

| Legislative Business | Time allotted |
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| 11. The Motor Vehicles (Second Amendment) Bill, 1960, as passed by the Lok Sabha . | 1 hr. |
| 12. The Maternity Benefit Bill, 1960, (for reference to Joint Committee) . | 1 hr. |
| 13. The Acquired Territories (Merger) Bill, 1960, as passed by the Lok Sabha . | 5 hrs. |
| 14. The Constitution (Ninth Amendment) Bill, 1960, as passed by the Lok Sabha . | |

Other business

Debate on International Situation—
One day.

The debate on the international situation will be held on December 20 instead of on December 19 as announced earlier. The Prime Minister will reply to the debate on December 21. The House will dispense with the lunch recess, if necessary.

SHRI BHUPESH GUPTA (West Bengal): May I make one observation in this connection? We have agreed to this arrangement in the Business Advisory Committee. When the House was going to meet on the 28th November, more than one week after the meeting of the Lok Sabha, I suggested that we should sit through the lunch hour and things could be arranged properly. But, as you know, during the first week of this Session we had no business because the Minister of Parliamentary Affairs and those who are responsible did not arrange things properly; otherwise we could have profitably taken up some of the things in the first week and discussed them. We did not do it. Now, there are so many things. Your office cannot help because so many things have been brought in. I suggest that this matter should be looked into by you so that in the beginning of the Session the business is

properly arranged and things are planned. Now in the earlier part of the Session we have had slack business and in the latter part of the Session everything is crowded. As a result of this, some matters cannot be discussed.

We find no mention for the No-Day-Yet-Named Motions. We do not find them. We should take a decision because this is not the right way of handling these matters. I think it should be the first task of the Minister of Parliamentary Affairs to consult us. We are always ready to discuss with him and arrange with him so that this kind of thing does not recur.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2.30.

The House then adjourned for lunch at four minutes past one of the clock.

The House reassembled after lunch at half past two of the clock, Mr. DEPUTY CHAIRMAN in the Chair.

THE COMPANIES (AMENDMENT) BILL 1960—continued

SHRI JASWANT SINGH (Rajasthan): Mr. Deputy Chairman, Sir, there cannot be two opinions about the importance of this legislation which is before us today. It will naturally have a far-reaching effect on the functioning of the joint stock enterprises in the country. By going through the Report of the Joint Select Committee and the speeches made in the other House and the few that have been made in this House, it is clear that there is clash of ideology in the approach to this Bill. Those who believe in free enterprise or those who are industrialists feel that this Bill will hamper the progress of industrialisation in this country, while those who believe in the socialistic

[Shri Jaswant Singh.]

pattern of society feel that this Bill does not go far enough and those who believe in complete State control consider that the Bill is altogether inadequate. This line has been taken in the various Notes of Dissent that have been appended to the Report of the Joint Select Committee. So far, in this House, only two Members from the P.S.P. have spoken and from the Congress side some labour leaders and two Members who believe in free enterprise have given vent to their feelings. My friend and neighbour, Shri Himatsingka's speech was very mild and he found in this Bill certain pin-pricks only. So far as my friend, Shri Chettiar, is concerned, he had certain strong views in regard to certain provisions. Considering this clash of ideology and the approach to this Bill, the Joint Select Committee deserves congratulations for striking a balance in the various views that have been expressed before the Committee. I am looking forward to hearing the speech of my friend, Shri Bhupesh Gupta, as to what he will have to say in regard to the provisions of this Bill.

We have been told that because of this Bill, there would be complications in the working of the joint stock companies and that it would retard their progress also. I was going through the proceedings of the Company Bill when it was passed in 1956 and I also noticed that similar fears were expressed then also but we have noticed that during the last 4 years, the joint stock companies have made great strides and have made great improvements and I do feel that given confidence and co-operation on both sides, these fears of the industrialists will be found baseless as far as the effects of the present Bill on the future joint stock companies are concerned.

It appears that controversy has arisen over only 4 clauses. First I would refer to clause 71 of the Bill which deals with the power of the

Central Government to direct special audit in certain cases. Great fears have been expressed, particularly by Mr. Chettiar, that this will be a great slur on and insult to the big companies and that it will retard the progress of the industry. By going through the provisions, I find that in ordinary cases these steps will not be taken. These will be taken only when they are found absolutely necessary in the interests of the company itself and in the interests of the shareholders. Have we not seen in the past that through mismanagement many companies, particularly textile mills, were closed and when the Government intervened, the working of these mills got on a sound footing? Moreover, I do not know how their prestige will be affected, because in the public sector there are enterprises and Government undertakings and the audits have to be in several directions. There is the internal audit, there is the audit by the Comptroller and Auditor-General, and then there is a special team of auditors, if necessary, and above all there is the P.A.C. which further goes thoroughly into the accounts of these various enterprises and, as a member of the P.A.C. for the last 4 years, I can say that at times even the very senior Secretaries to the Government are put on the mat for wasting public money and in Parliament itself the senior-most Ministers, including the Prime Minister, are taken to task for the Ministries' failings or lack of control in regard to public funds. If there is a wastage and if the interests of the shareholders go by default or their interests are not properly safeguarded and if the Government is satisfied that certain conditions have arisen where a special audit is called for and is necessary, then I think that in normal circumstances there should be no objection whatsoever.

Next I come to clause 80 which relates to the imposition of restrictions upon shares and debentures and prohibition of transfer of shares or debentures in certain cases. We know

very well that our Government believes in a mixed economy and they are fully convinced and we all of us also know very well that as long as we believe in a mixed economy, private enterprise has to play as important a part as the public enterprise. Therefore, action with regard to such cases need only be taken when there is clear abuse and that abuse has to be rectified in the interest of the shareholders and in the interest of the country. Here also I feel that the fears are exaggerated and they are more than is justified by the actual state of affairs.

The next important point I would like to deal with relates to selling agents and that matter is dealt with in clause 101. Here we are doing away with managing agents. The hope was expressed in 1956 that by August 1960 managing agents would be completely removed. But somehow or the other, the Government feels that this is a necessary evil and some time has to be given to it. In regard to this certainly some inconvenience will be felt in *bona fide* cases. But here also there is a loop-hole which has got to be plugged. It may be that the managing agents may, in certain cases, turn into sole selling agents and in that garb make more profit than they did as managing agents. Therefore, the Ministry can be relied upon to give directions to the Company Law Administration that this intervention is resorted to only where that is absolutely necessary and where, on the face of it, abuses were indulged in. Though I agree with my hon. friend, Shri Himatsingka, that some pin-pricks will be there, in the case of good businessmen and good industrialists, I may say we have nothing to fear. But wherever there are abuses, such intervention by the Government is called for and no objection can be taken.

Lastly, I would like to come to clause 100 which deals with contributions to political parties. Here, I see a very strange phenomenon. Here is

the Congress Party which has a great tradition, a tradition that they have inherited from our great leader, the Father of the Nation, Mahatma Gandhi, and that party is fighting shy with regard to this provision about contributions to political parties. I do not know why.

SHRI BHUPESH GUPTA: Because they need money.

SHRI JASWANT SINGH: It is true they need money. The hon. Minister of Commerce and Industry is not here now, but he is also, as we know, in charge of the elections of the Congress.

SHRI BHUPESH GUPTA: That is why he is in charge of Commerce and Industry.

SHRI JASWANT SINGH: He has been through two elections and the third election also is going to fall on his shoulders. I also know that for party reasons they have to put up many candidates who on their own merit may not perhaps be fit legislators either for Parliament or for the State Legislatures, but because of their loyalty to the party, these persons also have to be provided for. Ordinarily, these persons will find it difficult to win unless they are backed by big money and therefore this money is necessary. However, that will go against the traditions of the Congress Party itself. Here it is very strange that while all the parties, every party and most of the individuals, feel that such contributions should not be given to political parties, this party, this Congress Party, with all its traditions, feels that these contributions must be there and they cannot do without them.

SHRI M. GOVINDA REDDY (Mysore): Kindly let the hon. Member mention which party has not taken it.

SHRI JASWANT SINGH: They have taken, it is true, because it is now open to them to take it.

SHRI M. GOVINDA REDDY: Then why single out the Congress Party?

SHRI DAHYABHAI V. PATEL (Gujarat): All other parties are willing to forgo it, but the Congress Party is not.

SHRI M. GOVINDA REDDY: Because the Congress is frank, others are not.

SHRI JASWANT SINGH: All the other parties are willing to forgo the taking of donations for political parties from companies. But it is the Congress which is not willing to forgo this privilege and that party being the ruling party is in the most advantageous position.

Sir, we have been told that we are a democracy and we have to look to democratic traditions in Western democracies like the United Kingdom and the United States of America. As far as the U.S.A. is concerned, I understand that there is a complete ban on the payment of donations by companies to political parties. And even on individual contributions there is a ceiling put. Therefore, that example is there and if we are to follow that example, then we should forgo such contributions. As regards the United Kingdom also, it is true that there is this thing there. But then they have got national character. Those people there have got national character and they will not abuse this privilege. Here we are told day in and day out, for instance, by the Health Minister whenever we find fault with the habits of our people or with the shortcomings of the Health Ministry that we cannot help because it is the weakness of our national character. He has said it openly in this House that it is because of the weakness of the national character of Indians. If that is there in one case, then certainly it will be there in all the other cases also and there will be abuse.

Moreover, would not this practice also create disharmony in the companies themselves? There will be on the board of directors many members who would like to give something to one party and others may like to give it to another party and so on. So, there will be disharmony. Also if it is given, the poor shareholders about whose interests so much clamour is made, will suffer and they will get less dividends.

Lastly, Sir, I may point out that even our courts have expressed fear about the abuse of this contribution to political parties and that has to be taken into account when we consider this clause. After all, what is the main question? The main question is whether the Government or the ruling party is influenced as a result of these contributions or not. My submission is that they are certainly influenced. There is no doubt about it. They are influenced by this payment of contributions, because industrialists would not give any contribution to the ruling party for nothing. Here we have the report of the enquiry into the affairs of the Life Insurance Corporation by Shri Vivian Bose. What does it reveal? Shri Vivian Bose in his masterly finding has definitely proved or has given the ruling that with regard to the funds of the Life Insurance Corporation going to Mundhra, it was done as a *quid pro quo* for the funds that he had given to the Congress. Similarly, with regard to the Tata affairs. They have received crores and crores. Tatas received Rs. 20 crores in two instalments of Rs. 10 crores each, free of interest, while we charge 6½ per cent. even on the *taccavi* loans given to the cultivators. That was because Tatas gave lakhs and lakhs to Congress funds for election purposes. Therefore, I submit that it cannot be said that the ruling party cannot be influenced by these contributions. I submit that it will be a very great slur on the Congress Party if they thus entrench themselves and continue to get these contributions, for they and they alone

will be benefited by these contributions. And so I submit this is harmful to the interests of the country as a whole.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, this amending Bill that we have before us has been discussed from various angles and many people have supported some of the good provisions in it, relatively good ones, I mean. There is no doubt that in certain cases some little improvements have been made and small mercies have been shown. After four years wisdom is dawning upon the Ministry of Commerce and Industry and on the Company Law Administration. We are grateful to them for that. However, we have to judge this measure from a larger angle, keeping in view existing realities of company administration and finances on the one hand and the requirements of the country's economy on the other.

Four years ago we passed this voluminous Companies Act in this Parliament and many of us had the privilege of participating in the great debates that took place in both the Houses. Then, Sir, some of the points were particularly highlighted in the course of the long debates that took place, like managing agents, interlocking, concentration of economic power and so on. These were the special targets of attack from both sides of the House, Congressmen as well as Members belonging to the Opposition, barring of course, in both the Houses, some people connected with big money. They assailed the existing state of affairs in respect of each of them. Then, Sir, other items were also mentioned, the malpractices of the companies, their disregard for the interests of the consumers, of the shareholders, of the workers, of the employees and so on. Further, in the course of the discussion, Shri Chintaman Deshmukh, you will remember, speaking in this House, gave us to understand that by 15th August 1960, the managing agency system would be nearly abolished. He could not say

that all of them would disappear but he did say in so many words that many of them would not exist and it would be, by and large, a thing of the past. The same thing was said in the other House and we believed in them—people who are not accustomed—not me.

And now we have got the spokesman of the Foreign Affairs Ministry to listen to our Company Law debate.

Now, Sir, we expressed our doubts about it from this side of the House and the proceedings will testify to that. We clearly said that we did not believe in what the Government was saying and we made it clear that this system of managing agency would continue with the blessings of the Government, that is, the Treasury Benches. Some people thought we had been cussed about it; they thought that we were making political propaganda. Today I ask, as I speak again on the amending Bill but on the same subject, after four years, where are the managing agencies? Do they exist or have they disappeared with Shri Chintaman Deshmukh? The answer is clear; Finance Ministers may come and go; the managing agency remains in this country so long as the Government headed by Jawaharlal Nehru subserving in so blatant a manner the interests of big monopoly continues. That is the position. Therefore, it is not a question of one Minister or his assurance; it is a question of the attitude and the policies of the Government that explain the continuance of this hideous system of managing agency which was criticised and condemned by all sections of Parliament, including Members belonging to the Congress Party. Of course, I know they forget things; they have to vote in a particular way but I know that many Congressmen do not like it. Today I recall with regret that we have not amongst us one Congressman who fought the managing agency in Parliament in the most effective way. I have in mind our departed friend, Mr. Feroze Gandhi. It was he who exposed the managing agency and who showed

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how malpractices were being indulged in by the managing agency and unravelled the entire list. I think many joined him in attacking this; anyhow, we joined him from the Opposition but today we see that the same system continues. Now, since the enactment of this measure the Company Law Administration has come into existence and they have taken certain small measures but what can the poor chaps in the Company Law Administration do? Firstly, they have to function under this Companies Act which does not provide for drastic steps being taken or for policies being reshaped or reformulated. They have to function under this measure and well, they cannot do much because the power of money is the biggest power in India today. It can make and unmake Ministers. We have seen how things happen in various parts of India; and especially when the election time comes, they are even more powerful. An election year is hardly the year for the Government to sponsor a measure of this kind because we know they will be frightened by big money with so much expectation of funds from them for election purposes. Then, Sir, the machinery in the Company Law Administration—you will find it in the Report—is very weak. The Government does not mean business.

Then this Company Law Administration is an under-study of the Ministry. The time has come for us to ponder over the need for making it an independent body giving it more or less the same type of power as we have under the Constitution for the Election Commission, for the Auditor-General and so on. I do not like the Company Law Administration to function as an understudy of the Ministry because the Ministry and the Minister are political things. They are linked up with big money. Naturally, the Company Law Administration functioning under the Ministry and the party which is so subservient to it administratively, technically and otherwise, would think twice before

taking action against a person or a set of persons who are known to be patrons of the Congress Party and who act as host to the Congress Ministers. Now, human failings are there. The men in the Company Law Administration may be very good; even so, they may be frightened or rather scared by the fact that such and such a person against whom they have got complaints, against whom they are contemplating certain action, has got the ear of the Ministers or is the friend of the Ministers. Therefore, I think the time has come for us to consider whether we should not invest the Company Law Administration with authority outside the bounds of the Ministry and give them ample powers to act as they like in the interests of the country. Of course, the Administration technically will be responsible through a Minister to Parliament; that has to be there. So this point should be considered.

Now, the result after four years' working of the Company Law Administration has not been what one had expected. I do not blame them. I find that the Officer-in-charge of the Company Law Administration is one of the many Secretaries. I do not like that arrangement at all. Well, Sir, I am not for creating too many bureaucratic apparatuses but at the same time since we must have a regulative body, we must have one with ample powers, independence and scope for initiative and courage. That is what I say.

Now, after four years let us do a little stock-taking and see what things have happened in the country. Now why did we oppose the Company Law Administration? In 1956 what were our complaints? What were our grievances? We were opposed to the state of affairs prevailing at that time as we are now, because it leads to concentration of economic power. We have to judge today, as we consider this Bill, whether the trend is one of concentration of

economic power or the trend is one of dispersal of economic power. I do not say that overnight it will go; but what is the trend? At least let us judge from that angle. We opposed certain provisions of the old law because it gave rise to interlocking, malpractices, cornering of shares and so on. We have to judge today, as we take into consideration this amending Bill, whether these trends are essentially in existence, whether these trends of interlocking, cornering of shares, malpractices and so on are continuing. We were concerned, when we debated four years ago, with the interests of the small shareholder, the small businessman, even if he was a company-owner or running certain other business. We have to judge today whether the shareholders' interests are being protected against the endless and limitless manipulations of the tycoons of big business. We were interested at that time in ensuring that the company administration would be such as would ensure proper justice to the worker, to the public and to the country. We are entitled to ask the Government in what manner in the course of the last four years they have fulfilled these obligations. These are the criteria for judging this measure. I am not interested in quarrelling with the Government over small minor details. I am no expert in Company Law Administration; I do not wish to be one but certainly I am interested in the basic guiding policies in the matter. On all these grounds we have been thoroughly disappointed by the Government; I say 'by the Government' because the Government had powers to act but it has not acted. Of course, big business is to blame for it but then we are concerned here in this House mainly with the Government. Why is it that in four years they could not make up their mind even to abolish the managing agency? Why is it, Sir, that the life of the managing agency is being prolonged and perpetuated? Now, we were supposed to have no managing agency after 15th August 1960. All of them practically exist. Some

of them have applied for renewal and others will have applied. And they continue in other forms also. I can tell you, Sir, that even before the matter came up here behind the back of Parliament this Government took a decision that all managing agents who want to be reappointed for another term should be reappointed as a general rule. That is to say, even before the application came, the Ministry decided and passed orders, which are in our possession now. They passed orders saying that as a general rule renewal applications should be granted *prima facie*. They did not consider it necessary to go into the application even to judge on merits—to go into the affairs of companies or managing agents. All of them were renewed. It is a green light for all. This is how the Government behaved. They did not even consider that at least there might be some cases which should be gone into and that fresh permission or lease of life should be withheld from them. Nothing of the kind. A general, overall order was given. A blanket permission was given, and that too behind the back of the Parliament. I repeat it, because they say one thing in Parliament, they do another thing in the Secretariat and keep the Parliament dark, until we get hold of the documents or information and lay it before Parliament and expose them. Are they to function in this manner? Was it not their duty to tell us that they were contemplating passing such an overall order in order to get the life of managing agencies extended whenever the application would be made? Did they tell it to the Congress Party? No. Ministries are supreme. The Congress Party has to support them. They take it for granted. That is how they treat it. Had we of the Communist Party behaved in the Treasury Benches as Ministers like that, our party would have expelled the Ministers and replaced them by others. But the Congressmen are very good people. Here is our esteemed friend, Diwan Chaman Lall. He is fed up with it

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and perhaps feels it is no use doing anything with it. But I would ask him: Was he consulted in this matter? No.

SHRI RAJENDRA PRATAP SINHA (Bihar): Is he joining you?

SHRI BHUPESH GUPTA: Now, this is the position. As a result what happened to the Company Law? As you know, there were 3944 managing agents in India and 5055 joint stock companies and these controlled 48 per cent. of the aggregate paid-up capital of the entire corporate sector in 1954-55, before the Companies Act came into being. What is the position today? We are entitled to know it. Cock and bull stories will not satisfy us. We want facts and figures. Where do we stand? Where are these managing agents? Have they decontrolled them or are they carrying on uncontrolled their malpractices, concentration of economic power, trickeries and profiteering? This is the question which I put to the hon. Minister and let him answer with facts and figures. Now, Sir, here even in the Company Law Report you will find that less new managing agents are being appointed. It is true. In the new ones, many managing directors are not there. Even in the latest report, 250 managing directors are there. But why are there treasurership and secretaryship? Now, the posts of treasurer and secretary are being utilised by the same set of people to maintain their vested interests and economic position. Are we satisfied just because the gentleman would not call them managing agents but would call them secretaries and treasurers? Were we quarrelling over names or we had something very vital in this matter to complain about? Now, this is the position. Everybody knows it and many people write to us: Here are the secretaries and treasurers. Now, they have become the *benamdars* of managing agents. Let him say something about it. Then, cornering goes on in all kinds and types and in different

ways. Now, here for instance, who does not know Jessops, which produced the great Mundhra? Mundhra produced one lakh for the Congress election fund. I concede that. Now, who are buying the Jessop shares today? How many of you know it? Many people do not know it. Why should you bother about shares? I know and I have to bother and some of you have to. Rohtas are cornering Jessop shares in the expectation that some day that great company, Jessops, which produces vital things and mints millions in profit would be cornered by, well, Sir, that great name, the Jains.

MR. DEPUTY CHAIRMAN: No names.

SHRI BHUPESH GUPTA: What are they doing? 'Jains' are no name. You might say the religion or so many things. This is the position today. When Company Law is discussed, some such name should be brought in.

MR. DEPUTY CHAIRMAN: It should be impersonal.

SHRI BHUPESH GUPTA: It is a very personal matter. If not, you and I might be involved. We have to be exact in such matters to save the community from being misunderstood. We have to lay our fingers on some specific individual, as Mr. Feroze Gandhi did. If you had said 'no names', nobody would know where to go, which house to search and whom to approach in order to conduct the enquiry. Nobody would have known it. Now, Sir, I am not interested in the names, because the names irritate me. Therefore, I do not want to irritate myself by quoting these names. You are quite right, Sir. Out of compassion for me you have suggested that no name should be mentioned. Now, this is the position. Takeover of companies is being done. Cornering of shares is being done. Now, I have got here a whole list of companies where cornering is going on. I will just men-

tion how it is going on. Debpura Tea Company Limited have bought the shares of seven tea companies. Then, one of these seven companies, Palashbari Tea Company Limited, again under the control of the same directors, bought the shares of Debpura Tea Company and another eight companies. Then, Monmohinipur Tea Company Limited bought the shares of Palashbari and some others. Then, Bhojnarain Tea Company Limited bought the shares of Debpura Tea Company, Palashbari Tea Company and Monmohinipur Tea Company, and so on. I have got the list of directors and so on. If you go through the list you will see that the same director, with his son, with his brother and with some associates has cornered a large number of shares in a large number of tea companies and a cartel is developed. Now, I am not interested in the names. I am interested in preventing the cornering of shares. But what are they doing? Are they stopping it? This is the question I put. They are not. These things are going on. Now, there is the new fashion to take over the shares in order to control the company. Messrs. Sohanlal Pasricha, a stockbroker, takes over the shares, purchases a sugar concern, names, Balrampur Sugar Company, from Messrs. Begg Sutherland and Company, paying Rs. 16 for a share which actually costs Rs. 6. It is going on. This is another 'take-over'. You will ask how it is that they are paying so much money when the shares are priced so low. There are reasons for it. They take over because they will have control over the reserve fund of the company that is taken over. Commission is paid as buying and selling agents. They also get a share and various other benefits accrue to them. They are more than compensated for the excess price which they pay for the share. This take-over deal has become a menace and the big business in Kanpur, Calcutta, Bombay and other places are indulging in this kind of take-over on a large scale with our bosses in the Government looking on. I do not know

whether they have got enough powers to do anything against them. But what I am interested in is in pointing out that this is a serious menace to our economy, because the way it is done, the whole thing, this take-over business *ab initio* is something which is wrong, which is corrupt, which promises nothing but malpractices and money creeping in. This is how it goes on. Now, Sir, that is another aspect. They are not doing anything about it. Interlocking goes on. Subsidiaries are there and you could see how soft the hon. Minister is towards the subsidiaries.

Then, Sir, distinction between private and public limited companies continues. Why on earth there should be a distinction? Just because it is fifty people, they have the maximum control, which is provided under one set of laws. If it is fifty-two, then it does not become private. What logic? From the public point of view, whether it is fifty or five hundred, there should be the same set of laws and all companies should at least come under the existing regulations that apply in the case of public limited companies. The result has been that private companies enjoy certain advantages and privileges. The result has been that money goes there and concentration is taking place in the private limited companies. And there you see the trend. Whereas these companies are going up in their investment and in numbers also in some cases, the number of public limited companies is small comparatively, the number is going down, and the investment is less. Therefore, the monopoly elements, those who are controlling the economic power in the country, are concentrating the resources in their own hands and making a kind of internal arrangement as if it were a sort of cartel and so on. That should be stopped. Sir, this is an important factor. This interlocking and this cornering of shares and the subsidiaries, all these are subterfuges and devices. These are exposed mechanisms, these are exposed instruments

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not only for exploitation of the working people, not only for cheating the consuming public, but also for gathering more economic power and correspondingly more power in public life including political power. That is the dangerous position in this respect, and our friends there are soft about it.

Then let me come to the question of selling agent. The Shastri Committee recommended that if a managing agent resigns, within three years that managing agent should not be appointed selling agent. Now, what have they done in this Bill? They say that they will not be appointed except with the consent of the Government. In other words Government can allow the appointment of a former managing agent as a selling agent within a period of less than three years provided they are satisfied. Sir, that is another source of corruption. Why should it be provided like that? The period should be absolute. The restriction should be absolute. Government should be given no option in this matter, no discretion. It is not merely because we do not trust Government in such matters but also because that is needed in the interests of the public. This is what the public also demand. Why should the Minister sit at his desk expecting some caller to come to him and say—he will talk about election of course a little bit and then he will say—"I want to be appointed selling agent although I have resigned two and a half years ago". Since every Minister like every mortal politician is interested in election, he may also be interested in that selling agent, and then that person gets appointed. That is how the bonds of gold are created between the big money on the one hand and the Ministry on the other, and the pull of such bonds is so great that even the great ones in the Ministry cannot resist that. That is what we have seen. That is what will happen.

Then, Sir, I come to the audit portion. Audit is compulsory. I welcome it.

SHRI P. N. SAPRU (Uttar Pradesh): The pull of money may be great with us, but the pull of China is great with you.

SHRI BHUPESH GUPTA: China is not the managing director of your companies. Therefore, let us not bring in China. But it seems for the present that the hon. Mr. Sapru is full of irrelevancies.

SHRI P. N. SAPRU: He is one of the directors of one of the big parties.

SHRI BHUPESH GUPTA: When former Judges become a little irrelevant, I am very sorry for them, but I am sorry even for himself because we have not created a state of affairs . . .

MR. DEPUTY CHAIRMAN: You go on with your speech. Your time is running out.

SHRI BHUPESH GUPTA: Please do not bring extraneous things here. You will have Foreign Affairs debate in the usual cycle and there will be anti-China campaign here against the Communist Party.

Now, Sir, there is the audit, it is a good thing, but auditing will not do as at present. Big business is opposed to it, I know. In some committees they gave evidence and they spoke very much against it. I want it to be more rigid. But the crux of the matter is who audits? How are they situated? We would like the auditing institutions to be entirely nationalised, that is to say, they must belong to the State sector. There must not be any private concern. Mr. Basappa, while giving evidence before the Joint Select Committee, said—he is a Congressman incidentally, and nobody need interrupt me because I am quoting him—that all balance-sheets were false. Mr. Basappa said that. Everybody knows it. This is the position.

Then how does it come about that we have balance-sheets like that? Something is wrong. I do not want to cast any reflection on anybody, but the situation is such that auditing should be absolutely in the hands of people who are independent and who have nothing to do with big business. They can be looked after by the country and Parliament. They must be an independent State institution. We can have a set of auditors who audit not only the main offices but the branches and everything. Auditing should not be just verification. They should go deeper into this thing and they should take the co-operation of the employees and the trade unions to understand what is what—accounting and auditing. This is how it is done. This is how it was done and is done in the Soviet Union. There the working class is in power but even then they are very strict with it. They do not go by the impression that they are socialists. As far as auditing and accounting are concerned, everything is very strict there. Now, here it seems that auditing will not take us very far.

Then let me come to the other controversial item of contribution to the political funds. Sir, when I moved for consideration my Bill seeking to amend the Company Law, I spoke at length and gave reasons as to why contributions by companies to political funds should be stopped and banned. Shri Lal Bahadur, replying to the debate, said that they took money from everybody, poor, rich and middle class, and so on. But it seems that they do not go to the poor people. I have not seen them at least in Calcutta coming and collecting money in the streets from the poorer sections of the people. But I have heard Sir Biren Mookerjee saying that he had to give Rs. 2½ lakhs to the Congress election fund—I have not heard it but somebody who heard it told me—because it had to be given in the interests of the company, and it was a kind of blackmail. Tatas gave money. Mundhra gave money and he messed up in such a

poor way that he is in jail or has got so many cases pending against him. He may not give any more, or he may give to get out of it. It is a different matter. Anyway, Sir, this is the position. There is just a little restriction of Rs. 25,000 or 5 per cent. Five per cent. of the profits of Tata Iron and Steel Company, how much does it come to? Five per cent. of the profits of a tea shop is nothing, but five per cent. of the profits of the Tata Iron and Steel Company comes to millions. So, Sir, they can get donations like that. This is the position. Every party in the country wants these things to be completely banned and let there be no mistake about it. One party and one party alone—I do not blame every party member—the leadership of one party and one party alone wants this arrangement for contribution to the political fund. Why? They are supposed to be the biggest party, they are supposed to have very great following in the country. Let them come and make their election fund out of the pennies and Naye Paise from the poor people rather than knocking at the doors of the millionaires and getting money from them and placating them after the elections. We see connections between the handsome contribution of Rs. 10 lakhs by the Tatas to the Congress election fund before the first General Election and the shooting of the workers in defence of Tatas' interests in Jamshedpur. People will draw that conclusion because it follows one after another and everybody knows that they are doing that. Some gentlemen, however opposed they may be to China or the Soviet Union, like the Americans, and there is a little quotation here which I am sure will give a good answer to them. Chief Justice Warren says:

“The voice of the people may all too easily be drowned out by the voice of special interest group seeking favoured treatment while masquerading as proponents of public weal. This is the evil which

[Shri Bhupesh Gupta.]

the Lobbying Act was designed to help prevent."

The Lobbying Act became necessary there but we have a lot of perpetual lobbying going on. But the trouble is that big business does not lobby here in such matters. They will lobby big business in order to get their favour. The result is corruption of public life. Today, you have got concentration of economic power in their hands, which has not been stamped out, but a special commission is going to be appointed to understand where the national income goes. Well, some day we will see a public enquiry committee being appointed to find out where the Himalayas are, where they are situated. In order to discover that, some Prime Minister will come forward with a proposal for the appointment of a committee. You do not require a high-power committee or commission to at least understand where the money is going. It goes every day in front of our eyes. We know where the money goes. Yes, I can understand going into this question in order to take some measures, but that is not so. You have to discover it. After thirteen years of independence, the Rip van Winkles in the Government have woken up and they have to find out where the money goes after crores and crores of rupees have gone, and then ask Mr. Mahalanobis to work out his statistics. What a wonderful fun is going on in this country.

Now, Sir, this is the position. It happens precisely because these big businesses are in a position today to condition, to influence, the political life of the country by favouring and patronising a particular political party, and that party is the Congress Party. I know many people opposite would hate to touch that money but then those who run the show, the ring-masters of the Congress Party so to say, are interested in running the show, not in counting on the goodwill, hard work and

devotion of the average Congressman, not in counting upon the right policies and the pull of such policies over the people but on the money from big business, and with that money, they want to pervert, degrade, debase our parliamentary institution and democracy, so that they can continue in perpetuity in a position of authority. We want this arrangement to go. My hon. friend is proud of the fact that the Swatantra Party has got some big businessmen, high executives and so on there.

SHRI DAHYABHAI V. PATEL: We have not got, we would like to have them.

SHRI BHUPESH GUPTA: You would like to have them.

SHRI DAHYABHAI V. PATEL: Of course.

SHRI BHUPESH GUPTA: You will like to have them.

SHRI DAHYABHAI V. PATEL: I am an honest man.

SHRI BHUPESH GUPTA: I can tell you, better give up that idea. The Congress is taking so much; so you require a miniature war to be waged upon them in order to get them out of that position. And you are doing it, but I do not know with what success. Other political parties will not win them over. Let the trade war go on between the two. But we are not interested in this thing, we are interested in banning altogether this kind of thing. Even that is not being done. Then they come with an amending Bill and ask us to support them. All I can say is, whatever little is done is done; we will support them as we do always, but I say with this kind of play with ideas, with this kind of false play with the people, with this kind of pretension to the people that we are doing something to restrict the concentration of economic power, well, in point of fact, you are building with both your hands monopolists. This is not good, this is not good

morality, for public life and for political ideals. I need not say more.

Mr. Asoka Mehta in the other House mentioned people's capitalism. Tigers may become vegetarian some day but capitalism will never become people's capitalism. It will remain carnivorous; it will become a money-taking institution, an exploitative institution. Therefore, let us not have the impression that we build a people's capitalism. It will be Mundhra's capitalism by the grace of the Congress Party or the Birlas' or the Tatas' capitalism nurtured so well by the kindly god-fathers of the Congress Party. Therefore, this has to be stopped and as long as the system of private capital remains, our company law should be such as to put the maximum curb and restraint on the monopolistic anti-social operations of big business and help the growth of healthy trends even in the private sector. For the present they are doing the wrong, opposite things, and I think we should make it a common cause to impress this upon the Government. Well, it is capable of being impressed if other trends develop. Mr. Lal Bahadur Shastri in his office is a good manager of elections but he has been managing the Company Law Administration, it seems, in the interests of the managing agents. Sir, the managership of the Congress Party and the managership of the Government are interlinked. That is why we have this piece of amending legislation.

SHRI M. GOVINDA REDDY: Mr. Deputy Chairman, I have great pleasure in supporting the Companies (Amendment) Bill, 1960. As hon. Members have expressed, this is a measure which improves the Companies Act to a large extent and plugs in the loopholes that are found in the experience of working of this Act. Generally the amendments that are proposed by this Bill can be divided into three classes—

- (1) amendments considered necessary to overcome practical difficulties experienced in course of the working of the Act;
- (2) amendments of a clarificatory nature, designed to remove drafting defects and obscurities which have caused difficulty in the interpretation of the statute; and
- (3) amendments considered necessary to ensure the better fulfilment of the purposes of the Act and to remove lacunae in the existing provisions.

And these amendments falling into these three categories have very largely made this a near-perfect Bill. I am very happy to pay my meed of tribute to the Joint Select Committee which has improved the Companies Act by way of these amendments in this excellent manner.

I do not propose to go through many of the amendments of this voluminous Bill. I would like to confine my remarks to the most controversial amendments. The first amendment is in clause 100. It is an amendment to Section 293 of the principal Act, introducing new section 293A. As you are aware—and as the House is aware—this has given rise to a lot of heat. It is true that the Congress Party is accepting contributions and the hon. Mr. Jaswant Singh was saying that we were fighting shy of it. We have never fought shy of it.

SHRI BHUPESH GUPTA: No, Sir. We never said that. We never said you are fighting shy. You are all doing wrong things.

SHRI M. GOVINDA REDDY: I said Mr. Jaswant Singh said that. I will come to you also. We acknowledge what we receive and we have a regular procedure of accounting for the Congress funds before the general body meeting of

[Shri M. Govinda Reddy.] the party to which meeting hon. friends opposite also may come, which meeting is open to the press. So, there is no hide and seek about this. As far as the parties which have taken objection to the contributions are concerned, I am asking them a straight question: Are they sincere in their objection?

SHRI BHUPESH GUPTA: Absolutely.

SHRI M. GOVINDA REDDY: No, thousand times no. You are not sincere; you are not honest. Mr. Jaswant Singh said that the Congress was receiving and everybody was echoing that the Congress was receiving funds. The tactics are that they want to make it appear to the public that the Congress alone receives and that no other political party receives. When I put a straight question to my hon. friend, Mr. Jaswant Singh, as to whether he could name one single political party which had not received any contribution, he admitted that every party was receiving. Now, every party is receiving funds. Suppose we consider it to be a pernicious crime as is made out by friends on the opposite Benches. Supposing it is so vicious, bad in principle and it goes against the integrity of a party, why are my friends accepting these contributions? Why have they accepted in the past? Now, granting that they have accepted in the past and they have now all of a sudden come to realise that they are doing something evil, something bad, that they are following a pernicious practice, are they now prepared to say, whether the Congress receives or not, "We are not going to receive it"? Let them make a declaration today on the floor of this House. The hon. the leader of the Communist Party was shouting loud. Is he prepared to make the declaration that "from tomorrow I am not going to accept . . .

SHRI BHUPESH GUPTA: You ask Tatas whether they will be able to give us and see the reaction.

SHRI M. GOVINDA REDDY: Let the hon. Member not interrupt me. I am replying to the point raised by my hon. friend. You ask any businessman, and he rightly says, "I give to every political party that asks from me", because he cannot incur the displeasure of any political party. Now, have the businessmen not contributed to the Communist Party? Let him honestly say with his hand on his heart. Have the businessmen not contributed to the Praja-Socialist Party, to the Socialist Party and to others? (*Interruption.*) The answer cannot be, "No". It is something to give a direct answer to my friend: it is something quite honest; it is not degrading to accept funds from our countrymen. But supposing we enlarge our party by funds given by a foreign power, is it not disgraceful? Is it not unpatriotic? Now, why is all the blame laid at the door of the Congress and the practice called a pernicious practice? And what is pernicious about it, I want to know. I ask, where the funds in Mr. Dange's account came from, and how they came to be swelled? It is not by Thames' floods that they have swollen.

SHRI BHUPESH GUPTA: Everybody knows how.

SHRI M. GOVINDA REDDY: So, those living in glass-houses should not throw stones at others. (*Interruption.*) Where do the funds in Mr. Dange's account come from? (*Interruption.*) You cannot convince me; you cannot convince the public; every citizen in India knows that you are being helped by outside powers. You cannot deny that. Why do you make use of those funds? (*Interruption.*) I have not yielded.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI M. GOVINDA REDDY: I am not at all objecting to his receiving funds from here or elsewhere. I do not question that, but when he questions my honest method of receiving funds from inside the country and also accounting for the funds, I have

every right to say that taking that objection is dishonest. (*Interruption.*) I have every right to say that a political party which raises an objection against this is not honest in its intentions.

SHRI BHUPESH GUPTA: I take objection to the word 'dishonest; Sir; I am certainly entitled to raise this point. He should take back the word 'dishonest'.

SHRI M. GOVINDA REDDY: I did not say anything against you personally.

SHRI BHUPESH GUPTA: Even under this provocation I do not say anything against you, but you know what you are saying is falsehood from A to Z. It is to placate the Minister you are saying these things.

SHRI M. GOVINDA REDDY: If you remember, Sir, I said that the objection raised was dishonest. I did not mean that any individual is dishonest; the objection raised to the collection of contributions to political parties is dishonest.

Supposing these hon. Members are all convinced that it is bad now, why do they not say so, that "we do not receive them today"? I will take the word of our friends if today they make a declaration that they are not going to receive any political contributions from tomorrow. Now, Sir, the fact is . . .

SHRI AKBAR ALI KHAN (Andhra Pradesh): They will never do it.

SHRI M. GOVINDA REDDY: The fact is that this is a very huge country and to travel from one end to the other just for meeting people requires so much money. Now we are working under a democracy . . .

(*Interruption.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: The point raised is that the clause should not be there.

SHRI M. GOVINDA REDDY: I shall answer your points at the end. Now, Sir, we are working under a

democracy here and it is well known all the world over that democracy means working on party lines. Now, can anybody in his senses say that in this country we can organise a party purely on the contributions of the members of the party? If anybody says, "Yes", he does not honestly say that, I say. No party can be organised in this country purely on the membership fee. So, parties have to receive political contributions, have to receive funds from friends who have funds and who can spare them, from companies and institutions who have funds and who can spare them. This is very necessary. I am not fighting shy of it. It is an honest thing. No party, I challenge, no party can run here as a political party without receiving external help—external help means help other than the contribution by the members of the party. Now, that is a thing which goes without being questioned, which is a matter of sheer common-sense. In this country it is true that we have to organise large parties, spend large sums. And unfortunately elections are becoming expensive and in this adult franchise nobody can do without funds. Our socialist society is still far-off; we are yet to reach it. Perhaps, it is possible, when we reach that social order, for men like me without means to be able to stand and contest elections, but today that is not possible; one requires large sums of money to contest elections. So, if democracy is to be successful, the party system must be successful and the parties must be well organised and well disciplined, and if the parties want their influence to spread wide in the country, they have to stand on their own sound feet and find the finance. So, they have to collect finance, and, therefore, I say there is nothing wrong in principle. Now, let us take this position. Supposing I am a millionaire or I have enough money to spare, have I not got the fundamental right to give it to anybody I like?

SHRI RAJENDRA PRATAP SINHA: You have got the right . . .

SHRI M. GOVINDA REDDY: You please listen. So also, cannot a company have the right to pursue a sort of political policy it likes? A company is free, I suppose.

SHRI RAJENDRA PRATAP SINHA: No.

SHRI M. GOVINDA REDDY: Well, nothing in the Company Law says that a company should not encourage a political policy or should not help a political party. There is nothing like that. All that the Company Law aims at is to regulate its working. Now, why should the right of the companies to be friend any political party which is to their liking be denied to them? I do not think it is right to deny to them that democratic right. So, Sir, it is not bad in principle. Look at it in any way you like. It is not bad in principle. I can understand our friends' objections only if the Congress Party is receiving the funds. Then you can say, "Well, you are receiving funds and therefore you are keeping us at a disadvantage and you are at an advantage over us". But that is not the case, as my hon. friend can very well see. Now, all that they want to say is that the Congress Party should decide not to accept funds. Well, nobody questions their methods; they are free to follow any method they like. But they want to take unfair advantage of the Congress Party, which is not right.

Now, the other charge that is made is that political contributions subject the party to the influence and the power of those who donate them. Well, I am answering that point.

SHRI BHUPESH GUPTA: How many Mundhras has Mysore got?

SHRI M. GOVINDA REDDY: I am prepared to answer any number of questions, but not now. My time is running out. If that is the objection, has the Congress yielded to the influence of these donors? Well, that is a question which anybody can answer

in his public life. Now, why is the private sector up against Congress? If, as our friends, say, we have accepted from Mundhras and Tatas—he named some companies and some persons—have we not at the same time prosecuted them for offending against the laws of the country? And is not the allegation made by the private sector against the public sector, and naturally against the Congress Party in power, that more and more items are being taken into the public sector? And have we not introduced all these taxes, the gift tax, the expenditure tax, etc.? A hundred taxes have been imposed and by so doing have we not incurred the unpopularity of the vested interests? And have we obliged them in these regards because we had their funds? Why have we done that? It is an open book.

SHRI BHUPESH GUPTA: You are Romeo to the Juliet of the private sector.

SHRI M. GOVINDA REDDY: So, it is wrong to say that we have compromised with our principles, that we have compromised with our political standards or moral standards by accepting contributions. In fact the very people who have given the donations to us as well as to others deny the charge that is levelled against the Congress; they have admitted that Congress has refused to be influenced, has stayed away from being influenced by any vested interest because of the political contributions. Sir, it is no good arguing against these political contributions when I can very well challenge that the Communist Party, the Praja-Socialist Party, the Socialist Party or any other party cannot do without contributions. (*Time bell rings.*) Since the time is out I leave this. But I am not ashamed that my party is accepting contributions. I am prepared to accept more. In fact, I am sorry that a ceiling has been put by introducing section 293(A) That was not necessary in my opinion.

SHRI BHUPESH GUPTA: Then the children of the Tatas will be sitting in the Rajya Sabha.

SHRI M. GOVINDA REDDY: Another thing I wanted to dwell on was the amendment suggested in clauses 60 to 76. These clauses are devised with a view to bringing the accounting procedure to a high standard by verifiable methods. The hon. Minister in his opening speech gave due justification for the special audit. Sir, it must be realised that these companies have large funds contributed by shareholders and, therefore, it is in the interest of the company to see that nobody takes advantage by misusing these funds. So, the only one open method would be to make their accounts perfect and to make them account for everything. By undertaking a very onerous responsibility, the Central Government has ensured good management of these accounts and the funds of the companies by introducing these amendments, particularly special audit. My hon. friend, Mr. Bhupesh Gupta, was himself saying that the balance-sheets of many of the companies were open to question. The businessmen have themselves admitted this. Therefore, it is all the more necessary that the Government should be armed with necessary powers where they suspect the *bona fides* of a company, where they see evidence that the funds are not used according to the rules of the company and in the interest of the shareholders, it should be open to the Central Government to send its own auditors to inspect and to check the audit of the accounts.

With these words, Sir, I lend my full support to this amending Bill.

SHRI DAHYABHAI V. PATEL: Mr. Deputy Chairman, Sir, I look upon the increasing power of the State with the greatest of fear, because although while apparently doing good, by minimising exploitation, it does the greatest harm to mankind by destroying individuality which lies at the root of all progress. "The State represents

violence in a concentrated and organised form. The individual has a soul but the State is a soul-less machine. It can never be veaned from violence." I do not know how many friends in this House will be able to recollect this quotation. I was reading a quotation from what Gandhiji said during his last days.

I do not know where the Congress Party, which takes the votes of the people in the name of Gandhiji, is going. The way in which it is going, is it being driven every day further and further, harder and harder by my friend sitting by my side, or is it going the way shown by the Father of the Nation and by the promises that we made to the people?

Sir, I came into the picture of this legislation at a very late stage. I was elected to the Select Committee in place of my esteemed friend, Mr. Dhage, who ceased to be a Member and we had a meeting to discuss only some controversial points. The evidence, the examination of witnesses was all over. Hence I was not exactly familiar with all that had transpired, but it did give me a feeling at times that we were discussing the Criminal Procedure Code rather than the Company Law.

Sir, I am not a big businessman lest some friends should suspect anything of that kind. I have no interest in business. I have retired from business. Now, I am living on pension that I get after 25 years of honest and hard work in an institution which has been recognised by everybody as one of the cleanest institutions anywhere. It is a contrast that the Government, after taking over, has not been able to maintain that standard there. I am not speaking in any way for managing agency or selling agency or for any director. But basically my approach from an objective point of view at the changes that are proposed to be made in the Act.

Sir, I am very sorry that I have to say this in that form, but my hon.

[Shri Dahyabhai V. Patel.]

friends opposite, the hon. Minister for whom I have very great respect, and the Minister who piloted the Bill here, I feel, have not understood really the functioning of a public limited company and how it works. They seem to be driven by some officers in their Department. With the little experience of company law administration that they have, the vast powers that they are acquiring and the way in which big industrialists dance attendance on them in their officers when they go out on tour, it has all gone to their head and they have gone madder still.

SHRI AKBAR ALI KHAN: Are we helping them?

SHRI DAHYABHAI V. PATEL: I think you had better think about it yourself. I expressed myself in most forthright terms, Mr. Akbar Ali Khan. I have no doubts in my mind and I am not afraid of expressing myself. The attitude of trying to do everything by legislation, I feel, is wrong. By doing this we have destroyed greatly the sanctity of our Constitution. You cannot play with the Constitution as you have been doing during the last few years, every time a High Court or a Supreme Court verdict is given against your Ordinance or your amending legislation. I feel that this is not the way in which you should have rushed as you have rushed with some of the legislations. Sir, how is there going to be respect for the Constitution when the party in power, the majority party, behaves with the Constitution in this way?

MR. DEPUTY CHAIRMAN: The Constitution (Amendment) Bill is coming up a little later. Presently, we are on Company Law.

SHRI DAHYABHAI V. PATEL: I am speaking generally of the way in which the Government's attitude is reflected. Company Law is but an example of that attitude.

MR. DEPUTY CHAIRMAN: Not an amendment of the Constitution.

SHRI DAHYABHAI V. PATEL: I never said so. If you have understood me to say so, let me correct you. I never said that the Companies (Amendment) Bill is in any way amendment to the Constitution of India. What I said was that every time Government had come against an adverse verdict whether it was with regard to the amendment of a section of the Company Law or any other law, they have rushed the changing of the Constitution. That is a wrong thing.

SHRI BHUPESH GUPTA: But they do not change themselves.

SHRI DAHYABHAI V. PATEL: It was a bad day, Sir, when we started beginning with the changing of the Constitution. The party was warned. The party has not taken heed and here is my friend driving the party harder and harder. What he says tomorrow they do it the day after.

SHRI BHUPESH GUPTA: What we say today they do one hundredth of it after ten years.

SHRI DAHYABHAI V. PATEL: What I object to is the psychological approach that the Government have got to this. I have no sympathy, I do not plead for the greedy or the unsocial type of businessman but are we making this legislation for criminals? Even the modern world has undergone a vast change in the method of treatment to criminals and how they should be reformed. Our own Government is making experiments in different States in this respect but I am afraid the businessman who does the service of producing wealth and of providing employment for so many people is still looked upon as a criminal in certain quarters which, I say, is a wrong approach. If a Government cannot trust its average citizen, what is the type of Government that we have and what is the type of citizen that we have? This legislation, this amending Bill, is born out of distrust of the citizen whereas the distrust should be of the people who have not administered the law as it should have been. To reform

insurance the Government of India undertook the insurance Bill because the Superintendent of Insurance, or whoever he was, did not administer the law properly. Instead of going and sitting down where insurance companies and their offices were, he went to Simla and started administering insurance companies from Simla and with the excuse that the insurance companies were not managed properly, the insurance business was nationalised. Similarly, because the Company Law Administration has not been using the powers they already have, because the Administration is not using them, the Administration is asking for more powers and I am surprised that the Congress Party is simply yielding at every stage. A person is denied even the right to go to the court when he feels aggrieved. This is not a right way to approach these things. The greed for more wealth is reprehensible, certainly up to an extent, but the ambition to produce more is something that is laudable and should be encouraged. The greed for more power that seems to be behind the legislation, is no less reprehensible than the greed for more wealth. I am not denying that there are many good provisions in this Bill, lest anyone should misunderstand me. I have pointed out the clauses that I object to in my Minute of Dissent and I will presently come to them but I feel that if big businessmen go wrong, there is sufficient power in the normal process of law to bring them to book if you want to. I do not know whether rightly or wrongly, we have seen owners or managing directors or chairmen of one or two of the largest groups of mills being put in jail. What more do you want? The Government has been caught in a vicious circle. They want to reform very quickly, they are in a hurry. On the one hand my friend here and his party are driving them forward. On the other hand they have got the officials who feel very happy every time they get more powers.

SHRI BHUPESH GUPTA: There are the officials you are pulling wires with.

Your lobby is strong there, the Swatantra lobby is strong in the Congress Party.

SHRI DAHYABHAI V. PATEL: I wish the Government would apply the same law, the same conditions, to the industries that the Government themselves manage. I am presently going to enumerate where the Government differentiates. If the Government want to set the businessmen right—and I fully agree with them in that—they must set the example by setting their house in order first. How many breaches of labour laws have been made by the Hindustan Steel? How often has the Bihar Government criticised this? What has the Central Government done about it?

SHRI BHUPESH GUPTA: More breaches.

SHRI DAHYABHAI V. PATEL: How many documents have not been filed by the State companies within the stipulated time-limits? Has any action ever been taken by the Registrar of Companies against any of those officers? They have become quite a brotherhood, this officialdom, like the Brahmins in the old days. Changes in the Directorate of companies or State undertakings are not filed with the Registrar within the stipulated time as required by the Company Law. I ask the Ministers to find out whether what I am saying is correct or not and give an answer. The lapses for calling special meetings have been condoned. Again some breaches of the Companies Act have been overlooked. Declarations regarding relations of directors of State companies are not readily forthcoming. Also it is suitably manipulated by changing employees so as to dissociate from directors among State companies. The rule should be applicable equally to the private industry as well as the State undertakings. As a matter of fact the State should set a better example and I would like not only directors of these State undertakings but the people who nominated them,

[Shri Dahyabhai V. Patel.]
the Ministers and the Secretaries also, should find out how many people in these State undertakings are their relatives.

[THE VICE-CHAIRMAN (SHRI ROHIT M. DAVE) in the Chair.]

A new rule should be specifically proposed whereby relatives of directors employed in State companies or relatives of senior-most Government officers above the rank of Deputy Secretaries should be publicly declared and published widely. Ordinary cases of defalcations or misconduct in public companies which are brought to the notice of the Company Law Administration are not even enquired into. Loans to Government companies from banks and others at rates much higher than the Government's borrowing rates are even guaranteed by Government, either the State Government or the Central Government. This is the example that the Company Law Department is setting, the Government of India is setting, to the public in the matter of company laws. In contravention of the Companies Act, borrowings in excess of capital and reserves are not passed by a special resolution, as required by law and no filing of such resolutions takes place in the Government companies. This is an utterly irregular process. Nobody is pulled up for this breach of law that goes on.

Very recently we had the offer of the ex-Finance Minister of the Government of India, Shri C. D. Deshmukh, to enquire into the type of corruption that is going on in the Government. He offered to bring the cases before a proper tribunal if one was appointed. If the Congress Party is really honest in its pretensions and wants to bring the administration of the companies on a proper footing, why not place the administration of the Government and its branches on a clean footing?

4 P.M.

The drastic provisions of this Act will kill initiative. They will lead to concentration of wealth and the means

of production in a few hands. I will presently explain how. Under the law that we are passing, no limited company will be able to function without a fulltime lawyer, preferably a solicitor, and a full-time experienced auditor. Which new company will be able to pay for either of them? If they do not then they will make a breach of this Act, knowingly or unknowingly they will commit a breach of any of the numerous provisions of this Act and they will not be spared like the Hundustan Steel or other State companies but will be promptly hauled up. Therefore, it is only friends who have already big companies at their disposal, with the advice of lawyers and auditors that are there, who will be able even to think of starting new industries. This will shut the door on any initiative in the small man. Hence this is a deterrent to the development of new industries.

Another objection to this Bill is that the Bill itself has gone far beyond the objects as originally stated. Sir, it is as a result of the recommendation of the Shastri Committee that this Bill has been brought in and the objects that were enumerated were:

"To overcome certain practical difficulties experienced in the working of the Act of 1956;

To remove such drafting defects and obscurities as may interfere in the working of the Act;

To consider what changes in the form or structure were necessary or desirable to simplify the Act."

Sir, we find that many changes have been introduced and they go far beyond these objects and, what is much more objectionable, many of the changes were introduced at a very late stage, practically at the final stage, after evidence had been heard and in the final form that it came up before the Select Committee at the last few meetings and these changes were rushed through. This is a very objectionable feature. It is not a very democratic way of doing things.

SHRI AKBAR ALI KHAN: But you were there and it was done in consultation with all of us.

SHRI DAHYABHAI V. PATEL: No When I came in I immediately protested but mine was a voice in the wilderness, and you were there to support everything that they did.

What I say is, far from being a broad approach as envisaged by the Shastri Committee in these three objectives, the actual approach in dealing with the amendments has become a doctrinaire approach. There is intervention of the State at every stage in the management of the companies. And I suppose it is coming into our lives also now far, from the way in which things are going on, I feel not only companies but even we are all going to be regimented. The good features of this Bill—and I do agree that there are many of them—have been clouded by these undesirable features which I am emphasising now. As I said, some of the provisions will do more harm than good. Distrust of the citizen is seen in this Bill. That is very objectionable. The State should be able to respect and trust its citizens. If there is no trust in the citizen, how does this Government expect the citizen to trust the State? Under the pretext of protecting the citizen, the Government is taking us to State-ism and to State-capitalism. That is a very objectionable feature of this Bill.

Sir, I heard an ex-Minister speak yesterday on this Bill.

SHRI BHUPESH GUPTA: Which one?

SHRI DAHYABHAI V. PATEL: Shri Khandubhai Desai. You need not be afraid; he is your friend. He said there should be State auditors. The noble profession of auditors has existed as a private profession and there are many honourable members of this profession in the country, practising that profession as independent citizens. But the hon Member

wants that to be abolished and wants the profession to be nationalised. He wants to have his auditors from the bureaucracy so that they could take orders on the telephone from bureaucrats sitting here.

Sir, several clauses here are objectionable in that they give too much power to the bureaucracy where power is already there in the existing sections and in the existing law which they have not used at all. Besides this there is the denial of the ordinary right of the citizen to go to a court over those matters. For instance, take the case of this special audit. A man does the service of starting an industry and he invests his money in it. But instead of being encouraged he has the prospects that some day, maybe because he has committed an offence under the Company Law or displeased some small official, perhaps a Deputy Minister or somebody, the heavy hand of the law will descend on him. The special auditor will come and in big headlines, his name will be put out and his credit will be destroyed. Whether he is exonerated afterwards or not is a different matter. That is why I say that essentially the working of the business of limited companies is not appreciated. After all, they work on good faith and credit. Limited companies essentially work as a business carried on in good faith and credit. It is, in a sense, cooperative effort. People who have faith in the integrity, honesty and ability of certain persons are willing to put their money, the little money they have, in a certain industry, an industry which they like and which they think has good prospects. Sir, there have been recent flotations where capitals have been over-subscribed sixty times. Why is that? That is because people have faith in those who are starting the industry and in the prospects of that industry. They are not big businessmen who are putting in that money. They are ordinary middle-class people who are willing to put in their hard-earned money into this venture. Why are they doing it? Do they need

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to be protected? They need to be protected from criminals certainly. That is the function of the Government and that the Government should normally do. But they need not interfere in these things. If Government sees there is something wrong with the affairs of a company, the normal procedure is to bring it to their notice and to ask for an explanation and if a satisfactory explanation is not forthcoming, by all means, after going to a court of law and obtaining the verdict of the court, they can appoint a special auditor to go into the affairs of the company. But do not place the power of destroying an honest man's credit in the hands of an ordinary bureaucrat. That is what it is ultimately going to be.

SHRI BHUPESH GUPTA: This you entrust to Mr. Govinda Reddy; he might look after it.

SHRI DAHYABHAI V. PATEL: Yes, of course. This power will help the Congress to collect donations about which Mr. Bhupesh Gupta was saying so much. Sir, the provision in the Bill about donations is a thing that has been condemned by all sides of the House . . .

SHRI M. GOVINDA REDDY: But followed by every one.

SHRI DAHYABHAI V. PATEL: . . . and I am happy to see that some honest Congressman had the courage to speak out. Mr. Govinda Reddy seems to forget that under the law today it is open for any one to ask for donations. You make the law and if anybody does not obey it, take him to task. You have the law enforced properly; not the way in which it is enforced today, against certain people but not against certain other people.

Sir, only a few days back I asked a question about the affairs of the Ahmedabad Electric Company and what was the type of answers that was given? Even when I tried to

help the Minister and pointed out that he was confusing two questions, he took no notice and when I ask for a half-an-hour discussion, it is denied.

SHRI BHUPESH GUPTA: You mean election time is coming?

SHRI DAHYABHAI V. PATEL: I do not know.

SHRI M. GOVINDA REDDY: What has that got to do with this?

SHRI DAHYABHAI V. PATEL: Many things are happening in this Company. There is a European clique which is known to have made many shady deals. Some of the directors have run away to England because their shady deals were found out and the manner in which they tried to take away a lot of money came to be known. When I ask a question in Parliament, it is brushed aside and linked up with something else.

Now, there is talk of changing of managing agency by buying a block of shares. I do not know whether the Life Insurance Corporation's shares and the proxy for these shares were given to either side or not but the rumour in Bombay is that the Finance Minister has arbitrated in the dispute. Sir, I do not like it. There are arbitrations and arbitrations. There are methods of justice, the ordinary normal way of going to a court or going to a person of high repute like the Chief Justice or the Justice of the Supreme Court but when it goes to the arbitration of a Minister, a Minister who is an important member in the party, I do not know what type of justice was given. I am inclined to suspect—I hope my suspicions are unfounded—that it was the type of justice that the monkey gave to the two cats who were quarrelling over a loaf of bread. (*Time bell rings.*) Sir, I will wind up just now.

SHRI BHUPESH GUPTA: Sir, he has only come to the monkey.

SHRI DAHYABHAI V. PATEL: Sir, I am opposed to the interference in the normal form of payment of dividends that takes place under section 57. As prudent directors and managers of their own affairs, certainly they have to look after depreciation but in the initial years of a company there is always larger expenditure and to say that all the other expenditure shall be provided for before any dividend is paid is against the normal business practice and the functioning of joint stock companies all over the world. I do not know how our Ministers and their advisers came to think of this wonderful principle.

Then there is the provision regarding selling agents. Inroads are being made into the normal functioning of companies. I am opposed to too much power being given to the Central Government in the affairs of companies. It should not lie in the mouth of the party in power to talk of their being managed fairly. Don't they know how the Ministers' sons have got selling agencies? For what reason? Why blame the ordinary businessman when he tries to do a little favour to his own relations?

SHRI BHUPESH GUPTA: The Ministers' sons also are businessmen now. Do they sell well—the Ministers' sons?

SHRI DAHYABHAI V. PATEL: Sir, I will just mention a very small matter but it is a matter to which I think the Minister should give attention. I think the implication of section 350 is not very clear. What exactly is the intention of Government and what will happen as a result of this amended section 350? It is not clear whether in taking the book value the revalued cost is to be taken or the old original cost as reduced by depreciation. A clarification would be helpful. It stands to equity and justice that the book value for the purposes of section 350 should mean only the old original cost of the assets as reduced by depreciation written in the books of the company. Inciden-

tally, I may mention this is the rule that the Government of Maharashtra followed in the case of the building of the Bombay State Co-operative Bank. The building can be sold today for Rs. 40 lakhs but they did not pay a cent to the Government of Gujarat. They say that depreciation has been paid. Sir, what is sauce for the goose is sauce for the gander.

SHRI P. N. SAPRU: Mr. Vice-Chairman, the Minister and the Joint Select Committee are to be congratulated on the measure that they have promoted in this House. Sir, we have just listened to a discourse on the philosophy of the Constitution from our friend, Mr. Dahyabhai Patel. We have also heard a lecture on the philosophy of State-capitalism and its dangers. Now, Mr. Vice-Chairman, we are living in the 20th century, not in the days of Jeremy Bentham or Adam Smith. State control, State regulation and even State ownership have come to stay in this country. I do not mind confessing that from my point of view the Bill, good as it is, does not go far enough. I am not opposed, in the special circumstances of the country, to the institution known as the joint stock company, a paradise of free enterprise but I certainly visualise a time when we shall have a more socialistic approach to these matters. Socialism is a vast doctrine and it is possible for socialism to take many forms and I visualise a time when workers in the concerns shall also be shareholders in those concerns; that is to say, I visualise a time when the antithesis between workers and shareholders will disappear and workers will select their own managers, will in fact run their own industries. Sir, I visualise a co-operative development in our country. We would like, Sir, the principle of co-operation to be substituted in an ever-increasing measure for the principle of competition. If you have cooperative societies, then the basis of that society is democracy. One-man-one-vote is democracy's principle. Any number of shares and one vote is the principle behind co-

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operation. Therefore, I would say that in the circumstances which exist to-day, Mr. Lal Bahadur Shastri, Mr. Kanungo and the Joint Select Committee have tried to steer a middle course. They have not gone to the extent to which my friend, Mr. Bhupesh Gupta, would have liked them to go and they have certainly not gone as far back to the eighteenth or seventeenth century as Mr. Dahyabhai Patel would like them to have done. I particularly welcome the provision which provides that dividend shall be payable out of profits only, after making deductions for depreciation. We know that dividends are declared when the company has, in fact, not been making profits or when the profits which it is making are of an illusory character, and the ordinary shareholder is taken in by that declaration of dividend.

I would also welcome the provision for special audit. I think the Government has a responsibility to the small shareholder. When they find that things are going wrong with a concern, they should step in early. Had the Government acted with vigour, courage and with circumspection at an early stage, possibly there would have been no failure of the Palai Bank. The special audit provisions need cast no reflection upon any concern. I am sure that the provisions of the special audit clause will be used by the Company Law Administrators in a wise manner. I think that the Company Law Administration should have—I think it has—an advisory committee to advise it in regard to various questions of Company Law management. Then, Sir, this audit clause will enable Government to order inspection of accounts, inspection of documents and examination of the books of the company. These books will be examined by special auditors. I do not think that these provisions are unduly restrictive of a company's autonomy. Certainly, a company's autonomy has to be respected. But our experience is that the shareholders are, in a major-

rity of cases, sleeping partners in the concern of which they happen to be shareholders. I myself possess a few shares in some odd companies, but I hardly ever look into the balance-sheets properly. Certainly, it is rarely that I exercise my right of proxy and if I ever do so, it is because some friend is interested in my doing so. I think I am a good average person in that respect and I think what I say about myself is true of most shareholders. Therefore, as a great many of our shareholders are generally speaking, poor middle-class people—I am not thinking of the big people—they need to be protected against themselves and it is in their interest that there should be this special audit at a fairly early date. If in ordering that special audit the Government is actuated by some malicious consideration then whatever the Company Law might say, the power of the courts to interfere through suitable writs is there. That cannot be taken away. That must be remembered by those who are attacking this provision of special audit.

Then, Sir, I know that the managing agency system, which was evolved in the British days and peculiar to this country for reasons not difficult to understand, has not been abolished. But while that has not been done, some restrictions have been placed upon it and one may hope that these sole agencies will not be extended as a matter of course by the Company Law Administrator when it comes to extending their time.

I would like to make one or two observations relating to contribution to political parties. The power of money in a democracy is undeniable. Writers on the British Constitution have emphasised it. Political theorists have emphasised it. And I am prepared to admit that money has still some power in this country and that monied people have some influence in this country. But look at our record. I think the proof of the pudding is in the eating of it. Look at our record. Have we, in promoting legislation, cared for the captains of industry, who

are supposed to supply us with funds? The reverse is the position. Is the wealth tax a tax to the liking of our money bags? Is the gift tax or the expenditure tax a tax which they like? Is the supertax a tax which they like? Have we been soft towards them in any respect for this reason? I think credit should be given to the Minister for liberalising the conditions under which contributions to political parties may be made. In the first place, he has fixed a ceiling of Rs. 25,000/or five per cent.—I think it is rather too high—whichever is higher.

SHRI DAHYABHAI V. PATEL: Why higher? If it is charity, it is lower.

SHRI P. N. SAPRU: Then, Sir, I think that these contributions should only be made with the consent of the shareholders, or at all events in consultation with the shareholders. I should like these contributions to be made possible only where the shareholders in their memorandum of association have taken the power to contribute to political parties or political funds. Reference was made to the opinion of Judges in regard to this matter. I have a very high regard for Judges. I have a very high regard for Mr. Justice Chagla and Mr. Justice Tendulkar. We can look to them for wisdom on questions of law. I would bow to their decision on questions of law. But on ethical questions they are not in any greater position than we are to form a correct opinion. Because a person occupies the position of a Judge, it does not follow that he is also a moral philosopher. It does not follow that he is also a good philosopher so far as politics is concerned. That, I think, is a distinction which in the interests of the judiciary we should be wise to remember. I confess, Sir, that I am not very happy at this system whereby elections are financed. I wish that it was possible for us to do away with this system altogether.

SHRI BHUPESH GUPTA: That is what Mr. Justice Chagla and Mr. Justice Tendulkar have said.

SHRI P. N. SAPRU: That is what I as a parliamentarian am saying, and I am not bound to accept Mr. Justice Chagla's dictum on this matter as necessarily sound. I, therefore, confess that I am not very happy at this arrangement, but I am free to admit that the Minister has within certain limits improved the present position. That is what I would like to say.

Thank you very much, Sir. I am very sorry that I was not present in the House when my name was called. I apologize to the Chair for it. The reason was that I was absent on duty elsewhere and I took steps to inform you through somebody.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI SURESH J. DESAI (Gujarat): Mr. Deputy Chairman, I welcome this Bill before the House. The primary objective of the Bill is to safeguard the interests of shareholders and to ensure the smooth efficient and honest running of the corporate sector. I do not believe that this legislation, the Company Legislation, is an instrument of social change as some hon. Members who spoke before seemed to imply. I also do not agree that there is any controversy of the public or the private sector related to this Company Legislation.

The plain objective of the Bill is to protect the interests of shareholders and to place the corporate sector on a sound footing. In order to achieve this objective we have to strike a delicate balance. On the one hand all companies which are not well managed or in which there are fraudulent practices or dishonest practices must be brought to order, and on the other hand we have to see that the growth of the corporate sector is not hampered. This is a very delicate balance which we have to achieve. The malpractices in the companies are due to various reasons. One of the main reasons is the complete apathetic attitude of the

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shareholders. Most of the shareholders do not even read the annual report of the company. They read only one sentence in the annual report, and that pertains to the dividend. They are interested in knowing what is the dividend to be declared at the annual general meeting. That is only what they read, that one sentence. Very often on the day of the annual general meeting the secretary of the company has to ring up a number of shareholders to ensure the proper quorum for the meeting. This complete apathetic attitude of the shareholders is one of the reasons why you find so many malpractices in companies. But this apathetic attitude of the shareholders on the other hand places a great responsibility on the Company Law Administration. Unfortunately, Sir, I may point out that the Company Law Administration has also been lax in this respect. If it is an income-tax return, it is scrutinised very carefully, but if it is a return filed under the Company Law by a company, it is just filed. It is not scrutinised, nor is it analysed, to find out the relationship of the directors with the company or of the directors with other companies. It is not usually found out.

Sir, we have to see on the other hand that the corporate sector properly develops in India. We have to ensure full employment, and for that we require to develop an industrial society. An industrial society would require thousands of new companies. We have to manufacture not 10 or 20 or 50 items but thousands of new items in the country. All this would require new joint stock companies. The corporate sector as it is in the country today is a very small one looking to the population and the size of the country. If you consider the 200 largest corporations in the world, there is not a single Indian corporation included in that. The corporate sector has got to be developed, and we have to see that the provisions of the Company Law are not unnecessarily restrictive to the growth and develop-

ment of the corporate sector. At the same time Sir, as I mentioned before, the fraudulent practices and the malpractices have also to be checked. That is the delicate task which the Company Legislation has got to ensure.

Coming to the provisions of the amending Bill, there are many provisions which are very well intentioned, but unfortunately the practical difficulties have been overlooked. For instance, clause 58 relates to depreciation. This clause provides that no company can declare a dividend unless all the past arrears in respect of depreciation have been provided for. It is a good provision. But suppose there is a big company with a capital of Rs. 1 crore, what is called a capital intensive company; if that company is to write down all the past arrears of dividend for about five or ten years, it will not be able to pay any dividend. If it does not pay any dividend, no shareholder will come forward to invest in such a company. Suppose a company wants to develop and wants Rs. 50 lakhs for this development. It goes to the shareholders. But the development work will not immediately pay. The company will have to stop payment of dividend for a few years. If it stops payment of dividend for a few years, the shareholders will not come forward to invest money in the developmental work. So, these are some practical difficulties which have to be kept in view.

Then there is the question about special audit also. The provision about special audit is certainly a desirable one if the unsound management of companies is to be checked. Yesterday my hon. friend, Shri Khandubhai Desai mentioned that it will keep up a further check on the usual and regular auditors also. That is one aspect of the question. That is true. But there is another aspect of the question also, and that is, if Government auditors are appointed, very often they go on finding fault with even minor

things. I remember the case of an insurance company in which the Government auditors objected to the travelling bills of the chief accountant amounting to about Rs. 3000 or Rs. 4000. They said that the chief accountant had no business to travel meaning an expenditure of Rs. 3000 to Rs. 4000 which was an exorbitant sum. It was found out later on by the company that this Rs. 3000 or Rs. 4000 was paid to him over six years. It was only Rs. 500 or Rs. 600 per year, and the chief accountant was visiting half a dozen branches every year to see that the accounts were properly kept and maintained in the branches. For that purpose naturally Rs. 500 or Rs. 600 a year is not a big sum, and for six years it amounted to Rs. 3000 or Rs. 4000. Still the Government auditors took exception to it. The Government auditors have to justify their existence, they find fault and say "Well, the regular auditors have committed this mistake, they have overlooked this thing", and so on. They find so many mistakes. Then, Sir, if a special audit is to be carried out it should be carried out secretly. Suppose it is known that special auditors have come, it gets known just like a police raid and immediately the banks will stop giving money to the company. Creditors will demand money. Further some agents who have placed deposits with the company will also begin to demand their deposits back. The company will fail immediately. This practical aspect has got to be kept in view.

Then there is the question of inter-company investment also. It is a desirable provision with a view to stopping certain undesirable practices. That is a good provision. But at the same time, as the hon. Minister must be aware, there are various industries which have invested in other industries and developed some other industries which are not conventional industries. For instance, the textile mills have developed chemical works. The sugar mills have been manufacturing sugar mill machinery also. A jute mill has got a cement factory

also. These are not exactly conventional industries. But they invest their surplus funds in other industries and build up other industries also. So, this practice should not be stopped. Fortunately, it is laid down that if a special resolution is passed and the sanction of the Government is obtained, then the company will be allowed to do so. Regarding the question of Government sanction, I may point out that there are a number of things for which the sanction of the Government is considered necessary. The sanction of the Government means the discretionary powers of the Government and these powers must be used in a fair and impartial manner. Unfortunately, there is a feeling in the country that this is not being done. I may suggest to the hon. Minister that the Government should ensure that there are no misgivings in the public mind about the exercise of these discretionary powers vested in the Government by this legislation.

Then there is another point which my hon. friend Mr. Santanam, mentioned yesterday. It is a very important point. It is about ensuring some sort of stability in Company Law legislation. When the Act of 1956 was passed, it changed so many provisions of the old Companies Act. After that the Shastri Committee was appointed with a view to suggesting ways to remove the practical difficulties in Company Law administration, to remove drafting defects and to make it more or less simplified in its operation. After the recommendations of the Shastri Committee, a Bill came before the Lok Sabha and it contained more provisions than what the Committee had recommended. When the Bill went to the Select Committee, the Select Committee omitted about eleven clauses but put fourteen more clauses into the Bill again. So, it goes on and there is an atmosphere of uncertainty. After all, the companies have also to plan their development in the next five years and they have to find large sums of money to invest. If the companies are to ensure proper

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planning for their developmental work, there should be some finality about company legislation. For a few more years there should not be any further changes in the Company Law.

Sir, I would like to suggest to the hon. Minister that if it is possible to develop a sort of impersonal character in the corporate sector of India, it will be good. In England, for instance, they have reduced the quota of directors' qualifying shares for directorship. In a big company like the Unilever, more than half the directors hold only just the minimum number of shares. They are not interested in the distribution of profits because they will not get the profit themselves. They are experts. One is a management expert; one is a financial expert, the other is a sales expert and there is an expert on manufacture. These experts go on managing the company in the best manner possible and build up reserves for the company and out of the reserves, they develop the company further and further, and the company grows day by day. The Imperial Chemical Industries and several other companies are all following in these footsteps. In India, unfortunately, the corporate sector is more or less identified with a few big business houses. If it is possible to develop in India also a corporate sector with a more impersonal character as is being done in England, it would be much helpful. There is nothing to be afraid of a huge corporation; a popular government can always control it. There is nothing to be afraid of even if there are several huge corporations developed in the country. So, I would suggest to the hon. Minister to consider this aspect of impersonal character in company directorship and the aspect of management by experts.

Thank you, Sir.

SHRI M. R. SHERVANI (Uttar Pradesh). Mr. Deputy Chairman, this Bill was framed after an exhaustive enquiry by the Shastri Committee in-

cluding the examination of many witnesses. The three directives to the Committee were (a) to overcome 'certain practical difficulties', (b) to 'remove drafting defects' and (c) to 'simplify the Act'. After the Bill was referred to the Select Committee, the Government itself came out with a lot of amendments which, by no stretch of imagination can be considered necessary to remove the "drafting defects" or the "practical difficulties" or to "simplify the Act." If anything, the Bill in its present form is more complicated and irksome. It is difficult to find greater inroad into the autonomy of Joint stock enterprise. The Bill attacks the very freedom guaranteed by the Constitution to the people to carry on their trade and business in their own interest. It is difficult to understand how the interference of the Government in the day-to-day affairs of a company can safeguard the interests of the shareholders or promote the development or expansion of that company. The sweeping and wide powers that are sought to be vested in the Government by this Bill will be exercised by officers of the Company Law Administration who have no or little experience of industrial and business management. It is a most unusual experience for me to find a Bill in this House which gives unfettered powers, almost entirely discretionary, to be exercised by an agency to direct the activities of a company in its day-to-day affairs without the corresponding responsibility for the smooth working and progress of that company. I know of several instances where the power vested has not been used prudently. I know of a company which desired to reappoint its managing agents on a remuneration of Rs. 30,000 but the Central Government disapproved of it saying that the remuneration should be reduced to Rs. 24,000. The directors met and after considerable deliberations, decided to appoint a managing director on a remuneration of Rs. 18,000, thus effecting an economy of Rs. 6,000 per annum. This appoint-

ment was unanimously approved of by all the shareholders and yet the Company Law Administration refused to approve of this appointment unless the remuneration was brought down to Rs. 14,400. Numerous representations made to the Company Law Administration that this director was already drawing Rs. 18,000 a year in another company, that the director was the oldest director and that the work and activities of the company had considerably expanded, brought forth the stereotyped reply that the Government finds no reason to change its earlier decision. The board of directors of this company are in a quandary; the business of the company is suffering for want of a suitable managing director. The Law provides a remuneration of a maximum of Rs. 50 000 per annum. It was expected that the discretion to fix a reasonable remuneration within the overall limits laid down by the law would rest with the shareholders. But the Company Law Administration has usurped even this discretion of the shareholders to this extent that they cannot appoint a managing director on a remuneration of even Rs. 300 per month more than what the Company Law Administration thinks to be justified.

Dishonest managerial personnel do not care and readily accept any cut or reduction that is imposed by the Company Law Administration in their emoluments, but honest managerial personnel find it very difficult to accept these reductions when prices are rising all round. I can say with a certain amount of personal knowledge that this sort of attitude of the Company Law Administration is tempting to make dishonest men out of hitherto honest managerial personnel. It is the privilege of the Government to dictatorially and arbitrarily fix any remuneration which they consider reasonable, without the responsibility for finding suitable men of experience and integrity to work at that remuneration. It is ready to arbitrarily decide what a man is worth without having seen his work or

having come in contact with that person.

Even in the appointment of peons, there are the criteria of health, education, intelligence and experience but in the appointment of top personnel in the private sector the only criterion for the emoluments is the paid-up capital of the company, without any regard as to the ability, integrity, experience and qualifications of the person involved.

I know of another company, Sir, which in the past five years has increased its production by seven times and its profits by twelve times. The shareholders unanimously approved the reappointment of the managing agents for a period of ten years, and an application was made to the Company Law Administration for its approval of the proposal. The application was moved a year ago and yet no decision has been communicated to the company, presumably because on merits the application cannot be refused but perhaps somebody high-up does not like the political association of the managing director, and the matter is being held in abeyance all the time. Is this the way that the power vested in the Government is going to be exercised? The Act provides for the reappointment of managing agents up to a period of ten years. It was expected that the discretion whether the appointment should be for five years or eight years or ten years would be left with the directors and the shareholders of the company. But even this discretion has been usurped by the Company Law Administration. In some cases they appoint managing agents for ten years and in others for five years without giving any reason for this apparent discrimination.

Normally, it was expected that the power granted to the Government under section 326 of the Act would be used to prevent unfit persons from becoming managing directors or persons being appointed as managing agents at abnormal or exorbitant re-

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 remuneration. It was expected that where the shareholders unanimously appointed managing agents or managing directors on a remuneration which they considered reasonable and which was within the overall limits as prescribed by the Act there would be no interference. But in every case the Company Law Administration feels that it is more competent than the shareholders to judge what is the market value of the person that is being appointed, sitting so far away and not having any contact with that individual. And even when requests are made for an emolument of Rs. 100 more or Rs. 200 more than what in the opinion of the Company Law Administration would be reasonable, the requests are refused, with the result that men of integrity and ability are being debarred from being associated with the corporate sector.

Now, an amendment, *vide* clause 55 of the Bill, is being sought. This amendment would result in companies having only one man on the managerial personnel, either a managing director or a manager. I feel that it is of vital importance to every organisation that there should be a number two man. In fact Government should insist that besides the managing director there should always be a man who has some experience of dealing with the board of directors of the company and managerial experience of affairs of that company so that in case the office of managing director is vacated due to any cause there is a man available right on the spot to step into his shoes and the smooth running of the company is not disturbed. I do not see how this provision could be misused when the overall managerial remuneration has been fixed at 11 per cent. If I decide to have an assistant and I am prepared to share my remuneration with him, there is no reason why I should be prevented from doing so.

SHRI DAHYABHAI V. PATEL:
 Why do you not ask them as to why

they require a Secretary, an Additional Secretary, a Joint Secretary, a Deputy Secretary and so on in Government? Why do you not ask them that?

SHRI M. R. SHERVANI: I sincerely believe that the shareholders should be allowed the discretion to fix the remuneration of the managing director or the managing agents within the maximum prescribed by the Government under section 198 and the Government should not insist upon giving its approval to every such appointment. At the most the Government may do so in cases where a sizeable minority of, say, 20 or 25 per cent. of the shareholders approach the Government and state that the appointment is not in the interests of the company or it is at exorbitant remuneration.

Another change that is sought in section 198 does not take into consideration the practical situation that exists in a large number of small companies. I have in view, say, a small company with a capital of Rs. 10 lakhs and earning a profit of, say, Rs. 2 lakhs per annum situated at Delhi, Calcutta or Bombay. The manager of that company or the managing director under the Act would only be given 5 per cent. of the net profits or Rs. 10,000 per annum. Now, if he has to provide residential accommodation for himself within the above amount or if the company has to provide that for him, deduct the rent out of this remuneration it will take away at least half of Rs. 10,000 leaving hardly Rs. 400 per month with which this man has to support himself and his family. It is obvious that at such a low salary capable men of integrity would never be found for the small units or for the small companies. When any laws are framed, of this nature, it is some section or the other which suffers the hardships, but unfortunately through this Bill, I find that most of the hardships in almost every case fall upon the small man

or the small unit in the corporate sector.

Sir, under section 239 of the Act the Government has the power to appoint an inspector. Under section 240 the inspector can call for any information, confidential or otherwise, documents and papers. Now, an amendment, *vide* clause 75, is introduced in this Bill which includes "other employees" in the category of officers from whom the inspector can call for the information. Obviously, the information that will be required by the inspector would be information of a confidential nature, which is not in the possession of clerks or other employees. So instead of serving any purpose which the Government might have in view, this amendment will open the door to corruption and blackmail by the subordinate disgruntled employees of a company.

Then by clause 96 of the present Bill another change is being brought about without the least consideration of the practical situation in most of the small companies. The Act provides for at least four meetings of the board of directors per year. I can say from my personal experience of some of the small companies that even when they have to hold four meetings a year, as prescribed, sometimes the meeting is held without any agenda, and now by this amendment the number of meetings is being increased to six. I cannot see any advantage to the shareholders or any safeguarding of the interests of the company if the directors meet six times instead of four times. The directors should be left with the discretion to meet six times or eight times a year or even every month, but to make a mandatory provision that they should meet six times, whether there is business to be discussed or not, would merely mean an increase in the expenses of the company, which the small companies can ill-afford. Sir, a man can be a director of twenty companies under the Act; that means that he has to attend 120 meetings in a year or 10

meetings in a month and spend all the time travelling from place to place to attend these meetings of the board of directors of the company. In such circumstances what work for any company can he be expected to do?

SHRI BHUPESH GUPTA: He can give up some of the directorships if he has no time.

SHRI M. R. SHERVANI: The day-to-day working is being made more difficult by another amendment to section 287. The Act provides a quorum of at least two uninterested directors. Sir, it is my experience that a large number of small companies, although public, are almost family concerns, where the directors are inter-related. The word 'interest' and the word 'relative' are so widely defined in the Act that people of whom I have never heard or whom I have never seen are my relatives according to the definition in the Act. It is quite possible that in the matter of appointment of managing director or manager or in the matter of purchase or sale under a contract entered into with a firm there may be some relative somewhere and therefore these directors become interested. Speaking of the small companies, there are generally four or five directors, and if four directors are so related, then only one director is left who, under the original Act, would constitute the quorum. But now this limit is being increased to two. This will create a stalemate in the actual work of the little companies because, unless the board of directors pass a certain matter, it cannot go to the shareholders. This aspect, I am afraid, has been completely lost sight of in this amendment.

Through another amendment, *vide* clause 101 of the Bill, power is sought by the Government . . .

SHRI KHANDUBHAI K. DESAI (Gujarat): You want only one director to constitute a quorum.

SHRI M. R. SHERVANI: It was so in the original Act and what is the necessity of increasing it to two? It becomes one because if there are, say, five directors and four are related. If you do not want this position, then you define 'relative' and 'interest' properly. But you have given the widest definition and thus you make it impossible for a company to work. I am only pointing out the practical difficulties which I have experienced and which, I know, people are experiencing.

Now, Sir, under clause 101 power is sought by the Government for varying the terms of appointment of a sole selling agent. The business of a company consists of management, sales and production. The Government has already the power to approve or disapprove the appointment of managerial personnel. Now, they seek power to interfere in 5 P.M. the selling arrangements also.

If the same delays as take place in the approval of managerial appointments occur in the approval of sole selling agents, some companies might even collapse. Power is sought to vary the terms of selling agents. God forbid, if some general rules are laid down as in the case of fixing minimum remuneration which has been linked with the capital of the company, it would be impossible for a large number of companies in the corporate sector to sell their goods speedily and in the best interests of the company.

Sir, selling commission varies from commodity to commodity depending upon the sale efforts required. It varies from territory to territory depending upon the popularity of the products. I know that selling agents get a commission of half per cent. rising up to 20 per cent. for different commodities according to the exigencies of the situation. It is very difficult to fix any general rules. But the Government and the Company Law Administration frame rules with-

out considering the ability or the capacity of the company or the experience of the personnel with the company. Hence, I am afraid, most of the companies will find it very difficult to sell their products.

While the Government seeks the power to disapprove the terms of appointment of selling agents, it has no power to make alternative arrangements for the unfortunate company whose recommendations are turned down. The result of this encroachment on the rights and discretions of the shareholders would be even more disastrous than the encroachment on their rights in managerial appointments. If the board of directors of the companies are considered dishonest and the shareholders found incapable of looking after their interests, it is better that the corporate sector is nationalised. One of the popular arguments by our previous rulers for staying on in this country and managing our affairs was that we were unfit to govern ourselves. If the Government feel that the shareholders are also unfit to look after their interest, Government should nationalise the commerce and industry of the country rather than cripple the managerial personnel, throttle their initiative and powers of discretion of shareholders by interference in almost every matter.

I find it difficult to believe that an officer of the Government, sitting hundreds of miles away from the company or its markets and knowing practically nothing of the products of the company or their popularity or otherwise, is a better judge of the commission to be given to the selling agents than the shareholders or directors of the company. There may be a few cases where the directors dishonestly appoint someone as selling agents at a fabulous commission, but if a section of the shareholders report the same to the Government, the Government has ample power under the Act to prevent such occurrence.

Sir, clause 105 seeks to amend section 298 which gave power to the board of directors to manage the affairs of the company in the interim period between the suspension, removal or vacation of office by managerial personnel and the approval for the next appointment by the Company Law Administration. Even this discretion is being sought to be taken away by the seemingly harmless amendment vide clause 105 of the present Bill.

Sir, I come to a very important matter. On going through the minutes of the sittings of the Select Committee I find that no discussions took place in respect of clause 118 and they were adopted as they were. Clause 118 amends the original section 316 which provides that a person cannot be a managing director of more than two public companies. The amendment seeks to include private limited companies also. I know several instances of a single company owning sugar mills, textile mills, paper mills and factories. For the managing director of such a company it would be reasonable to restrict his appointment to the managing directorship of even one company. But there are thousands of instances where a man is a managing director of a very small private limited company. He floats with a small capital of, say, a lakh of rupees a company for say making khandsari sugar. As a result of this amendment he is prohibited from floating another limited company. This is preventing him from becoming more prosperous and curbing his initiative and desire for harder work. Again, this amendment hits only the small man in the corporate sector whereas it does not touch the big man who can float a company with Rs. 10 crores, with ten mills attached to that company under him. The restriction on managing directorship of a man should depend upon the size of the company and not on the number of companies under him.

Sir, clause 155 introduces amendment to section 408. It said that, if

in the opinion of the Government a section of the shareholders are being oppressed or the affairs of the company are being mismanaged, the Government had a right to nominate two members of the company as directors to protect the interest of the shareholders. Now, this section is being amended to say that the Government would have the right to nominate any two persons. That means that even outsiders can be appointed as directors. Now, it is for this House to realise as to what interest an outsider, who has no shares in the company, can have in the affairs or the progress or the welfare of that company. This is purely a way to open the door for favouritism and obliging people. The directors so appointed would be quite happy to attend the meetings of the company and take their fee and allowances. In fact, the conflicts and complications, if any, in the company will be worsened and it will open the door for blackmail.

Sir, the original Bill of 1956 was brought before this House to prevent mismanagement of the private sector and to protect the interests of the minority shareholders. Powers were given to the Central Government on the plea of protecting the minority shareholders. But the present Bill, at every step, is cutting, restricting and curtailing the rights, discretions and initiative of all the shareholders in almost all matters of any importance or consequence to the company. Being bound by party discipline, I can do nothing except to appeal to the Minister to at least make a statement in this House that the Government will not exercise any powers vested in them through this Bill unless a sizeable minority of the shareholders approach the Government and that every decision taken by the shareholders unanimously shall be respected. Thank you, Sir.

MR. DEPUTY CHAIRMAN: The hon. Minister will reply tomorrow.