for the regulation and development of the profession of Company Secretaries, as passed by the Lok Sabha, be taken into consideration."

Mr. Deputy Chairman, the important role of the corporate sector within the framework of the planned programme of the economic growth of the country is well recognised. The healthy growth of the corporate sector is, therefore, a matter to which the Government attaches very great importance. An essential ingredient for the healthy growth of the corporate sector is the induction of professional management. The Government attaches special importance to the development of professional management so that the corporate sector can evolve and function in tune with the changing needs of the time and the social responsibility that this important segment of the economy has to shoulder.

The profession of Company Secretary has an important part to play for the introduction of professionalism in the area of corporate management.

The Statement of Objects and Reasons of the Company Secretaries Bill, which is before the House already, indicates the background of the proposed legislation. I would like to add that even while the original Companies Bill was introduced in Parliament as early as 1953, the then Finance Minister gave an assurance to the Parliament, in response to numerous requests, that the Company Law Administration would help in the building up of the institution of Company Secretaries. Indeed, from as far back as 1961, my Department has been endeavouring to encourage the growth, as a class, of the profession of Company Secretaries by holding examinations for Company Secretaryship and awarding diploma which then used to be a Government diploma in Company Secretaryship, on the basis of norms and standards laid down by an Advisory Board which had been set up under the Government of India Resolution dated 14th April, 1960. From 1968 onwards, when the Institute of Company Secretaries was constituted as a separate Institute under section 25 of the Companies Act, the Government has been endeavouring to develop this institution as an independent non-profit-making organisation, charged with the responsibility of conducting examinations in Company Secretaryship and in developing a cadre of professional Company Secretaries who can serve the best interests of the companies as well as subserve the public interest. Over the years, the Institute of Company Secretaries has fully justified the support given to it by the Government. In recognition of the steady efforts made by the Institute to develop a cadre of professionally competent body of Secretaries, the Company Secretaries (Qualifications) Rules, 1975, provided that only an Associate or a Fellow of the Institute of Company Secretaries of India shall be eligible for appointment as a qualified Secretary in companies with a paid-up capital of Rs. 25 lakhs or more. The proposal to convert the Institute of Company Secretaries of

India into a statutory body has been under discussion for some time. As the honourable Members are aware, the growth of the two parallel disciplines, those of Chartered Accountants and the Cost and Works Accountants, is already regulated by statutes pertaining to these two categories of professionals, namely, the Chartered Accountants Act of 1949, and the Cost and Works Accountants Act of 1959. By giving statutory recognition to the Institute of Company Secretaries, therefore, the three different professions of Chartered Accountants, Cost and Works Accountants and Company Secretaries, connected with the smooth functioning of the corporate management, would be given statutory recognition. Government hopes that this would help put the working of the corporate sector in India on sound foundations.

Sir, I need not dilate on the various provisions of the Bill and the administrative structure of the Institute of Company Secretaries to which statutory recognition is now proposed to be given. What we are endeavouring through this special enactment is merely to confer statutory recognition to an institution which has already helped significantly in introducing professional management among the larger units of the corporate sector. Increasingly the demand for qualified and trained Company Secretaries is expected to grow even for companies with a paid-up capital of less than Rs. 25 lakhs and it is my hope that the profession of Company Secretaries would be further strengthened with a view to serving the long-term interests of corporate growth in tune with the objectives of national growth.

Sir, as you may be aware, the Bill has been passed by the Lok Sabha on the 16th June 1980. To sum up, this Bill is in the interest of developing professional management in the corporate sector and, Sir, I move that the Bill be taken up for consideration.

The question was proposed.

MR. DEPUTY CHAIRMAN: Now, there are two amendments. The amendment of Mr. Hukmdeo Narayan Yadav is not in order as he has not given the names of Members who are to be on the Committee. Now, Mr. Shiv Chandra Jha to move his amendment.

श्री शिव चन्द्र झा (बिहार) : उप-सभापति जी, मैं सशोधन प्रस्तुत करता हूँ कि :

“कम्पनी सचिवों की वृत्ति के विनियमन और विकास का उपबन्ध करने वाले विधेयक को, जिस रूप में वह लोक सभा द्वारा पारित किया गया है राज्य सभा के अगले सत्र के प्रथम दिवस तक प्रतिवेदन देने के अनुरोधों के साथ राज्य सभा की एक प्रवर समिति को सौंपा जाये जिसमें निम्नलिखित सदस्य होंगे :

- (1) श्री हरेकृष्ण मल्लिक
- (2) श्री राम लखन प्रसाद गुप्त
- (3) श्री हुक्मदेव नारायण यादव
- (4) श्री जी० सी० भट्टाचार्य
- (5) प्रो० राम लाल परीख ।”

The question was proposed.

SHRI S. W. DHABE (Maharashtra): Mr. Deputy Chairman, Sir in moving the Bill the reason given by the Minister is that they are giving statutory status to the Institute of Company Secretaryship.

[The Vice-Chairman (Shri Bishambhar Nath Pande) in the Chair]

There are certain provisions in this Bill, to which I will make reference afterwards. The Statement of Objects and Reasons says—I quote:

“The Administrative Reforms Commission has also examined the desirability of encouraging the growth of the profession of Company Secretaries as a necessary adjunct for a more efficient working of the corporate sector. The

said Commission has also recommended that the companies with a certain paid-up capital should compulsorily appoint qualified Secretaries and that suitable qualifications for such Secretaries should be prescribed by the Government. They further observed that the qualification should include passing of an examination conducted by the Government on all-India basis and training in the corporate sector...”

This is an important recommendation about the qualifications being prescribed and also that they should appear in an examination on all-India basis. But I do not find that the Government has taken the power to prescribe the same. It does not provide the prescribed qualifications as recommended by the Administrative Reforms Commission.

There are two aspects of it. Firstly, I find from the self-contained scheme under clause 6 of this Bill that the certificate will be issued by the Council for those who practise and who are eligible and who have qualified. Then, Sir, there are other provisions how the Council will be constituted. But the most important provision is about the functions of this Council. The duties and functions of the Council are contained in sub-clause (2) of clause 15. Then, Sir, it is provided in clause 17 that the Council shall constitute from amongst its members an Executive Committee, a Disciplinary Committee and an Examination Committee. Sir, earlier it was found that the Companies were appointing from among their own relatives and the Secretaries' main job was executive. Certain restrictions were necessary. In order to have professional people properly trained it is also necessary that it should not be under the Government control. When academic bodies are there doing all these jobs, I fail to understand why a new institution is required to be constituted by law. Sir, the All-India Medical Council is there. But medical education is not conducted by the All-India Medical Council. It is done by Universities. Medical colleges are

there. Technology and Science subjects are being taught by Universities and institutions affiliated to Universities. Not only that. Now Business Management Courses are being conducted by Universities. The Bombay University, the Ahmedabad University and the Calcutta University have got Degree Courses in Business Management and examinations are conducted by Universities. I fail to understand whether this aspect has been examined by the Minister or not. When Universities can conduct examinations for law, when Company Law is one of the subjects taught in Law Colleges, when examination is conducted by the Medical Council, and so on, why Company Secretary's Training Courses cannot be taken up by various Universities in India? And why are the universities completely excluded for the training of this? This creates a doubt that the Government wants to control the company through secretaries. If the secretaries are to be trained in a particular manner by the Government, then certainly it will have its own way because they will also be financing the company and they will have a more say. Sir, the Government has taken power by another provision which is nowhere else. That power is, if the direction is given by the Government, then it must be followed by the Council. And if it does not follow, then under clause 35, the Council can be dissolved and the Government can appoint somebody as an administrator or a receiver.

Therefore, Sir, my first submission to the Minister is that this aspect of conducting this examination by the universities should be seriously examined so that these facilities are available in a decentralised way. You have got the company secretary's training course only at Delhi. I don't think this Council is going to have centres all over India to provide the training programme. Therefore, Sir, the university medium, whether it may be a suitable medium for conducting the examination should be seriously considered. Even on this,

in the Council's constitution, there is no provision that the university nominees will be there. The Government nominees are there. There are no people's representatives on the Council, either the MLAs or the MPs. I would like to know from the hon. Minister why the university nominees are excluded from the constitution of the Council which merely says that certain nominees of the Government will be there.

Then, Sir, there is the Examination Committee. Now the courses are conducted by the Government and the diplomas are given. Ultimately the University Grants Commission is there and the universities also grant degrees. And whether these courses will be approved by the universities and the University Grants Commission is also an important question because, without that, they will not be able to get the pay scales which are contemplated in the disciplines of the university cadre. Therefore, Sir, the second submission which I would like to make to the hon. Minister is that in the Examination Committee also, the facilities of the universities, specially for law and economics should be associated so that this can have an academic independence, and academically the examination can really be said to be on par with the university examinations.

Sir, there are two or three other points which I would like to mention briefly. Otherwise, this Bill is of a type which requires a little comment on different aspects. Sir, under clause 33, there is a provision that the employees of the dissolved company will be taken and given employment in the newly constituted Institute. I would like to know whether those employees will get the seniority and whether their seniority and length of service is protected in giving them employment under clause 33 because clause 33 itself does not say anything in this matter. Sir, the other thing which I would like to mention here is that there is no participation in the Examination Committee or the different Commit-

[Shri S. W. Dhabe]

tees constituted by the Council of the staff who will be conducting these courses, who will be working as lecturers. And I would like to know from the hon. Minister whether the staff, the professors or the lecturers, will be employed for the training programme and will be associated with the Examination Committee. And in making the rules, this aspect of the question will have to be taken into consideration.

Lastly, Sir, I would like to refer to some of the provisions made here, specially clause 35. Clause 35 says: "The Central Government may, from time to time, issue such directions to the Council as in the opinion of the Central Government are conducive to the fulfilment of the objects of this Act and in the discharge of its functions, the Council shall be bound to carry out any such directions." Then, Sir, it has been provided that if, in the opinion of the Central Government, the Council has persistently committed default in giving effect to the directions issued under this section, the Central Government may dissolve the Council, and pending the constitution of a new Council in accordance with the provisions of this Act, can authorise any person or body of persons to take over the management of the affairs of the Institute and to exercise such functions as may be specified in this behalf by the Central Government. I think the whole provision of this clause 35 is a negation of the democratic working of an institution and to dissolve it and appoint an administrator will not be conducive if really this institution is to be developed as an academic body and for training purposes. Therefore, I say, this clause 35 may be deleted or he may give an assurance that this power will not be exercised by the Government. Thank you.

SHRIMATI SUSHILA SHANKAR
ADIVAREKAR (Maharashtra): Mr.
Vice-Chairman, Sir, the Company

Secretaries Bill has come not a day too early and will go a long way in adding to the efficiency of the corporate sector in our country and so I welcome this Bill as it gives a statutory body status to the Institute of Company Secretaries. It is the need of the hour to develop the essential manpower required to man the corporate sector in the most efficient and professional manner.

Sir, the hon. Minister has stated some few days back in one of his speeches and I quote: "That the two cardinal principles, namely, professionalisation of management and the preparation of meaningful accounts have formed the basis of many provisions of the Companies Act and constitute a major instrument of policy of the Government in pursuit of the industrial policy". Sir, with this as the main background, the Government started holding examinations in Company Secretaryship in 1961, almost 20 years back. And, now the profession of Company Secretaries has come of age. The Department of Company Affairs has nurtured the institute well during its infancy and we should not now hesitate to bestow a major status, if not adulthood, to the Institute. No doubt, Sir, the Institute of Company Secretaries will be a valuable addition to the Institute of Chartered Accountants and the Institute of Cost and Works Accountants ushering in the economic democracy in the corporate world and also it will help in curbing monopoly and restrictive practices to a great extent.

Sir, it is high time that we now have a new generation of corporate sector service officers whose primary loyalty should be to the nation's socio-economic ideals and not to the dictates of the controlling management as we have found that this does not take the country to further progress that we require.

Sir, as the hon. Minister has very rightly pointed out in one of his speeches that the Government is basically deeply interested in evolving

a system of accounts which is adequate from the point of view of shareholders and it is also mentioned in the objectives of the Bill also. Sir, here we have to safeguard the millions of shareholders of small holdings who are completely ignorant of the working and actions of management. They are not organised and their lone voice is not effective at the managerial level.

Sir, the hon. Minister should take another point for his consideration and that is that the Government has not yet been able to regulate and discipline the working of the accounts, accountants and auditors serving the private corporate sector and as far as my information goes the prospective entrants to this profession are subject to great hardship and harassment to the point of humiliation by certain organised elders in this field. So, the hon. Minister shall also have to consider this aspect of the matter by setting up an expert committee to review in great depth the entire gamut of education of the corporate sector service officials in order to do justice to fresh entrants. During the last five years there has been a tremendous spurt in the demand for qualified company secretaries and as per the statement of the President of the Institute of Chartered Accountants the Government has made increasing use of the experts available. But I

4 P.M. would like to know as to why the companies located in the backward areas are still unable to attract any one of the few qualified Company Secretaries. Is it because that the qualified persons' expectations and their demands for perks are much more than enjoyed by the Chief Executive of the company. It is, therefore, necessary that either the Government or the Institute should operate a pool for the proper placement of the services and fixation of remuneration etc. It is impossible to have control and free market to go hand in hand together.

Sir, it is really distressing to know that the management of the outgoing

Institute of Company Secretaries is following a slightly very narrow and restrictive practice in the name of rigidity and hardening of the curriculum and examination standards. The so-called seniors are trying to restrict the entry of a number of freshly qualified persons. We are fully aware that the economy and corporate sector are expanding fast and there is no dearth of availability of employment opportunities. It is also very necessary to draw a line that those whose duty is to watch over the working of the Institute should not be allowed to align themselves with the vested interests and for that purpose, I would like to suggest that the hon. Minister should consider that permanent cadre officers of the Government even when they are qualified Company Secretaries, should not be allowed to contest an elective position in the new Institute. Equal care should also be taken while selecting the representatives of the Government to be on the governing body of the new Institute for maintaining quality and high standards.

Another point is regarding the officers and the employees of the Institute that they should not be allowed to have private consultancy because the very fact, that they have their private consultancy, defeats the very purpose of the services for which they are supposed to work.

Sir, the hon. Minister should also consider that the Department of Company Affairs has not imposed any cost audit and social audit on this new Institute. I would like to request the hon. Minister—everytime we say that charity begins at home—that the Institute should set an example by having cost and social audit as part of its functioning and should not try to skip it. It is a well-accepted fact that the fastest and the surest way of achieving the necessary changes of directions is through the students community. But look, what treatment the students community gets. To quote one example only, I would point out that the students are asked to pay

[Shrimati Sushila Shankar Advarekar].

exorbitant rates for the journals while the enrolled members are getting the publications almost free of cost. If the students have to pay anything more than the subscribed rate, let alone the concessional rate, it tantamounts to our profiteering at the cost of the students. I would request the hon. Minister to look into it and if there is any such practice, it should be stopped immediately. The students—a majority of them—being the unemployed youth, should be given the maximum assistance rather than they should be exploited.

Directorate of Studies has not been able to build up good faculty for the correspondence and other courses. Much more is to be achieved in this direction also and much more is to be improved upon also in this field. I would request the hon. Minister to give a second look to these studies and the correspondence courses. It may also be desirable that the Central Government be empowered to nominate one person to be the member of the Institute to have some control and to keep liaison with it. There should also be separate schedule bringing out the functions and the duties of the Company Secretary as envisaged by the Companies Act of 1956.

With these few suggestions and few observations, I am sure this Bill will add to the efficiency of the corporate sector in the country. I congratulate the hon. Minister for his one more step in the right direction.

श्री शिव चन्द्र झा : श्रीमन्, यह विधेयक जो है कम्पनी सेक्रेटरी का, जो हमारे सामने है हम देख रहे हैं कि इस विधेयक में दो बातें बहुत साफ रूप में आती हैं। एक बात तो यह है कि सरकार महसूस करती है कि कारपोरेट सेक्टर जो है वह बड़ा है, प्राइवेट कारपोरेट सेक्टर खासकर बढ़ रहा है और उनको रोकने के लिए जो कानून हैं जैसे उसमें रेस्ट्रिक्शन लाने के लिए एम० आर० टी० पी० एक्ट, इंडस्ट्रियल डेवलपमेंट रेगूले-

शन एक्ट, फारेन एक्सचेंज रेगुलेशन एक्ट, इन सबके प्राविजन को ये कम्पनीज मानें इसके लिए क्वालीफाईड सेक्रेटरी हों इसकी जरूरत महसूस की गयी है। एडमिनिस्ट्रिटिव रिफार्म्स का भी एक इंस्टीट्यूट है। यह आल इंडिया बेसिस पर एक इंस्टीट्यूट होगा जिससे सेक्रेटरी होंगे जो इन कानूनों को मानने में इन कम्पनीज की मदद करेंगे। लेकिन इसमें जो बात पहले आती है वह यह है कि जो इंस्टीट्यूट आप बना रहे हैं उसमें जो ट्रेनिंग लेंगे, सर्टिफिकेट लेंगे, डिप्लोमा लेंगे जो कि आप देना चाहते हैं तो क्या इसका प्राविजन है कि उन सबको इम्प्लायमेंट मिल जायेगा। आपके स्टेटमेंट में दिया है एपार्ट फ्रॉम इम्प्लायमेंट प्रासपेक्ट, तो क्या ऐसी बात नहीं है कि जिनके पास बिजनेस मैनेजमेंट के या इकनामिक्स के या और दूसरे इस तरह के एलाईड सर्विसेज के डिप्लोमा हैं, सर्टिफिकेट्स हैं वे अनइम्प्लायड नहीं हैं। इसलिए इंस्टीट्यूट से जो पैदा होंगे डिग्री लेंगे क्या उनको फुल इम्प्लायमेंट की गारन्टी होगी कि उनको इम्प्लायमेंट मिल जायेगा, उनका इस्तेमाल समाज में कारपोरेट सेक्टर में या सरकार के दूसरे किसी विंग में हो जायेगा, मैं ऐसा नहीं देखता हूँ। यह ठीक है आफ इंस्टीट्यूट बना देते हैं कि डिग्री उनको मिले लेकिन एक इकनामिक का दूसरा विद्यार्थी जो यूनिवर्सिटी से आयेगा, बिजनेस मैनेजमेंट का आयेगा वह यह काम नहीं कर पायेगा बावजूद इसके स्पेशलाईज होने के, ऐसी बात नहीं है। यह एक तरह से सुपर-फ्लूअस भी हो जाता है कि जिस योग्यता के लिए बनाया जाता है उस योग्यता के बहुत से दूसरे कोर्सज है, दूसरे महकमें हैं जिनसे यह डिग्री मिलती है बावजूद इसके स्पेशलाईज होने के लिए। इसलिए बड़ी बात इसमें आ जाती है कि जिनके लिए यह बनाया

गया है उनको इम्प्लायमेंट मिलेगा या नहीं, इसमें मुझे शक है ।

दूसरी बात जो आप काउंसिल बनाते हैं इंस्टीट्यूट चलाने के लिए, वह भी डाऊटफुल है । जिस रूप में आप बनाते हैं यह आपका एक जनरल तरीका रहा है कि सब ब्यूरोक्रेटिक बनाते हैं जो आम बीमारी है । हम लोग बार बार बोलते रहे हैं कि इसमें डेमोक्रेटाईज करने का दृष्टिकोण कम रहता है । इसमें आपने दिया है कि क्लास में जो फेलोज रहेंगे :

"Not more than twelve persons elected by members of the Institute from amongst the Fellows chosen in such manner and from such regional constituencies as may be notified in this behalf by the Central Government in the Official Gazette"

और चार आपके सेंट्रल गवर्नमेंट से नामीनेटेड होंगे । जनता के प्रतिनिधि इसमें क्यों नहीं आयेंगे ? चाहे एम० एल० ए० हों । बात उन्होंने ठीक रखी है कि जनता के प्रतिनिधि एम० एल० ए०, एम० पी० लाने में आपको क्या एतराज होता है । यह मानते हुए कि वे ठीक नहीं हैं, उनका फंक्शन ठीक नहीं है तो वह यदि उन पर लागू है तो आपके ऊपर लागू है हम सब पर लागू हैं । लेकिन मिनिमम डेमोक्रेटिक तरीका है कि जनता का जो प्रतिनिधि है वह डेमोक्रेटिक रूप रखता है । इसलिए ऐसे इंस्टीट्यूट में उनका आना जरूरी है, तो आप जो काउंसिल बना रहे हैं उसका यह रूप भी डेमोक्रेटिक नहीं होता है यह आखीर में नैरो डाउन हो जायेगा और जिसको कुछ लोग आम तौर पर कहते हैं अफसरशाही यह उसके हाथ में हो जयेगा । आप इसकी सफाई दें कि यदि ऐसी बात होगी तो आप इसकी सफाई देंगे ।

आखिरी बात है, श्रीमन्, कि जो इसके पीछे कारपोरेट सेक्टर का क्षेत्र बढ़ रहा है जिसको वे खुद कबूल करते हैं यह सबसे बड़ी बीमारी है । आज उसको कंट्रोल करने में डिग्री होल्डर्स लें, वे मदद करें, कानून को मानने में मदद करें, यह ठीक है लेकिन सबसे बड़ी बीमारी है जिसको आप कहते हैं कि उससे इसका संबंध नहीं है विधेयक की दूसरी बात है, वह बात अलग जरूर है कि यह सारा प्राइवेट कारपोरेट सेक्टर जो है, यह इतना बढ़ता जा रहा है, हर पंच-वर्षीय योजना में, जिसका कंट्रोल करना बहुत जरूरी है । सेक्रेटरी हो, चार्टर्ड एकाउंटेंट्स हों, एकाउंटेंट्स हों, इन सबों से कंट्रोल नहीं हो पा रहा है । इसका अपना ही सुरसा जैसा रूप बढ़ा जा रहा है और यही हमारी सबसे बड़ी बीमारी है । यह प्राइवेट कारपोरेट सेक्टर जो है, यह हर पंच वर्षीय योजना में बढ़ रहा है और आप जानते हैं कि यह पूंजीवाद का क्षेत्र है, पूंजीवाद का यह मेन अखाड़ा है और हर योजना में इसको बढ़ाते जा रहे हैं । हमारा पब्लिक सेक्टर भी बढ़ा है, लेकिन प्राइवेट सेक्टर ज्यादा बढ़ रहा है, जितना उसका टार्गेट है उससे ज्यादा । टोटल में मैं कहता हूँ कि सिक यूनिट्स को छोड़ कर सम-टोटल में उसका रूप बढ़ा है और दोनों में ऐसी रेस चल रही है, पब्लिक सेक्टर और प्राइवेट सेक्टर में कि हम आशा करते हैं कि पब्लिक सेक्टर ओवर-पावर करेगा । हम चाहते हैं कि यह उसको ओवर पावर करें, उससे आगे निकल जाए, कंट्रोल करे, लेकिन देखने में ऐसा आता है कि वही हमको किसी न किसी रूप में डाइरेक्टली या इन्डाइरेक्टली कंट्रोल कर रहा है, सारी अर्थ-व्यवस्था को कंट्रोल कर रहा है और नतीजा यह है कि यह सब जो हमारे आदर्श हैं, वे सब नलिफाई होते जा रहे

[श्री शिव चन्द्र झा]

है और जिस मजिल पर हम जाना चाहते हैं और सीलिए मेरा कहना है कि यह विधेयक उस माने में ठीक है। लेकिन आप कुछ कदम उठाएं जिससे कार्पोरेट सेक्टर, खास करके प्राइवेट सेक्टर के हाथ में जो है, उसको ठीक से कैसे कंट्रोल करेंगे और उसके लिए आपके अफसरान के जरिए बहाल नहीं भी करवायेगे, तो भी आपका काम चल जाएगा।

इसको आप ट्रस्टीशिप के मातहत ले आवे जैसा कि महात्मा गांधी जी ने कहा था। उसके मार्फत लाएंगे, कम्पनी सेक्रेटरी की भी जरूरत नहीं होगी और इंस्टीट्यूट की भी आपको जरूरत नहीं होगी। सारे कार्पोरेट सेक्टर का रूप ही दूसरा हो जाएगा और क्या आप में हिम्मत है कि जो गांधी जी के ट्रस्टीशिप के जो आदर्श थे, उसके मातहत टाटा और विरला को लाएंगे।

तो इस तरह से आपको कुछ रैडिकल कदम उठाने होंगे जिसमें कि सारे पर आपका कंट्रोल हो जाए। यदि एक विशेषज्ञ यहां बिठा दिया और दूसरा उधर रख दिया—मंत्रियों के रूप में भी विशेषज्ञ आ जाते हैं, यह सब खामियां हैं और सरकार को सारे कार्पोरेट सेक्टर को एक तरीके से गाइडलाइन में लाने के लिए, कंट्रोल करने के लिए कम्प्रीहेन्सिव विधेयक लाना चाहिए। मैं तो आखिर में यही कहूंगा कि समाज और समय का तकाजा है कि प्राइवेट कम्पनियां जितनी है, कम से कम बड़े-बड़े जो मगरमच्छ हैं उनको आप अपने मातहत ले आएं, यानी नेशनलाइज कर लें।

संसदीय कार्य विभाग में राज्य मंत्री
(श्री संतोष कुमार कोरू) : मगरमच्छ ?

श्री शिव चन्द्र झा : मगरमच्छ—75 जो बड़े बड़े घराने हैं, उन पर आप कंट्रोल कर लें जो सब से बड़े हैं, इसमें से तो आप जानते हैं कि वे पिरेमिड के ऊपर बंठे हुए हैं और यह सब नाच नचा रहे हैं। बीमारी यहां तक है।

तो आप इन सबों को कंट्रोल करने के लिए आप में हिम्मत है और कदम उठाने के लिए तैयार हैं और यदि ऐसा करेंगे तो आप यकीन रखें कि सारा देश आपका साथ देगा। पार्टी डिमाकेशन को भूल कर सारा देश, कन्याकुमारी से कश्मीर तक और ओखा से मणिपुर तक सारा भारत आपके साथ है। आपको शायद याद होगा कि जब प्रिवी पर्स का खात्मा हुआ था, या बैंक नेशनलाइज हुए थे, तो कैसी हवा बही थी और कैसी मदद मिली थी। लेकिन जब से इमरजेंसी के वक्त से उल्टा धंधा आपने शुरू कर दिया तो सारे देश ने आपका विरोध किया। इसीलिए उस तरह से कदम यदि आप लाते हैं, तो यह सब विधेयक सुपर-फ्लुअस हो जायेंगे और आपने जिस आदर्श को लेकर कम्पनी सेक्रेटरी का विधेयक ले आए हैं, वह मकसद पूरा हो जाएगा और इसकी कोई जरूरत नहीं है।

इन्हीं शब्दों के साथ मैं इसका समर्थन करता हूं।

श्री राम लखन प्रसाद गुप्त (बिहार) : उपसभाध्यक्ष महोदय, यह कंपनी सेक्रेटरी, 1980 बिल जो लाया गया है यह बहुत ही उचित है तथा कंपनी सेक्रेटरी के पेशे में विकास लाने के लिए यह एक अच्छा विधेयक है। जैसा कि माननीय मंत्री महोदय ने कहा और बहुत सही कहा है, जिस तर से कारपोरेट सेक्टर बढ़ते जा रहे हैं और उनके कार्य बढ़ते जा रहे हैं

उसको देखते हुए यह बहुत आवश्यक है कि इन सारी जगहों पर प्रोफेशनली कांपीटेंट व्यक्ति सब जगह रहे जिससे उनका काम ठीक से चल सके और इसलिए यह जो विधेयक है कंपनी सेक्रेटरी के लिए मैं समझता हूँ यह सम्बन्ध में बहुत ही सही है। वैसे तो पहले भी इंस्टीट्यूट ऑफ पब्लिक सेक्रेटरीज 1968 से यह फर्म है और इस तरह की ट्रेनिंग होती रही है लेकिन वह कंपनीज ऐक्ट के सेक्शन 25 के अनुसार और एक है इंस्टीट्यूट ऑफ कंपनी सेक्रेटरीज जिसके मातहत वह काम चल रहा था परन्तु अब यह बहुत ही काम्पैरि-हेंसिव बिल लाया गया है यह सही है कि उनकी ट्रेनिंग के लिए ठीक व्यवस्था की जाए परन्तु समूचा बिल देखने के बाद ऐसा लगता है कि इसमें अभी भी बहुत कमी है और कई तरफ के इसमें जो निर्देश रहने चाहिए थे वह सब इसमें नहीं दिए गए हैं। यद्यपि पावर सरकार ने अपने हाथ में रखी है, सरकार उसके ऊपर समय-समय पर निर्देश भी दिया करेगी तथापि बहुत अधिक पावर इसमें आने चाहिए थे। वह शायद जरूर छोड़ा गया है कौंसिल के ऊपर लेकिन सरकार की जो मन्शा है उसके अनुसार इसमें आना चाहिए था अन्यथा यह होता है कि हम अपेक्षा कुछ करते हैं, एम्स एण्ड आब्जेक्ट्स में कुछ लिखते हैं और बाद में दूसरी-दूसरी बातें होती हैं तो वहीं से मतभेद शुरू हो जाता है। मैं यह कहना चाहता था कि यह सेक्शन 4 में सब-क्लाज 3 में कहा गया है —

“every person belonging to any of the classes mentioned in clauses (c), (d) and (e) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of prescribed entrance fee, which shall not exceed four hundred rupees in any case”

यह (सी), (डी) और (ई) रखा गया

है (ए) और (बी) को छोड़ दिया गया है। उपसभाध्यक्ष जी, एक ही बात सनज्ञ में आ सकती है, क्योंकि (ए) में है:

‘any person who immediately before the commencement of this Act was an Associate or a Fellow (including an Honorary Fellow) of the dissolved company.’

यहां तक ठीक है कि उसका मेम्बर था, डिजाल्व्ड कंपनी का, तो उसमें फीस नहीं लिया जाए, परंतु (बी) में है:—

‘any person who is a holder of the Diploma in Company Secretaryship awarded by the Government of India;’

इसके आगे (सी) में दिया है—

‘Any person who has passed the examinations conducted by the dissolved company and has completed training either as specified by the dissolved company or as prescribed by the Council, except any such person who is not a permanent resident of India;’

तो जब (ए) और (बी) को छोड़ा गया है तो मैं नहीं समझता हूँ (सी) को क्यों नहीं छोड़ा जाएगा? (सी) में जो व्यक्ति आते हैं, उनकी सी ट्रेनिंग पूरी हो जाती है, वह भी डिजाल्व्ड कंपनी में एग्जामिनेशन कंडक्ट करता है, तो अगर उसमें से पास किए रहता है और वह परमानेंट रेसिडेंट भी इंडिया का है तो फिर वैसी हालत में उनकी फीस लगाना यह एनोमली लगती है, यह ठीक नहीं लगता है। इसलिए (डी) और (ई) को साथ रखा जा सकता है लेकिन (सी) को एग्जैम्प्ट करना चाहिए।

दूसरे, सेक्शन 17 की तरफ मैं मंत्री महोदय का ध्यान खींचना चाहता हूँ। उसमें एडमिनिस्ट्रेशन के लिए डिसिप्लिनरी कमेटी है 17 (4) में और 17 (5) में एग्जामिनेशन कमेटी है और एग्जामिनेशन कमेटी में इनका नामिनी नहीं है लेकिन

[श्री राम लखन प्रसाद गुप्त]

डिसिप्लिनरी कमेटी में इनके नामिनी हैं । इसका अर्थ यह हुआ कि एग्जामिनेशन में, जिस तरह का भी एग्जामिनेशन हो, जो भी कैटेगरी के लोग आए, जो भी सिलेबस हो, उसमें ये हस्तक्षेप नहीं करेंगे । कहने का मतलब है कि इसमें और भी ठीक व्यवस्था हो । उसमें एक गवर्नमेंट नामिनी हो या जो हो यह होना चाहिए क्योंकि जब डिसिप्लिनरी कमेटी में आप रखते हैं ऐक्शन लेने के लिए अपने व्यक्ति को या गवर्नमेंट के व्यक्ति को उसमें रखा जाता है तो एग्जामिनेशन बोर्ड में भी एक व्यक्ति को रखना चाहिए । ताकि पीछे यह कहने का मौका न मिले कि यह कौंसिल जिस तरह से एग्जामिनेशन कंडक्ट करती है वह ठीक नहीं है या फिर उसके लिये कोई डाइरेक्टिव जाय, जैसी कि मैंने शुरू में आशंका प्रकट की थी । तो इस तरह के मतभेद किसी भी समय में पैदा हो सकते हैं और वह पैदा न हों इसके लिये आवश्यक है कि एग्जामिनेशन कमेटी में भी गवर्नमेंट नामिनी रहे ।

उसके बाद सेक्शन 35 है । उसमें डिजाल्व करने की बहुत वाइड पावर्स गवर्नमेंट ने ले रखी हैं और उसमें किसी भी डाइरेक्शन को अगर नहीं माना गया, कौंसिल ने नहीं माना तो उसके कारण उसको डिजाल्व किया जा सकता है । मेरा ख्याल कि इसके अन्दर कुछ कैटेगरीज रहनी चाहिए । यह नहीं कि किसी भी हालत में सिर्फ गवर्नमेंट के व्हिम्स पर हो और वह डाइरेक्शन देती जाय और किसी भी डाइरेक्शन को अगर कौंसिल ने नहीं माना तो उसके लिये उसको डिजाल्व कर दिया जाय । अगर इस तरह की बात रहेगी तो इसका अर्थ यह होगा कि उसके एडमिनिस्ट्रेशन पर एक तलवार नटकी रहेगी कि तुम कोई भी फैसला करो, हर फैसले में गवर्नमेंट तुम्हारे ऊपर

है और तुम को डिजाल्व कर सकती है । तो इस तरह से काम नहीं चल सकता । उनको कुछ स्वायत्तता देनी चाहिए और इसमें मेंशन किया जाना चाहिए कि गवर्नमेंट किस-किस मौके पर हस्तक्षेप कर सकती है, ऐसा न हो कि किसी भी तरह के डाइरेक्शन को डिस्ओबे किया जायगा तो उसके लिये उस को डिजाल्व कर दिया जायेगा । तो इस तरह की व्यवस्था नहीं होनी चाहिए ।

अंत में मैं यह कहना चाहता हूं कि जो 25 लाख कैपिटल वाली बात रखी गयी है कि ऐसी कंपनियां उन को अप्वाइंट करे, उस के बाद माननीय मंत्री महोदय ने बहुत सही कहा कि 25 लाख से कम कैपिटल वाली कंपनियां भी जो हैं वह भी इन प्रोफेशनल लोगों को बहाल करें तो उस से इंप्लायमेंट भी बढ़ेगा और उनका प्रशासन भी चुस्त होगा और उनकी महत्ता भी बढ़ेगी, परन्तु ऐसा नहीं होना चाहिए कि जैसे आज कल मास्टर आफ बिजनेस एडमिनिस्ट्रेशन के दुनिया भर के डिप्लोमा और डिग्नरियां हो गयी हैं और उन का महत्व समाप्त हो गया है और बहुत जगह तो उन की खरीद और बिक्री भी शुरू हो गयी है । रुपया लेकर लोगों को ट्रेनिंग दे दी जाती है तो ऐसा इस में नहीं होना चाहिए । कई जगह ज्यादा रुपया लेकर लोगों को डिप्लोमा दे दिया जाता है और इस तरह से उसकी बदनामी होती जा रही है, मैं चाहूंगा कि यह इंस्टीट्यूशन बहुत महत्व का है और इसलिये यह ख्याल रखा जाय कि हर हालत में जो इस का महत्व है वह बराबर बना रहे ताकि प्रशासन और एडमिनिस्ट्रेशन बहुत चुस्त रहे ।

इतना ही कह कर मैं इसका समर्थन करते हुए अपनी जगह लेता हूं ।

श्री हुम्नदेव नारायण यादव (बिहार):

उपसभाध्यक्ष महोदय, अभी जो विधेयक सदन के सामने विचार के लिये आया है सिद्धांत रूप में इस विधेयक का मैं समर्थन ही करता हूँ। सरकार का मुख्य उद्देश्य इस विधेयक को लाने का यह है कि कंपनियों के लिए कई कानून होते हैं और वे कंपनियां उन कानूनों को सही ढंग से लागू करती हैं या नहीं करती है इसको देखने के लिए एक प्रशिक्षित आदमी वहां मौजूद रहे। लेकिन मेरा निवेदन यह होगा कि वह प्रशिक्षित आदमी सरकार का होगा या वह प्रशिक्षित आदमी कंपनी का होगा। कंपनी ही अगर एक प्रशिक्षित आदमी वहां रहेगी तो जितना घपला कंपनी वाला करता है, उस घपले को कागज में छिपाने में ट्रेन्ड आदमी तो उस का मददगार होगा या पकड़ने वाला या उस को रोकने वाला होगा। चोरी पकड़ने वाला तो बाहर का आदमी होना चाहिए, न कि कंपनी का आदमी होना चाहिए, आप के आदमियों से तो कई गुना ज्यादा ट्रेन्ड आदमी बिरला, टाटा, डालमिया, सिंहानियां, मफतलाल और बिन्नी वाले रखते हैं। यह बड़े-बड़े लोग हैं उन के यहां तो आप से भी बड़े-बड़े कर्मचारी बैठे हुए हैं। वहां अगर आप अपने यहां में थोड़ा प्रशिक्षित करके किसी कर्मचारी को भेज देंगे और वह भी कंपनी का ही नमक खाने वाला होगा तो वह कंपनी की चोरी कैसे पकड़ेगा? आप प्रशिक्षित आदमी को भेजिये, ट्रेन्ड आदमी को भेजिये लेकिन वह शुद्ध रूप से सरकार के नियंत्रण में होना चाहिए। उसको इतना अधिकार होना चाहिए कि कंपनी के अन्दर जो गड़बड़ियां हों उनको पकड़ करके वह सरकार के पाम भेजे तो उस पकड़ने वाले का पुरस्कार मिलना चाहिए न कि वैसे आदमी को जो उनकी गड़बड़ी को पकड़ेगा तो उसको कान

पकड़ कर दूसरी जगह कर दिया जाएगा। फिर इससे लाभ मिलने वाला नहीं है। तो सही माने में ऐसी संस्थाएँ देश के अन्दर आप बनाइये। आज जितने बिजनेस मैनेजमेंट की ट्रेनिंग देने वाले हैं, हमारे बिहार में बिजनेस मैनेजमेंट ट्रेनिंग देने वालों के साइन बोर्ड लग जाते हैं, कोई 15 हजार, कोई 20 हजार, कोई 25 हजार चन्दा देकर उस इंस्टीट्यूशन में नाम दर्ज कराता है और न परीक्षा देता है, क्या होता है, क्या नहीं होता है, हम लोगों को पता नहीं, लेकिन बिजनेस मैनेजमेंट की ट्रेनिंग का सर्टिफिकेट लेकर बहाल हो जाता है, नकली प्रमाण-पत्र लेकर बहाल हो जाता है। आप इस तरह के जितने संस्थान हैं उन को अपने अन्दर लें और जिस तरह से विश्वविद्यालय बनते हैं उसी तरह से बिजनेस मैनेजमेंट के लिए केन्द्रीय विश्वविद्यालय के तौर पर आप ट्रेनिंग इंस्टीट्यूट बनाये? अगर ऐसे ट्रेनिंग इंस्टीट्यूट बने तो उनकी बाज़ापता तौर पर परीक्षा होगी। फिर मैं यह निवेदन करूंगा कि कंपनी के बारे में आप, वह ठीक तौर से कानून को लागू करता है या नहीं, उस पर और प्रतिबंध लगाइये। अभी तक मेरी जानकारी जो कुछ है उसके आधार पर मैं कहता हूँ डा० राम मनोहर लोहिया कंपनी के बारे में बोले थे, उस प्रोसीडिंग्स को निकालिये कि भारत सरकार के सेवानिवृत्त बड़े-बड़े अधिकारी कंपनियों के अन्दर सलाहकार बन जाते हैं। चाहे वित्त विभाग से हों, चाहे इंडस्ट्री विभाग से हों, ऐसे अफसर सेक्रेटरी लेवल से जो रिटायर होते हैं वह कंपनी के मैनेजिंग बोर्ड में चले जाते हैं या उनके सलाहकार बन जाते हैं या किसी न किसी रूप में उनके सहयोगी बन जाते हैं तो जो वरिष्ठ अधिकारी है, सेवा-निवृत्त अधिकारियों के साथ उनका रिश्ता बना ही रहता है और उस कंपनी के खिलाफ केन्द्रीय सचिवालय में कोई भी कार्यवाही आप करते

[श्री हुक्मदेव नारायण यादव]

है तो आपकी कार्यवाही करने की सूचना कौमा, फुलस्टाप के साथ कंपनी को मिलती है कि उनके खिलाफ यह कार्यवाही चलने वाली है तो सरकार वह कार्यवाही करने में अक्षम हो जाती है। आप यह कानून बनायें कि सरकारी अधिकारी मलाहकार के रूप में मैनेजमेंट बोर्ड में नहीं रहेगा। आप बैंक कराइये फाइव स्टार होटलों में दिल्ली में सैकड़ों ऐसे रिटायर अफसर पकड़े जायेंगे, जिनके लिए बाजाफता तौर पर कमरे रिजर्व हैं होटलों में और वहां बैठ कर वे मंचिवाल्यू से पता लगाते रहते हैं कि इस कंपनी का क्या हो रहा है, उनके हितों की रक्षा करने का वह काम करते हैं। तो आप इस पर भी रोक लगाइये और साथ ही साथ यह भी लगाइये कि वहां व्यापार और राजनीति के अन्दर जो घुला होता है, व्यापार पर राजनीति का नियंत्रण नहीं होगा और राजनीति का व्यापार में प्रवेश न होगा, यह भी आप रोक लगाइये। जिस तरह से पीपुल्स रिप्रजेन्टेशन ऐक्ट में चुनाव के लिए बहुत सी अयोग्यतायें जोड़ दी हैं, उसी तरह से एक अयोग्यता यह भी जोड़िये कि किसी भी कंपनी के मैनेजिंग बोर्ड का डाइरेक्टर या कंपनी में किसी तरह से लागू रखने वाला आदमी जब तक पार्लियामेंट या किसी लेजिस्लेटिव असेम्बली का मੈम्बर होगा तो उस अवधि में उस कंपनी के साथ किसी तरह से प्रत्यक्ष या पराक्ष रूप से सम्बन्ध नहीं रखेगा और साथ ही साथ किसी राजनीतिक आदमी को किसी भी कंपनी में नियुक्त नहीं किया जाएगा। आप कहेंगे कि राजनीतिक नेता का बेटा है, पांता है, रिश्तेदार है उसको क्यों नहीं कंपनी में नौकरी दी जाएगी। क्या वह किसी लीडर का बेटा हो गया, उसका रिश्तेदार हो गया तो फिर उसे आप अधिकार

से वंचित करेंगे? हां, वंचित करेंगे। हम अगर राजनीति में है तो हमारा सब कुछ सार्वजनिक है। इंडस्ट्री मिनिस्टर में बन जाऊं, मेरा कोई रिश्तेदार विडला, टाटा या अन्य बड़े-बड़े उद्योगपतियों के कारखाने में नौकरी करने वाला रहेगा तो फिर हम उस कंपनी के साथ किसी न किसी तरह से सम्बन्ध जोड़े रहेंगे। हमारा सम्बन्ध तो किसी न किसी तरह से उससे जुड़ा ही रहेगा। मनुष्य आखिर मनुष्य है। मनुष्य में मोह है, माया है तो फिर मोह, माया, ईर्ष्या, ममता सबसे वह ग्रसित होगा, तो ममता के अनेक रूप हो सकते हैं। आप ऐसी संस्थाओं का निर्माण करें जिनके द्वारा जहां कहीं भी किसी तरह की मानवीय कमजोरी में प्रेरित होकर इंसान किसी तरह के कृर्म कर सकते हैं, उन सारे बिन्दुओं पर प्रतिबन्ध लगायें। जब तक हम ऐसा नहीं करेंगे तब तक आप किसी संस्था या कंपनी को पवित्र नहीं कर सकते। मनुष्य आखिर मनुष्य ही है। हम भी मनुष्य हैं और आप भी मनुष्य हैं। मैं यह नहीं कहता कि हम और आप जो यहां हैं मनुष्य से ऊपर उठ कर हमारा दिल और दिमाग बदल हुआ है। हम भी माया और मोह से ग्रसित होकर सोचने का काम करते हैं। मैं सरकार से यह निवेदन कहूंगा कि कंपनियों के अंदर जो गड़बड़ियां हैं उनको अगर आप ठीक करना चाहते हैं तो आपको विशुद्ध रूप में कठोरता के साथ कदम उठाना पड़ेगा। निर्मम और निर्मोही बनना पड़ेगा। जैसे जहां तहां कोई घाव हो जाता है और उसको चीरने का काम करते हैं तो उसमें पूरा मवाद निकलता नहीं है बल्कि नतीजा यह निकलता है कि उन घावों में मवाद बढ़ जाता है। कच्चे घाव के अंदर से मवाद निकलता नहीं बल्कि मवाद आता है और सेप्टिक हो जाता है और अब तो सेप्टिक से कैसर हो रहा है इन कंपनियों के द्वारा तमाम गड़बड़ियां की जा रही हैं, लूट-खसोट की जा रही

है। कानून को लागू नहीं किया जा रहा है। जो आपके मजदूर के मामले में लेबर वेलफेयर कानून चलता है वह भी लागू नहीं किया जाता है। मजदूर कल्याण कोष का गबन होता है, बोनस का गबन होता है अनेक स्रोतों से इनका गबन किया जाता है। कंपनियों के लोग अपने तमाम लोगों को नकली रूप में फर्जी रूप में अपनी कंपनी में किसी न किसी औहदे पर रखते हैं। उनकी सुख-सुविधा पर, ठाट-बाट पर, शान शौकत के ऊपर कंपनी सारा पैसा खर्च करती है बिरला महाराज की अगर जाच कराई जाए तो देश का कई सौ करोड़ रुपया जो उन्होंने फर्जी खाते में कही डाल रखा है, उसका पता लग जाएगा मैं इस विधेयक का समर्थन करता हूँ और यह आशा भी करता हूँ कि आप जिस दिशा में बढ़ना चाहते हैं, सचमुच अगर आपका दृष्टिकोण गरीबी की रेखा को समाप्त करना, अमीर और गरीब के भेद को मिटाना, जो लूटखसोट होती है उसको नियन्त्रित करना चाहते हैं तो आपको दिल भी मजबूत करना होगा, दिमाग भी मजबूत करना होगा। नियत भी आपकी साफ रहनी चाहिये और आपके काम भी साफ रहने चाहिये, तभी देश के गरीबों का विश्वास आपके ऊपर जगेगा और आप ईमानदारी के साथ इस देश के शासन को चलाने में सक्षम हो सकेंगे।

SHRI SYED SIBTE RAZI (Uttar Pradesh): Mr. Vice-Chairman, it is my pleasure to say a few words in support of this Bill which has been brought by our hon. Minister of Law.

Before going into the details, I would like to draw the attention of the Minister to the fact that when the Companies Bill was brought in Parliament in 1956 it was said that one of the basic concepts recognised by the Companies Bill was that the affairs of the companies encompass not only the interests of the share-holders and the management but also the interests of the workers, the consumers and the community at large. And, I feel and am confident that it is in this spirit that the Gov-

ernment in power has brought this Bill in connection with the regulation, development and control of the Company Secretaries' profession.

Mr. Vice-Chairman, we are having a planned economy and we have not been very much prejudiced against the private sector or the corporate sector. When we talk about the planned economy, we cannot ignore the importance of the corporate sector which is being run in this country. Mr. Vice-Chairman, the Government itself is in competition with the corporate sector, the private sector as well as the public sector. For the achievement of the objectives I mentioned in the beginning of my submission, Mr. Vice-Chairman, we have to see that the sole objective of the private sector as well as the public sector should be not only to earn profit.

But a consciousness about the social responsibilities has to be developed, a consciousness that the interest of the people is to be watched in the joint stock companies or in the corporate sector. Mr. Vice-Chairman, previously, in the old days, there was the barter exchange system. People were exchanging things among one another. Slowly it developed and we saw the sole proprietor system. Afterwards there was further development in commerce and we found the partnership system. But later it was felt that the partnership system was also not very sufficient and now a system of joint stock companies has been evolved where the producer is someone, the consumer is someone else and there are so many persons whose interests are involved. And a few persons are selected or elected to watch the interests of others. In this connection the decision to give statutory recognition to the Institute of Company Secretaries is a laudable effort. Sir, professional management is the dire need of the time. We have vast experience of professional management in the corporate sector particularly. In the joint stock companies, in public companies and in private

[Shri Sayed Sibte Razi]

companies, we have the experience of chartered accountants. The Institute of Chartered Accountants has contributed a lot in looking after the affairs of the shareholders by going through the accounts. Next we have seen the utility of the Institute of Cost and Works Accountants. In 1953 or at the very beginning of our independence, we felt that in the corporate sector there must be some trained personnel, some professional personnel who would know about these things. As you know, Mr. Vice-Chairman, the Company Law has great importance in the affairs of the corporate sector, in joint stock companies, to keep a watch upon the interests of the shareholders. And in the proper implementation of the statutory provisions of the Company Law in the corporate sector, competent and trained personnel will be of very great use. Now the responsibility of a trained personnel or a company secretary is not only to look to the interests of the management; he has many types of responsibilities towards the workers, towards the shareholders, towards the management, towards the consumers and towards the common man. Mr. Vice-Chairman, my friend, Mr. Hukum Deo Narain Yadav, said that there must be a person who can get at the things and bring it to the knowledge of the Government. I feel that a company secretary is not going to a company as a detective officer or as a sub-inspector of police. He has not only to see things but he has to help in keeping a watch upon the interests of all the sections to which I have referred. One of my friends asked why universities or other colleges are not being utilised for this very purpose and what is the necessity to bring a separate statute for company secretaries. My humble submission is that the problems before the company secretaries are not day-to-day problems only, but they have to face complex problems of company law and other things. That is why they should be given

some special training, as to in which direction they have to go and in which direction they have to see things. I feel that this institution will greatly help in the efficient functioning of the corporate sector as do our other similar institutions, the Institute of Chartered Accountants and the Institute of Costs and Works Accountants. Ours is a developing economy and we have to take the help of these sectors. We have to bring in their efforts in order to uplift the downtrodden, to bring light to the dark regions, to feed people who are unfed and to clothe who are naked. There has to be a joint fight against the economic inequalities. Whether it is public sector or it is private sector, we have to view things in that perspective. If in any sector we find that this feeling is lacking, we should make efforts to create this feeling; it is a social responsibility. This social consciousness should be developed.

It is stated in this Bill that companies with a capital of over Rs. 25 lakhs should have to employ trained professional secretaries. My humble submission to the honourable Minister here is that this ceiling should be brought down to Rs. 10 lakhs and companies with a capital of over Rs. 10 lakhs also should have trained secretaries. In this respect, I feel, the Bill meets the needs of the time and it will help in further smoothening the working of the corporate sector. I am sure this institution will prove its worth in the coming years.

SHRI BHUPESH GUPTA (West Bengal): Mr. Vice-Chairman, this is a way a sequel to, I believe, the Companies Act which was passed in this House some twentyfour years ago sponsored by Shri Chintamani Deshmukh, the then Finance Minister of the country. I had the privilege of participating in that discussion and this question of secretaries which was created in the Bill evoked considerable debate and discussion. There were two schools of thought. One was that in order to weaken the grip of the monopolists and others or their

families, it would be better if we provided for this post of secretary. Others thought it would make no material change to the situation. I would make some submissions not vividly recollecting what was discussed then because my memory is not that sharp; but nevertheless this aspect has to be borne in mind, the purpose for which this institution or this arrangement was made in the Companies Act.

Some friends of the ruling party asked me: Why do I always criticise the Government on the floor of the House, and why, being a senior Member, do I not give advice to them? Be it far from me to give advice to the honourable gentlemen, they are powerful. They are a collection, if not a collective, and they handle undoubtedly very important affairs, financial and otherwise. (*Interruptions*). Therefore, I would not give advice to them, though originally I thought when I heard some of these things, I should say something. It is only by way of an explanation why I don't give advice but make some observations. Prince Charles arrived here yesterday. Nearly half a dozen Cabinet Ministers went to the airport to receive him, including Mr. A. P. Sharma, the Minister in charge of Civil Aviation, that is to say, the Indian Airlines also. Very good. First of all I do not know why so many Ministers went there—probably they had no other work to do at that time. But anyway, that is not my point. What depresses me and dissuades me from coming out with any advice is this. When Shri Rajiv Gandhi appeared at the airport, all of them stood up—all Cabinet Ministers including Mr. A. P. Sharma under whom Shri Rajiv Gandhi works. Now, Sir, if we see such things, do you think that I will feel like giving advice? Suppose Pranab Babu, who is in charge of Commerce Ministry, goes to receive somebody at the airport. Now some official working under him—he may be the son of somebody or the other, that is not the point—in one of his undertakings

appears at the airport, and Pranab Mukherjee gets up in his seat to receive him...

SHRI HAREKRUSHNA MALLICK (Orissa): He will never do it.

SHRI BHUPESH GUPTA: I will be very happy if they deny and say that they did not get up. There are Ministers here and one of them can say this.

THE LEADER OF THE HOUSE (SHRI PRANAB MUKHERJEE): One thing I can tell you. Everybody was standing there and nobody was sitting. So, where is the question of getting up?

SHRI BHUPESH GUPTA: You have that Bengali cleverness. Let us share that. Some were sitting. These Cabinet Ministers were sitting. What is surprising is, one could not understand who was the Prince. That was difficult to understand—whether Rajiv Gandhi was the Prince or Charles was the Prince. So, be a little careful so that we have some heart still left in us. Have you understood, Mr. Law Minister?

THE VICE-CHAIRMAN (SHRI BISHAMBHAR NATH PANDE): Please come to the point.

SHRI BHUPESH GUPTA: This is a friendly advice. This is a good advice to you. Listen to me some time. I am not criticising you needlessly. I do not like that. Personally I have very good relations with most of you.

SHRI SYED SIBTE RAZI: Is the Raj Kumar who came from Britain a Company Secretary? What relevance has that got to this Bill?

SHRI BHUPESH GUPTA: He is not a Company Secretary. But he will visit the British Companies. He is going to Dunlop. We know it very well. But he is not a Company Secretary. He is a Prince. But who is the Prince? We do not know it now a days. Leave it at that.

[Shri Bhupesh Gupta]

As I said I will make some suggestions. My friend here has spoken about the Company Secretaryship. You have spoken from your point of view. I am not one of those who would not seriously take what you have said. I appreciate whenever good points are made. I would not dislike what you say simply because you have interrupted me. You spoke, this is good. Our experience is that it will not work. Your sentiments are good. You said there should be change, there should be trained officials, and so on. But that does not work. The main thing is that we should ensure workers' participation at all levels of the management including policy formulation of the concerned undertaking. These had been debated. Even at that time it was suggested. But it was not accepted.

Today we find it is very essential. I do not say: Make over the management to the workers because under this present society it cannot be done. But involve them in the management. Let them participate and share with them management and executives the policy formulations, decisions regarding matters of production, labour relations, technology, and all that. It will be very useful. Then you will have a sort of control. Now, Company Secretaries: You are creating another set of bureaucrats, another layer of bureaucracy; you have created them. Now, under this institution, we will have another set of IAS officers. Now, an honourable Member mentioned about the Chartered Accountants. Yes. But you know very well, how some of the Chartered Accountants behave in helping in manipulation of accounts by others. Here you are creating another set of bureaucrats and they will go to the private sector. I am not talking of many of them, and I am not at the moment talking of the public sector. They will go there and they will be absorbed in the system of management and willy-nilly they will become a part of the companies in

which they function. I will give you the latest example.

Here, Sir, I would like Mr. Pranab Mukherjee to note it. Now, the monopoly houses should be disbanded, the multinationals should be curbed, and the remedy does not lie in putting trained Secretaries there. They can be there. But I want to tell you one thing. There are some Ministers—I do not want to name any Minister here—and some high officials and you can very well understand how they can put in their pockets these Secretaries. You know it very well. They know how to manipulate these things. Sir, we thought some change would be made. But what is happening now? Corruption in the large business houses, in the big business, has grown manipulation even of law, the evasion of Income-Tax, evasion of very regulatory measures, excess production, excess capacity, under-invoicing, over-invoicing—all these things have increased and the black money has also increased in the country over the years, and these things have increased despite the Companies Act, despite the MRTF Act. Can it be denied? Nobody can deny it. Therefore, some basic treatment, some radical treatment, is needed.

Now, currently, one thing is happening. Sir, when Mr. Charan Singh was in charge of the Finance Ministry, he directed the company, M/s Hindustan Lever, to dilute their share to 40 per cent. He did it. And then he said—I do not know why he said that—that it should be done in two stages, that is, by end of 1979 it should be brought down from 65.5 per cent to 51 per cent and then by the end of 1980 it should be brought down to 40 per cent. That was the thing. In two stages the dilution had to take place. You know how the management is behaving? Some are Indians there; maybe a Secretary is also involved. What are they doing? Pranab Babu should note this. You know what they are doing? As I am speaking—kindly note this—as I am speaking here, they are canvassing

and they know very well that they cannot come to me. They are trying to find out whether they can make out their case through somebody else to me. But because they are doing this I want to reveal this before this House. But they know that this is a very tough customer. I tell you they are doing it and they know that the Government wants to keep it at 51 per cent. And, Sir, today, in answer to a question—there was a question on this today—the Minister has said that taking into account the advice given by the Ministry of Law, this representation is under the consideration of the Government in consultation with the concerned Ministries and a final decision would be taken later. This is in reply to a question on the issue of dilution. Sir, here is the Law Minister now. What advice our Law Minister has given, I do not know. Would you divulge it here? This kind of thing they are doing. Now, there are two arguments by them.

They say that they are exporting. But, you know, they are not exporting their products. They buy the products from other sources and export them and say that they are exporting as if it is the export of their concern or firm. Secondly, Sir, they are saying that they are using sophisticated technology. That again is false and it is bogus plea, because that detergent is produced now in our country by IPCL. They can produce it here and we are not dependent on them. These two arguments fall to the ground. They are now bluffing the Government. They want to keep it at 51 per cent. It should be rejected. They should be asked to bring down to 40 per cent by the end of this year, as originally ordered. Why are they not doing so? My friend has gone away. Where has he gone?

They are doing it because they think if the share is diluted to 40 per cent or even to 49 per cent, the legal character of the company will be changed. Then it will not be possible

for the Unilever in London to appoint the Chairman and the Board of Directors. It will no longer be possible for the company to do so. If the dilution takes place, we will cease to be a subsidiary and become an associate subsidiary. They want such a little control that India wants in national interest to be frustrated. And for this the Englishmen have not come here to canvass. Indians have come from Hyderabad and other places to canvass for this kind of lobby so that they are allowed to retain 51 per cent equity. This is a serious matter.

All I say, I gave you this latest example because I thought tomorrow morning if something is reported, our gentleman will know that we have told the Government and our Minister will also think that the cat is out of the bag already and he may take a better decision.

Mr. Pranab Mukherjee is the Minister of Commerce. He is not in charge of industry. I feel Mr. Chanana, our good friend, who used to edit paper—does he do it now? I think he does it even now—has gone wrong. He thinks of giving concessions to monopolists and have the production increased and price brought down. What a fantastic thing? This strategy and policy has failed everywhere in the capitalist world. And still he is pursuing that policy. I do not know why they are giving so much concession everyday to the monopolists. And they are very happy. When I read the speeches of company bosses, whether of the Tatas or of the Birlas or of similar other people, I find they are very happy with this present Government because they are getting very handsome concession. And Mr. K. K. Birla claims to be almost a part of the establishment in the household, take it as you like, some important household, he brags about it when some statesmen asks Mr. Birla how close he is to the Prime Minister, he smiles. That smile is

[Shri Bhupesh Gupta]
very significant. Mr. Pranab Babu may not understand that smile.

AN HON. MEMBER: He is also smiling.

SHRI BHUPESH GUPTA: But others understand it. I say, this is a dangerous thing. Therefore, I would like to give two or three suggestions.

First of all, the Company law should be reconsidered. We need comprehensive amendments to the Companies Act which was adopted in 1956 in the light of various reports of the different Commissions and Committees, including the Monopolies Commission and also our experience. These changes will not do.

Secondly, we need a determined policy to see that the monopoly control, under whatever guise, on the industrial world is, to begin with, drastically reduced and ultimately eliminated. Today 43 per cent of the assets of the private organised sector is accounted for by four monopoly houses. Compared to the dawn of independence, when the Tatas and the Birlas did not even have Rs. 150 crores of the total assets, today their industrial assets amount to more than Rs. 2000 crores. It is a very serious matter. You cannot have any control. Therefore, Sir, I want strong measures against monopolists, multinationals and the implementation of the existing destructive laws.

And I would ask the Government to go into the whole question and bring forward another set of laws in order to see that we do away, within the framework, as far as possible this concentration of economic power etc. That is all I would say. Beyond that, I do not wish to say anything. This will not work very much. You are creating another body of men. We know that they will be swallowed by monopoly capital as it is swallowing up many big officials, and some Ministers also, if I may say so. If they can

swallow so many, well, you can understand what happens. When you send these people for training, you spend the money for their training. (Time bell rings) Then they will be swallowed by the monopoly capital. This is all I would like to say. Kindly take action against the Uni-Lever and the Hindustan Lever.

SHRI SHIV SHANKAR: Mr. Vice-Chairman, Sir, I am happy that the Bill, by and large, has received the support from all the sections of this House. Needless to say, in an atmosphere of industrial development, the importance of the corporate sector is undoubted. And with the growth of the corporate sector, the institution of Company Secretaries assumes a great importance. This Bill, in fact, meets a long-felt need, and the Company Secretary, who is more in the nature of a kingpin in the apparatus of the corporate sector has got to necessarily play a great part. He is a fulcrum round whom the management, the shareholders, the employees of the corporate sector and also the consumers have got to revolve. It is purely in this background that the importance of this institution cannot be denied.

Sir, as I had said earlier, in the two sister institutions, namely that of the Chartered Accountants and also the Cost Accountants, enactments have been made. So far as this institution is concerned, the idea behind was to entrust them with the required degree or responsibility, to make them autonomous within the parameters of the law, give them the importance that they deserve so that a proper growth of the corporate sector takes place in this country.

Sir, I am aware that some criticism has been made with reference to certain clauses. A reply to the point made by Mr. Gupta need not be given because his criticism has nothing to do, in my submission, with the Bill that is introduced here. One of my friends referred to the Statement

of Objects and Reasons and recalled the recommendations of the Administrative Reforms Commission who observed the desirability of encouraging the growth of the profession of Company Secretaries as a necessary adjunct for a more efficient working of the corporate sector. He has also alluded to the recommendation of that Commission and stated that the Commission was of the view that suitable qualifications for such Secretaries should be prescribed by the Government.

Referring to sub-clauses of clause 15 he felt that we are departing from the recommendations of the Administrative Reforms Committee. If my friend were to read in between the lines the purport and the content of what the Administrative Reforms Committee had recommended, he should be satisfied that clause 15 answers his doubt. What the Administrative Reforms Committee had suggested was that the qualifications of such secretaries should be prescribed by the Government and the Government could only prescribe it by virtue of the rules and regulations; qualifications could not be incorporated in the Act. And it is precisely for this reason that clause 15(1)(a) deals with the power to prescribe standards for, and conduct of, examination for enrolment of the candidates, and so on. Likewise, sub-clause (c) deals with the qualifications. So, there should be no apprehension that the recommendation of the Administrative Reforms Committee is sought to be by-passed in any form. One aspect, which was stressed was as to how in the case of Medical Councils they do not prescribe the qualifications, and the examinations are carried out by the universities, so why don't we proceed on the same lines? The answer to this is two-fold. Firstly, perhaps my friend is aware that the Medical Council itself prescribes the regulations and also the qualifications, based on which the colleges are opened with a prior sanction of the Medical Council; prescribed courses are adopted. No doubt the apparatus with reference to holding the examination is left to

the university. But, then, all the rest of the work is done by the Medical Council, secondly, the sister institutions like the Institute of Chartered Accountants and the Institute of Cost Accountants have a pattern. In fact, it is that pattern which was sought to be brought into vogue in this Bill so that the circle of the officers or the authorities connected with the corporate sector could be complete. Therefore, while it would not be advisable to leave the entire matter to the university for holding the examination, since this is a diploma course. (*Interruptions*)

I think you can credit me with that much of knowledge. Therefore, having regard to the other two sister institutions, if an autonomous body is sought to be created, which is statutory in nature, and if that body is vested with the power to conduct the process of examination, which is purely administrative in nature, be it the university or be it a particular body, which is a statutory body like the one in this Bill, I would submit, it makes no difference at all. The University, my friend is aware, is also a product of a statute. It is also a body which is the creation of law. Likewise, if the Institute of Company Secretaries is created by virtue of the law and if proper powers are vested in it for the purpose of holding the examination I do not see as to how it could be said that it is a departure from the common accepted principle of law.

One argument that has been addressed is with reference to Clause 35. More than one hon. Members alluded to this and short of saying that the clause is draconian, they have gone on record to say that it is an all powerful clause which vests unweilded power in the Government to issue directions. But what is lost sight of is the content of the clause itself. Perhaps, what is not looked into by the hon. Members who are addressing the argument with reference to Clause 35 is that the power of the Central Government to issue directions is also limited. It is paraphrased by the expression 'conducive to the fulfilment

[Shri Shiv Shanker]

of the objects of the Act'. The directions could not be anything. Directions have to be necessarily such as would subserve the interests of the objects of the Act and if such directions are violated, the concomitant result automatically should be and which is provided in sub-clause (3)...

SHRI BHUPESH GUPTA: Nothing will happen.

SHRI SHIV SHANKAR: My friends are aware, particularly those who are making the passing remarks, that in all the enactments where the statutory bodies are created, including the Municipal Corporations Act which are prevailing in all the States and which laws have been enacted by the respective legislatures of the States, power to issue directions is inherent in those enactments. After all, the State Government cannot denude itself of the power which it has and which power flows from the various entries in the Constitution for the purpose of framing the law and also protecting those authorities or the bodies which are created by virtue of those legislations and if such corporate bodies do not subserve the interests of the enactments and go far beyond the parameters of the objectives set in the law that has been framed by the legislatures, necessary directions have got to be issued by the supervening authority, namely, the Government. It is purely from that point of view and more to subserve the interests and the objects of the Act that this clause has been incorporated. If it is merely put forth that power to issue directions is there, without alluding to the content of the directions, I am sorry, the matter will not have been properly appreciated. Therefore, in my submission, Clause 35 advances the cause of the object and interests of the enactment itself. And in this perspective, one need not necessarily get apprehensions which do not exist either in the Bill itself or otherwise.

Sir, in the process of the debate, some of the hon. Members have made very good suggestions. I can assure them that these suggestions would certainly be taken into consideration at the appropriate stage. One aspect which was raised was with reference to the compulsory nature of the employment of company secretaries in the corporate bodies which have a paid-up capital of Rs. 25 lakhs. A question had been asked why this condition should not be imposed also with reference to other corporate bodies which have a paid-up capital of less than Rs. 25 lakhs. In considering this matter we should adopt a pragmatic approach. If it becomes necessary that with the growth of corporate sector, instead of Rs. 25 lakhs of paid-up capital being the exemption limit, it should be reduced, it can be done. After all, it is a field where the question of expertise is involved. The question is that the salaries and emoluments which are paid to them should also be consistent with their capacity to manage an institution. If an institution is very small and the appointment of the company secretary is going to burden that institution, it will not be fair and proper to impose the personality of the company secretary on that institution. But I can assure the House that as and when it becomes necessary and if it is felt that with the growth of corporate sector, employment of company secretaries should be made compulsory even with reference to such companies whose paid-up capital is less than Rs. 25 lakhs, this Government would not shirk that responsibility.

I may also answer one other aspect about the employment part. There is no doubt that this is another specialist class which is created. It is a known factor that as the days are passing by, it is the world of specialists more than the world of generalists and one need not find fault with the specialists. Having regard to the complex nature of the corporate sector and its development, if these company secretaries who are trained in a particular aspect are employed and if this class is encouraged, I do not think

we should in any way find fault with the system itself. (*Interruptions*) I would not like to go further into the diverse aspects...

SHRI BHUPESH GUPTA: You should say something about the Hindustan Lever.

SHRI SHIV SHANKAR: You would like me to say anything under the sun. But I am not prepared to do it. It is not my habit. You can say anything on any subject. But I would not like to be dragged into that.

SHRI BHUPESH GUPTA: But this is relevant; control of the company.

SHRI SHIV SHANKAR: I thank the hon. Members for generally supporting the Bill. I commend the Bill for acceptance by the House.

THE VICE-CHAIRMAN (SHRI BISHAMBHAR NATH PANDE): Shri Shiv Chandra Jha. He is not here. I will now put his amendment to the vote of the House.

The question is:

"That the Bill to make provision for the regulation and development of the profession of Company Secretaries, as passed by the Lok Sabha, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:

1. Shri Harekrushna Mallick
2. Shri Ram Lakhan Prasad Gupta
3. Shri Hukumdeo Narayan Yadav
4. Shri G. C. Bhattacharya
5. Prof. Ramlal Parikh.

with instructions to report by the first day of the next Session of the Rajya Sabha."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI BISHAMBHAR NATH PANDE): Now, the question is:

"That the Bill to make provision for the regulation and development

of the profession of Company Secretaries, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI BISHAMBHAR NATH PANDE): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 39 were added to the Bill.

The First Schedule and the Second Schedule were added to the Bill.

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

SHRI SHIV SHANKAR: Sir, I move:

"That the Bill be passed"

The question was put and the motion was adopted.

MESSAGE FROM THE LOK SABHA

The Joint Committee of the Houses on Offices of Profit

SECRETARY GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary of the Lok Sabha:—

"I am directed to inform Rajya Sabha that Lok Sabha at its sitting held on Tuesday the 25th November 1980, adopted the following motion:

"That a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted consisting of fifteen members, ten from this House and five from the Rajya Sabha, who shall be elected from amongst the members of each House in accordance with the system of proportional representation by means of the single transferable vote."