

THE MINISTER FOR FINANCE. (SHRI C. D. DESHMUKH): (a), (b) and (c). The Government of West Bengal have separated accounts from audit in two of their Departments with effect from 1st August 1955. The Comptroller and Auditor General is still in correspondence with the other State Governments.

†[NATIONAL METALLURGICAL LABORATORY, JAMSHEDPUR

136. SHRI T. BODRA: Will the Minister for NATURAL RESOURCES AND SCIENTIFIC RESEARCH be pleased to state:

(a) the total number of persons belonging to the Scheduled Tribes and Scheduled Castes at present employed in the National Metallurgical Laboratory, Jamshedpur; and

(b) their present scales of pay?]

THE MINISTER FOR EDUCATION AND NATURAL RESOURCES AND SCIENTIFIC RESEARCH (MAULANA ABUL KALAM AZAD): (a) and (b). A statement giving the required information is attached. [See Appendix X, Annexure No. 98.]

REPORT OF THE JOINT COMMITTEE OF THE HOUSES ON THE HINDU SUCCESSION BILL, 1954.

THE MINISTER FOR LEGAL AFFAIRS (SHRI H. V. PATASKAR): Sir, I present the Report of the Joint Committee of the Houses on the Bill to amend and codify the law relating to intestate succession among Hindus.

RESULTS OF ELECTIONS TO COMMITTEES

CENTRAL ADVISORY BOARD OF ARCHAEOLOGY

MR. CHAIRMAN: Dr. Radha Kumud Mookerji being the only candidate nominated for election to the Central Advisory Board of Archaeology, I

†Postponed from the 1st September 1955.

declare him duly elected to be a member of the said Board.

CENTRAL ADVISORY BOARD OF EDUCATION

MR. CHAIRMAN: Shri R. C. Gupta and Shrimati Mona Hensman being the only candidates nominated for election to the Central Advisory Board of Education, I declare them to be duly elected to the said Board.

THE COMPANIES BILL, 1955

THE MINISTER FOR FINANCE (SHRI C. D. DESHMUKH): Sir, I move:

"That the Bill to consolidate and amend the law relating to companies and certain other associations as passed by the Lok Sabha, be taken into consideration."

At this stage of the Bill, I do not think it is necessary for me to recount at any length the history of this measure or the early stages through which it has passed. The main facts about its origin and history are already well-known to hon. Members and a few days ago I have circulated a copy or rather re-print of the speeches delivered by me in the Lok Sabha on many important aspects of the Bill. I would, however, like to repeat very briefly what I said in my speech on the motion for consideration of the Bill in the Lok Sabha to emphasise some of the points which I then made.

It is now nearly nine years since the proposal to amend the Companies Act was made by the then Government of India. Several special studies and preliminary investigations were made. As I have said, there was the appointment of the expert committee, called the Company Law Committee at the end of 1950 and a comprehensive and consolidated Bill which was based on the recommendations of that Committee was introduced in Parliament in September 1953. That Bill was scrutinised by a Joint Select Com-

mittee on which this House was represented. This Committee considered the measure for a period of about a year and then submitted to Parliament a report which was remarkable. I think, for the large measure of agreement which had been achieved on a subject as complicated and as controversial as the one before us. Well, as I said the other day in the Lok Sabha, I am grateful for the time and thought which the Members of the two Houses, many of whom are present here today, devoted to this Bill, both in the Committee as well as, of course, when the Bill was before the Lok Sabha.

I mention these facts only to reiterate the point which I made elsewhere that nobody connected with this measure could be accused of having proceeded with undue haste. If, nevertheless, the Bill should disclose any defects or deficiencies, the House will appreciate that this would be due not to any lack of care or thought bestowed on it but to the intrinsic nature of this Bill and the difficulty of reconciling different points of view that have emerged on the basic issues of economic policy underlying many of its provisions. I feel, therefore, at this stage the House would not expect me to analyse the main provisions, much less to attempt to elucidate the basic principles underlying these provisions. They have been extensively discussed and debated on many occasions since the Company Law Committee submitted its Report in 1952. Nor do I think it necessary to preface my observations with an exposition of the social and economic philosophy on which the proposals for the reform of the company structure and company management, as embodied in the Bill as passed by the Lok Sabha, are based. In any case, we shall have the opportunity of discussing these principles and policies in the course of the debate on the specific provisions of this Bill.

I think it would facilitate the general discussion of this measure if I were to confine myself mainly to

the amendments to the Bill suggested by the Lok Sabha. Hon. Members will notice that the Bill, as passed by the Lok Sabha, contains 658 clauses and twelve schedules. Apart from the nine new clauses, the main changes proposed by the Lok Sabha concern mostly the provisions of the Bill relating to directors, managing agents and Government companies; a few other important changes have also been made in the provisions relating to definitions, the share structure of companies, company meetings and company procedure, the interests of minority shareholders and the winding up of companies. I shall touch upon the more important aspects of these changes now.

As regards definitions, we have revised the definition of "associates". Hon. Members would remember that one of the basic conceptual innovations introduced in the original Bill was the definition of "associate of managing agents". The Company Law Committee expressed the argument underlying this new conception in the following words:

"The need for the definition of 'associate of managing agent' arises from the fact that experience has shown that if the provisions of the Indian Companies Act relating to managing agents are to be adequately enforced, it is necessary to close the loophole, now provided by this category of persons. For, it is obvious that it is no use laying down restrictions on some particular activities of managing agents, if they can be legally carried on through the agency of their 'associates'."

The Joint Select Committee slightly widened the scope of this definition and extended it to cover the new institution of secretaries and treasurers. In the Lok Sabha, the scope of this new concept was considerably enlarged and some new categories, for instance, the relatives of partners and other associates of managing agents and of secretaries and treasurers and the members of those public companies whose membership was

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less than fifty, were included within this definition. The Lok Sabha felt that unless the scope of the definition was thus enlarged, it would not be able to achieve the object for which this new concept was formulated.

Next I come to the capital structure. Hon. Members will remember that in the provisions of the Bill as it emerged from the Joint Select Committee, companies were permitted the issue of only two types of shares in future, that is, equity share and preference share, and that, in future only equity capital would be entitled to voting rights and these rights also in proportion to his share of the paid up equity capital of the company. The Joint Select Committee had suggested that where voting rights were disproportionately excessive they should be readjusted within a period of three years except in those cases where immediate readjustment was called for. The Lok Sabha considered that there was no need to wait for three years for the elimination of disproportionately excessive voting rights and that this period should be reduced from three to one year.

I now pass on to the subject of inspection and investigation of company accounts. There again, I do not think I need comment on the amendment made to the provisions of the Bill relating to this in great detail. The provisions of the Bill, as hon. Members are aware, follow very closely the provisions of the English Companies Act and have been generally recognised as a considerable improvement on the existing unsatisfactory position in this respect. I would, however, draw their attention to two amendments made in the Lok Sabha to the provisions of the Bill relating to the maintenance of company accounts and their audit. Clause 210, now re-numbered 211, provides the form in which the balance sheet of a company and the contents of its profit and loss account should be drawn up. The Joint Select Committee considered that in the case of some

companies which were governed by special enactments of their own, like banking, insurance and electricity supply companies, their accounts need not be cast in the form laid down in the Bill and that it would be sufficient compliance with the provisions of this Act if the accounts of the specialised companies were drawn up in the manner laid down in their special enactments.

The other amendment relates to sub-clause (1)(b) of clause 225, now re-numbered 226. In view of similar provisions having been made in the Bill to amend the Chartered Accountants Act which, the House would recollect, was passed by the Lok Sabha a few days ago, immediately after the Companies Bill was passed, it was necessary to delete this sub-clause to clause 226.

Next I come to the important subject of remuneration. I shall speak something on one of the most important amendments made relating to the management of companies which provoked a great deal of controversy. I refer to the amendment to the old clause 197, now re-numbered as clause 198. The House may recollect that the Joint Select Committee had inserted a new clause in the Bill, that is clause 197, providing for an overall maximum for the remuneration payable to all classes of top management in a company, that is, directors, managing agents, secretaries and treasurers and managers. This limit was fixed at 11 per cent. of the net profits of a company, inclusive of all monthly payments made by way of remuneration but exclusive of fees payable to the directors for attending the meetings of the Board. The Committee further provided that,

“* * * if in any financial year, a company has no profits or its profits are inadequate, the company may pay to any director or directors including managing or whole-time directors, if any, its managing agent or secretaries and treasurers, if any, and its manager, if any, if there are two or more of them holding office in the company, to all

of them together, by way of minimum remuneration, such sum not exceeding fifty thousand rupees per annum as it considers reasonable".

This is the limit fixed separately in similar circumstances for managing agents. When the Bill was before the Lok Sabha, Government received many representations from responsible business interests pointing out that the clause as it then stood, was too rigid and might, in practice, render company management extremely difficult, particularly in the case of new companies which were not likely to make any profit for some 12 months to come, and in the case of other companies, which were peculiarly subject to the vicissitudes of markets, and might incur losses in any particular year for reasons unconnected with their internal management. Government were satisfied that there was some force in these representations and that the best way in which relief could be given in such cases would be to arm the Central Government with the necessary power to relax this provision in suitable cases, where such relaxation was considered necessary for the efficient conduct of the business of the company.

I would not enter into the controversy which initially raged round the Government amendment on this point, but would gratefully acknowledge the sense of realism which ultimately prevailed. It is a tribute to the working of our parliamentary democracy that in spite of their deeply held personal convictions, many Members of the Lok Sabha eventually recognised the necessity for the discretionary power proposed to be vested in the Central Government.

I am aware that many sections of organized trade and industry in this country, on the other hand, are apprehensive of this provision, amended though it has been in the manner which I have indicated and have expressed the fear that this clause might discourage men of quality from assuming managerial responsibilities or make them withdraw from such res-

pensibilities prematurely, and that potential recruits to managerial posts would in future be deterred from choosing a career in private trade or industry. For myself, I do not think that there is anything in the provisions of this clause, as it has been amended now, and as it is intended to be administered, which could hamper or impede honest business. I believe it is the common anxiety of all shades of responsible opinion in this country that, within the field laid down for it, private enterprise must be enabled to function efficiently and with vigour. Unless therefore, this basic policy is completely reversed, no responsible Government in the country, of whatever political complexion it might be, could possibly do anything to hinder the private sector by arbitrary exercise of the powers conferred on it under this clause.

It is in this spirit that we propose to use the authority vested in Government under this provision. It might be just as well for the critics of this provision to recognise that the principle embodied in this clause is not after all so very revolutionary. At present, prior approval of Government is needed to all new appointments or reappointments of Managing Agents and Managing Directors and to all direct or indirect increases in their remuneration. In the context of these restrictive measures, which are already on the statute book, the further requirement laid down by clause 197 now re-numbered clause 198, that where an existing company makes no profit, or earns inadequate profits, it will have to apply to Government for any increase in the remuneration payable to its top management beyond Rs 50,000 a year, does not seem to me to be a major departure from the broad pattern of control already embodied in the existing law. In any case I feel that the manner in which the provisions of this clause are worked in future will be, in a way, a test alike of the businessman's adaptability and of the capacity of the administration to minimise red tape and play the role of a helpful monitor to industry.

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I need not refer in any great detail to two other amendments made in the Lok Sabha to the provisions of the Bill relating to Directors. As hon. Members are aware, policy decisions in all well-managed companies are taken at Board meetings. The manner in which such meetings are conducted is, therefore, of considerable importance to company management. The Lok Sabha considered it desirable to recast the provisions of the old clause 286, now re-numbered 287, relating to quorum for Board meetings so that all important decisions could be taken at duly constituted meetings of a Board.

The other amendment relates to restrictions on the powers of a Board. Clause 292 now re-numbered clause 293 provided *inter alia* that the Board of Directors of a Company should not, except with the approval of the Company in a General Meeting, contribute or agree to contribute to charitable and other funds not directly concerned with the business of the Company or the welfare of its employees, any amount the aggregate of which was likely to exceed in any financial year, Rs. 10,000 or 3 per cent. of the Company's average net profits whichever was greater. The Lok Sabha considered that, in order to facilitate contributions to public charities and other desirable objects, the discretion of the Board should be enlarged and it should be permitted to contribute in any financial year 3 per cent. of the net profits of the Company, or Rs. 25,000 whichever was greater.

I now turn to the amendments made in the Lok Sabha to the important and controversial provisions of the Bill relating to Managing Agents and Secretaries and Treasurers. The problem before the Joint Select Committee was to reconcile two sets of conflicting considerations arising largely from varying experiences of the working of the managing agency system in the past and different ideological attitudes towards it. But I am glad to state that the solution propounded by the Joint Select Committee was recognised finally as the

best that could be devised in the present circumstances of our country. After prolonged debate and discussion, the Lok Sabha endorsed the recommendations of the Joint Select Committee on this subject, and I hope and trust that this House will also, in due course, signify its approval of the majority view of the Lok Sabha. The subject was provocative, and I was not surprised that in the earlier stages of the debate in the Lok Sabha it gave rise to some misunderstanding and controversy. I therefore have taken the liberty of saying these few words before I pass on to the principal amendments to the provisions of the Bill on this subject made in the Lok Sabha.

Hon. Members will recall the basic recommendations of the Joint Select Committee on the subject of Managing Agents. I do not think it is necessary for me on this occasion to enumerate these recommendations which have since been endorsed by the Lok Sabha, subject to a few amendments, particularly as we hope to have an opportunity, at a later stage during the debate in this House, to elucidate the implications of the new provisions. The effect of the amendments accepted by the Lok Sabha is only to tighten up some of these provisions. For example, it has now been provided that the new remuneration provisions under the Bill should apply to existing Managing Agents, with effect from the date on which the Act comes into force, and not with effect from the beginning of the next financial year, after the coming into force of the Act, as was originally provided in the Bill.

Then another amendment to the old clause 324, now re-numbered 325, provides that, where at the commencement of the Act, a Company has a Managing Agent, but is itself acting as the Managing Agent of another Company, the term of office of the first-mentioned Company as the Managing Agent of the other Company shall expire after the commencement of the Act.

Next I come to the question of Secretaries and Treasurers. Clauses

378 to 383 of the Bill deal with the new institution of Secretaries and Treasurers. It is new in the sense that provisions regarding it find a place for the first time in the Companies Act. As I pointed out in my speech in the Lok Sabha, there are companies even now which have Secretaries and Treasurers although the number of such companies is small. The Lok Sabha has made no amendments to this provision but I think the House would expect me to say a few words, even at this early stage, about this new form of organisation which is, for the first time, proposed to be formally recognised although it has existed in the Companies Act. If hon. Members will refer to the definition of 'secretaries' and 'treasurers' in clause 2 of the Bill, they will notice that it corresponds very closely and significantly to that of managers and is substantially different from the definition of a managing agent. This follows our basic conception regarding secretaries and treasurers. In the view which we take of this new institution secretaries and treasurers will function primarily as corporate managers under the control and direction of the Boards but enjoying a large measure of autonomy subject to the general or special orders of the Board. Since secretaries and treasurers, barring the few that exist today, could be appointed only with the approval of Government, the terms of their engagement with their companies will necessarily have to be scrutinised carefully by the Central Government so that they may conform to this broad conception. In recognition of their different status and position from managing agents, secretaries and treasurers will be entitled to a lower remuneration than managing agents, that is, 7-1/2 per cent. instead of 10 per cent.—that is the maximum—and unlike them, will not be entitled to nominate any Directors on the Boards of their companies. That course of action has been specifically prohibited. Further, unless they are specifically or generally authorised by the Board, they will have no right to sell any goods or articles manufactured or produced by the company or to pur-

chase, obtain or acquire machinery, stores, goods or materials or to sell the same when no longer required. As against these limitations on their power, and indeed it may be said as a consequence of these limitations, secretaries and treasurers will be allowed by the law to manage any reasonable number of companies, not necessarily limited to 10 as in the case of managing agents, and will not also be subject to the Central Government's power of notification terminating their appointment in any particular industry or business. I need hardly add that these countervailing advantages again follow our conception of secretaries and treasurers as corporate managers. Since it was our object to distinguish between the concentration of economic power which we felt should be held in check and the economies of large scale management which need not normally involve any such concentration of power, we felt that it was unnecessary to limit by statute the number of companies which any secretaries or treasurers could manage, nor was it in our view necessary to take any power to notify any industry or business in which there should be no secretaries and treasurers because we felt that the economies of large scale management to the extent that such common management did not entail undesirable concentration of economic power, that is to say, to the detriment of the common good, should be made available to all industries which had numerous individual units operating in them.

I now pass on to the question of the protection of minorities. The provisions of the Bill relating to the protection of minorities except clause 407, now re-numbered as clause 408 to which I shall presently refer, have been generally recognised as constituting a step in the right direction. Clause 408 is a new clause, which hon. Members will recollect, was inserted in the Bill at the instance of the Joint Select Committee. This clause provides for the appointment of two Directors on the Board of a Company by the Central Government if it considers necessary to do so in order to safeguard

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the interests of minority shareholders. The Lok Sabha felt that where the Government came to the conclusion that minority shareholders were being oppressed, instead of appointing two Directors on a Board the Government should have the right to direct, if it so desired, that the elections to the Board of a company should be held according to the method of proportional representation which is otherwise voluntary in the Bill as passed by the Lok Sabha. Accordingly, this clause 408 has been amended so as to permit of this alternative form of relief to the oppressed minority shareholders if the Government so directs.

Then, as regards the winding up of companies, the only important amendments to which I should like to draw the attention of this House are those relating to clauses 463 and 519. Clause 463 is a new clause inserted by the Lok Sabha. Under this clause power has been given to the Central Government to supervise the work of liquidators. Hon. Members will notice that clause 448 of the Bill empowers the Central Government to appoint official liquidators for the winding up of companies by the Court. The power to supervise the work of official liquidators follows logically from this power to appoint. It may interest hon. Members to know that clause 463 closely follows the provisions of section 250 of the English Companies Act, which confers similar powers on the Board of Trade. Under clause 519 powers have been given to a liquidator in voluntary winding up to apply to a court for public examination of any person, who, in the opinion of the liquidator, has committed any fraud in the promotion or formation of a company, including any officer of the company who may have been guilty of such fraud.

Now I turn to the subject of Government companies. I shall now refer to the special provisions in the Bill relating to Government companies. The only important amendment to this

group of clauses relates to clause 620. This clause empowers the Central Government to modify the new Act in relation to Government companies. The Lok Sabha has amended this provision and laid down that any notification proposing to modify any provision of the new Act in respect of Government companies must be laid before both Houses of Parliament for a period of not less than 30 days while they are in session and shall take effect only if within that period neither House disapproves of the issue of the notification. The amendment also empowers either House to modify any such notification. The Lok Sabha felt that this amendment would ensure adequate parliamentary control over the exercise of this power and to that extent would allay the fears and misgivings which had been expressed by many Members about the right use of this power by the Government.

Then clause 615. This was inserted by the Lok Sabha during the concluding stages of the consideration of the Bill in that House. This clause empowers the Central Government to direct companies to furnish such information or data as it may require in order to enable it to discharge its duties and responsibilities under the Bill effectively and expeditiously. It was not possible under the other provisions of this Bill or of any other Act relating to the collection of statistics to be sure of obtaining the information or data which the Central Government might require in respect of the management or working of any individual company. Clause 615 fills this lacuna in this Bill. Our past experience in the administration of the Companies Act disclosed the necessity for a provision of this type and I need hardly repeat the assurance which I gave in the Lok Sabha that this power would be used only where it is considered essential to do so for the efficient administration of the new Act. On the question of administration I do not think I need say much on this occasion except that I fully recognise that the key to the successful working of a measure of this complexity and

dimension is an efficient, responsive and responsible administration. Hon. Members would recall that in my reply to the debate on the third reading of this Bill in the Lok Sabha I gave that House some assurances on this subject. I did so with a full sense of responsibility and it will be my constant anxiety to honour those assurances and to take all such administrative steps as may be necessary to enable me to do so especially to lay the foundation of sound traditions in this respect. In order to assist the Central Government in the discharge of its responsibilities under the new Act the Bill provides for the establishment of an Advisory Commission consisting of not more than five members. It is our intention, in due course, to set up a strong and competent body under the chairmanship of a suitably qualified person. I have already briefly indicated in the Lok Sabha my general ideas on this subject and I would assure hon. Members that I shall see that the membership of the Commission is such that it not only represents the principal interests involved in the management of joint stock enterprise but is such as also to inspire public confidence.

Mr. Chairman, I think I have said nearly all that I had wanted to say at this stage in introducing to this House this important measure. There is, however, one other matter which calls for a brief comment. Much has been said in the Lok Sabha, as well as elsewhere, about the enormous powers conferred on the Central Government by this Bill. I do not know if all hon. Members fully realise the logical dilemma implicit in our basic attitude towards this difficult problem of company law reform. If we could have left private joint stock enterprise alone as it has been left more or less hitherto obviously all that was needed was to fill in the lacunae in the existing Act and to strengthen the administration to enable it to carry on its limited duties a little better or perhaps very much better than it had hitherto done. But the compulsion of our accepted social objectives and economic policies renders this simple solution impossible.

If the lessons of the past of other countries are of any use our economy seems to be destined for an increasingly large measure of regulation and control in the social interest. The complexities of modern business inevitably determine the character of such regulation. It must either be detailed or it must remain ineffective. Basically this is the justification for the large measure of discretionary authority which has been vested in Government by this Bill. In other words, the powers which the Central Government are taking would seem to be largely a reflection of the scheme of regulation of the private sector envisaged in the Bill. I am confident that the powers which we have taken will prove to be a help and not a hindrance to legitimate business as we intend, as I said to exercise them with discrimination and despatch.

Sir, I beg to move that the Bill as passed by the Lok Sabha may now be taken into consideration.

SHRI J. S. BISHT (Uttar Pradesh): May I, Sir, just put one question for clarification?

MR. CHAIRMAN: Let me first put the motion. Motion moved:

"That the Bill to consolidate and amend the law relating to companies and certain other associations, as passed by the Lok Sabha, be taken into consideration."

What is it that you wanted to ask?

SHRI J. S. BISHT: In clause 198 you have provided for managerial remuneration at eleven per cent. In clause 348 with regard to remuneration of managing agents, you have fixed it at ten per cent. I have read the Minister's speeches delivered in the Lok Sabha, a copy of which he has been pleased to supply. I could not find any explanation with regard to this difference of one per cent, except this last sentence in clause 198 which says: "except that the remuneration of the directors shall not be deducted from the gross profits." I wanted to know why it is ten per cent and eleven per cent in regard to managing agents in these two clauses.

SHRI C. D. DESHMUKH: One is for managing agents alone. The other is for any other form of management in which managing agents may not be existing at all. Managing agents are also existing, I know, but there may be companies in which there are no managing agents. For such companies it may be eleven per cent. Even with managing agents it may be ten plus any other managing expenses—not payment to managing agents but any other expenses on management.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI V. K. DHAGE (Hyderabad): Mr. Deputy Chairman, I listened very carefully to the speech of the hon. Finance Minister just now and I find that he has virtually shown us today what he said in the Lok Sabha the other day, that he has come through a *Tapasya* in the presentation of this Bill. That seems to be quite true from the way he presented the Bill before us this morning. I am sure he has come prepared to go through another *Tapasya* in this House. But there is one thing which he missed in his speech when he enumerated the amendments made in the Lok Sabha. He has forgotten to say as to how he justifies the existence of the managing agency or the provision for the existence of the managing agency in the Bill. That aspect which, I think, is very important, has probably been forgotten or has deliberately been omitted by the Finance Minister now. I will, therefore, have to fall back upon the speech he made for the justification of the managing agency in the other House. And he has been good enough to forward us yesterday a copy of the speeches that he made with regard to the various subjects arising out of the Companies Bill in the other House.

I have appended along with other friends here a minute of dissent to the Joint Select Committee's Report and in my speech I shall confine myself to two or three points which arise out of that minute of dissent. One of them is with regard to the managing agency

The hon. Finance Minister in justifying the existence of managing agency

relied very greatly upon the memorandum that was presented by the Shareholders' Association before the Joint Committee. The Shareholders' Association he thought was the organisation which represented the interests of the shareholders who are the primary investors in the capital of any joint stock company. And he stated quoting the memorandum that the managing agency system at this stage should not be done away with because a sudden termination of that will probably dislocate the capital market in the country. I am sorry, Sir, this Shareholders' Association which presented the memorandum on the 26th June altered their proposition on the 16th July after the oral evidence that they gave before the Joint Select Committee. When the hon. the Finance Minister asked a question whether in joint stock companies that shall be registered after the coming into force of this Act, they would like the managing agency to continue, their reply in the oral evidence—if I remember very well was in the negative. Not only that, but also they were emphatic that there should be no managing agency in the shipping industry and one other industry—I do not remember now, perhaps transport—as is the case in the insurance and banking companies. I would not like to dwell upon that aspect, but I just wish to say that the Shareholders' Association did not or do not seem to possess definite views on particular points. That very Association, I would like to point out, in the Memorandum which they submitted to the Bhabha Committee Report—an Appendix they call it—have summarised their views with regard to the managing agency system. I think it will be worthwhile for me to read that. It is also printed in the three volumes of the evidence tendered before the Bhabha Committee. Whatever they have summarised is the evidence published in this memorandum of nearly 200 pages.

"Summary of abuses and suggestions for reform"

They are as follows:

"(1) Trafficking on a large scale has taken place in management rights and these rights have been sold regardless of the financial standing and reputation of the purchasers and the welfare of shareholders and the staff. According to our information about 50 industrial concerns involving crores of capital and reserves have changed hands, throwing the shareholders to the mercies of the purchasers most of whom have utilised the companies' funds and reserves for their personal benefit. The predominant holdings of the managing agent, instead of being a blessing, have proved a curse. The close sense of personal identity between the Managing Agent and his Company of which much capital has been made in the past in justification of the management by Managing Agents has disappeared.

(2) Unwarranted restrictions have been put on the Directors' powers of management and Board of Directors have been converted into packed bodies. The control and supervision of the Board has thus become merely nominal.

(3) A systematic exploitation of companies and their shareholders for the sectional interests of Managing Agents is taking place more particularly in the following directions:—

(a) Managing Agents or allied units have been appointed as buying and selling agents, brokers mukadams and the tendency to enter into contracts between Managing Agent and their companies in which Managing Agents act as principals has increased.

(b) Funds have been misused or misapplied as follows—

(i) Loans and advances of a *non-trading* nature have been given to friends and business associates of Managing Agents.

(ii) Large advances have been made to Managing Agents on Current Account.

(iii) Advances to or investments in sister or allied concerns have been made for illegitimate purposes, *e.g.*, for acquiring voting control or Managing Agency Rights in sister or allied concerns. Funds have been supplied to such concerns at the expense of shareholders of the stronger concerns.

(iv) Instead of being financed by the Managing Agents, companies have financed the Managing Agents.

(v) Companies' assets have been mortgaged and Debentures have been issued in order to facilitate the giving or maintenance of advances and investments referred to in item (b).

(vi) Book debts due from sister or allied concerns have been allowed to remain unrealised.

(vii) Colossal amounts have been exacted by way of compensation.

(c) Powers of borrowing, investments and increase of capital have been abused.

(d) Managing Agencies have been created where there were none.

(e) Deferred shares have been issued with disproportionate voting and other rights and allotted to Managing Agents as a means of strengthening their control on the companies.

(4) Irregularities have been perpetrated in the internal working of companies.

(5) Terms of remuneration have been conceived on excessive unjustified and wasteful lines.

(6) Additional remuneration has been provided for directors without any reason.

(7) Unwarranted terms and conditions have been inserted in Managing Agency Agreements

[Shri V. K. Dhage.]

(8) Companies have been started with insufficient capital and

(9) The subsidiary system has been used to bring about changes in Managing Agency Contracts advantageous to the Managing Agents concerned."

Now, Sir, this is the record of the managing agents and these are narrated by the very same shareholders whose memorandum the hon. the Finance Minister quoted in justification of the managing agency system

SHRI SHRIYANS PRASAD JAIN (Bombay): May I correct my friend? When this matter was being discussed in the Select Committee—the shareholders' representative was there—he was asked whether they still held those views or they had altered their views and he said before the Select Committee that they had changed their views somewhat and that they were not for the total abolition of the managing agency system. They would like to mend it, not to end it. That was the reply which my friend has forgotten.

SHRI V. K. DHAGE: My point is not as to whether they are entitled to change their views or not. The point is what they have stated, they have denied afterwards. They made their changes even with regard to whether the managing agency should be continued or not. The abuses have been printed and forwarded, and also printed by the Government of India as an Appendix to Volume II or III of the evidence tendered before the Bhabha Committee. You may have one view and yet I may draw another view from the same facts. I only want to say that, while the Finance Minister took into consideration what was in favour of the managing agency system, he did not place before the other House or here which was not in favour of the managing agency system—facts given by the very same organization. That is my point.

SHRI C. D. DESHMUKH: As the hon. Member says, it is printed as Appendix to the Expert Committee's Report also. But what we considered in the Lok Sabha was the Report of the Joint Select Committee, not the proposals of the Finance Minister.

SHRI V. K. DHAGE: Whether it has been printed or not is not the question at all. The question is the justification of the managing agency. If the hon. the Finance Minister could quote one para of the memoranda I am certain, I am entitled to quote another in order to disprove what he said.

SHRI C. D. DESHMUKH: I do not object.

MR. DEPUTY CHAIRMAN: He does not dispute your right about that.

SHRI V. K. DHAGE: Now, the Finance Minister quoted the Memorandum of the Shareholders' Association. But there were other memoranda also that were presented before the Joint Select Committee. They pertained to associations of mass organizations which represented a large section of public opinion and those memoranda were totally against the continuance of the managing agency system. In the matter of provision of wealth, the shareholders contribute so far as the capital is concerned. But it is labour that also contributes a good deal in the production of wealth in joint stock companies. And it is these labour organizations which, I may say represent the whole of India and their representatives, when they appeared before the Joint Select Committee, were totally against the continuance of the managing agency system. Not only that, they forwarded various lists of abuses etc. to the Joint Select Committee. Here again, I wish the hon. the Finance Minister had at least taken into consideration the views of these trade union organizations before he expressed, in the other House, the views of the Shareholders' Association. That is my point.

Now, Sir, it is stated that the managing agents have been providing finances for the running of the Industry. That is one of the reasons advanced by the hon. the Finance Minister for the continuance of the managing agency system.

SHRI AKBAR ALI KHAN (Hyderabad): Finance and brain

SHRI V K DHAGE: I will come to that part of it later.

SHRI AKBAR ALI KHAN: The brain part is the first.

SHRI V K DHAGE: I am coming to it a little later. If you want to take the brain matter, I will do that, or if you want the precious metal first, I will do that. But I shall deal with the precious metal first. Whether they have been financing the industries which they manage or whether they have financed themselves is the point that should be considered. In the quotations that I gave from the Memorandum of the Bombay Shareholders' Association themselves they have pointed out the various ways in which the finances of the company have been used by the managing agents themselves either under the name of current account or by way of advances to third parties and taking loans from them. I can again quote the Shareholders' Association as to the number of companies that have done that. They have stated that even an organisation like the Premier Construction Co. Ltd. made use of this provision. It is very strange that the Finance Minister has not given us the figures as to how much of loan has been taken by such managing agents in the aggregate from the companies concerned, because it is definite that managing agents have been using the finances of the company in order to finance themselves.

SHRI LALCHAND HIRACHAND DOSHI (Bombay): Is it suggested by the hon. Member that the managing agents of Premier Construction Co. Ltd. have taken loans from the company?

SHRI V K DHAGE: Well, I cannot say it as a matter of personal experience. I am only quoting something which has been mentioned by the Shareholders' Association.

SHRI LALCHAND HIRACHAND DOSHI: Is it not better for the hon. Member, when he is making a statement in this House, that he should be more particular in quoting the facts?

SHRI V K DHAGE: The Bombay Shareholders' Association in their Memorandum submitted to the Government of India in 1949 had drawn the attention of the Government to the abuses and defects of the managing agency. On page 179 of their Memorandum, they say

"(1) While Sub Section (1) prohibits direct loans to Managing Agents, there is no prohibition with regard to indirect loans or advances that is to say, that the company may advance loans to third parties in order that the Managing Agents may borrow from them in one form or another.

In the Classified Summary given in Part III of the Memorandum instances have been given of loans and advances to third parties (Vide item 3 of the Summary). A perusal of the detailed facts relating to these instances which are stated in Parts I & III will convince Government that the practice of borrowing loans from companies through the medium of third parties who are none but the friends, relations and business associates of Managing Agents has assumed such scandalous proportions that lakhs of rupees have been drained away from companies. As the Section does not prohibit loans both direct and indirect, it is clear that advantage is being taken of an obvious loophole in the Section."

Now comes the part which I have stated

"(2) Under Sub Section (1) loan to a private Managing Agency Com-

[Shri V. K. Dhage.]

pany is prohibited but not to a public Managing Agency Company. This distinction is illogical. Recently we found that Walchandnagar Industries Limited advanced Rs. 20,00,000....."

The figure may be twenty lakhs and not two crores:

"to its Managing Agents the Premier Construction Company Limited a public company although formerly the practice was for the Premier Construction Co. Limited to lend money to Walchandnagar Industries. It appears that Walchandnagar Industries sold its Government Securities of Rs. 10,00,000."

SHRI P. T. LEUVA (Bombay): Both are public limited companies.

SHRI V. K. DHAGE: I am not concerned with these though that is the way which they have found out.....

SHRI LALCHAND HIRACHAND DOSHI: But does the hon. Member realise that Walchandnagar Industries is a subsidiary of the Premier Construction Co.?

SHRI V. K. DHAGE: My point is not that. My point is whether the managing agents have themselves been financing from the funds of the industries which they have to manage. I am not concerned with which is a public limited company and which is not. They have enumerated several examples in which they have stated that formerly loan to a private company was not allowed and so they turned themselves into a public limited company. Since they turned themselves into a public limited company they could take the loan in that manner.

SHRI LALCHAND HIRACHAND DOSHI: Is it not true that neither they nor the hon. Member have understood the implications?

SHRI V. K. DHAGE: I did not catch the hon. Member.

MR. DEPUTY CHAIRMAN: He says that the hon. Member has not understood the implications.

SHRI C. P. PARIKH (Bombay): The subsidiary company is quite different from the private limited company or a public limited company.

SHRI V. K. DHAGE: I have had no share in the subsidiary company or the Premier Construction Co. I am giving quotation from the Shareholders' Association Memorandum. Which is the subsidiary or which is the principal is not my point. What I said is being substantiated by the paragraph here. You may take action against the publishers; I have nothing to do with that.

Now, Sir, I come to another point. Managing agents have been doing things by which they have amassed a good deal of profits for themselves. These transactions have been of a nature which may be called shady. The Income Tax Investigation Commission report has detected several cases. It might be interesting to read at least one or two of these.

"A limited company carrying on business in speculation and acting as managing agents for a number of other limited companies belonging to an influential group of industrialists of the country, managed to keep a large part of its income outside the account books. Even the profits entered in the books were considerably whittled down by debiting fictitious losses in speculation against them. For purposes of claiming the fictitious losses a chain of influential brokers and benamidars was introduced and the course of the transactions was made circuitous to avoid detection. In order to give the transactions an appearance of reality, the payments were made by means of cheques and the ultimate beneficiary was some non-resident who was not accessible to the Income-tax Department. The investigations disclosed that such a non-resident was only a benami and a collaborator of the assessee and

the profits lodged with him were subsequently withdrawn and invested either in acquiring the shares of other managed companies or purchasing gold bullion. In this way a very large part of the assessee's recorded income was diverted to a non-resident in the guise of the speculation losses and the incidence of tax was considerably reduced."

There is something further:

"Apart from the profits recorded in the books and frittered away in the above mentioned manner, it was found that the assessee company had made very substantial secret profits which had not even been entered in the accounts."

This is one story. There is another story of accounts being tampered with by the managing agencies. On page 13 the Report says:

"A limited company carrying on the business of manufacturing hosiery goods was found to have suppressed its production and subsequent sale. The stocks were also considerably undervalued with a view to reducing, during war years, the incidence of the high rates of taxes that prevailed at that time. The accounts of the manufacturing processes were not made available to the Commission and were deliberately withheld in order to obscure the real position"

SHRI LALCHAND HIRACHAND DOSHI: Real position of whom?

SHRI V. K. DHAGE: Well, the managing agent or whoever is the assessee here. It is no use asking me. I am merely reading from the Report. You can draw your conclusion.

SHRI LALCHAND HIRACHAND DOSHI: You are making an argument; you are not reading the book.

SHRI V. K. DHAGE: I am making an argument on the basis of what is given here. The Report says further:

"A limited company 'X' incorporated in a Native State and carry-

ing on manufacture there was supplying its entire products to another limited company 'Y' which was also incorporated in the State and was under the control of the same managing agents as the first mentioned company. 'Y' in turn supplied those goods in the taxable territories to two other companies dealing in stores and controlled by the same managing agents. The object of canalizing the products through the intermediary was to distribute the profits over the two concerns of the Native State and thereby reduce the liability to tax as well as the incidence of tax."

I can go on giving further instances, because this is an account published by the Government of India. But I think I need not give any further instances narrated here. They happened not only in the year 1953, but also in the years 1950, 1951, 1952, and I do not know what had happened in 1954, because the report is not available.

Then, Sir, there is a Government officer's memorandum before the Bhabha Committee. This Government Officer has been the Registrar of the Bombay Joint Stock Companies for the last 30 years, and during his time, the Company Law has been amended probably more than once. And I would like to tell you what the Joint Stock Companies Registrar wrote to the Bhabha Committee with regard to the managing agents. He states as follows:

"I strongly feel that the system of managing agents should be completely abolished.

The glaring exposures recently made by the Bombay Shareholders' Association are true, but these exposures are only confined to a few large companies although the position with regard to the smaller companies is even worse.

It is not only necessary that managing agents should go but that they should not be readmitted under

[Shri Lalchand Hirachand Doshi.]
the guise of Managing Directors,
Buying or Selling Agents or in any
similar guise."

We are hearing of the Treasurers and Secretaries being incorporated in the Bill. Then, Sir, he goes on further to say:

"It is no use arguing about the services by Tatas. There are thousands of public limited companies and thousands of managing agents, and if we examine the working of these other managing agents, we can only come to one conclusion—sack them."

Then Sir, with regard to section 87D, he states as follows:

"This section is being so freely ignored or abused that it has lost all importance. The easiest course is to resolve that Rs.....lacs be kept with the Managing Agents 'for the purposes of the Company's business'. These words have become a farce. The second popular method is to appoint the Agents as Bankers while the third course is to show such loans as Deposits with Agents"

Sir, this is how the funds of the Companies are being utilised by the managing agents.

Then, Sir, there is something else that I should like to read out to the House, and that is this. It is stated here as follows:

"While the Indian Companies Act may have at one time played its part in the promotion of large scale industries, the number of instances where these privileges have been exploited in recent times as a short cut to money-making by the promoters is also unfortunately very large and in a country like ours where the majority of the people are still too poor and too ignorant to be able to safeguard their own interests, I submit, it is the duty of Government to afford every possible protection to the public..."

... I frequently feel the utter futility of the present provisions of law in protecting the interests of the millions of people who have to deal in one way or another with limited companies."

Further he goes on to say:

"They find that out of perhaps ten companies in which they invest, perhaps 8 or 9 turn out to be failures, and the failures are not so much due to any world factors as to internal mis-management, if not fraud."

That is, Sir, the opinion of the Registrar of Joint Stock Companies, who has been in office as a Registrar for the last 30 years. His heart bleeds, he says, when he finds how poor people have lost their money by investing in companies of the nature that he has pointed out.

Sir, my friend, Kazi Karimuddin, said that "The managing agents also provide the brain."

KAZI KARIMUDDIN (Madhya Pradesh): I have not said that. Shri Akbar Ali Khan said that

SHRI V. K. DHAGE: Well, whoever said that, it was said on that side. Now Sir, it is rather difficult to understand as to how a person, who has been a grocer, dealing in grain and other material of that type, can have the brains to run the industry in biochemistry as a managing agent. Does he provide any kind of brain with regard to the production of the material in a biochemical industry? Not only that; a person probably might be dealing in cotton, but he becomes a managing agent in a precision tool industry, which is a highly technical industry. And they do that only by means of employing the particular talent which is necessary for the purpose of producing that material. It is really very strange to say that the managing agents have got the brain for the particular industry that they happen to manage. It is not at all true. And if that be the case, then I would like to submit one thing. And I would rather divert a little here.

Sir, the Finance Minister, in his speech on the 31st of August or on the 12th of September one of the two dates—has stated that the managing agents have been rendering a very great service by providing finance and also by providing a certain talent. I have enumerated before you the various kinds of abuses that the managing agents have been indulging in. If that is so, and if the managing agents have been rendering very good service, as stated by the Finance Minister, I would like to ask as to why the Congress Government, talking in terms of Ram Rajya, should think that the Princes were completely useless or that the zamindars were not at all doing anything, and that they were just exploiters. That kind of statement will not be entirely true. And on the basis of the argument that the Finance Minister has advanced, one would rather feel that the institution of Princes was welcome, because it had come from the days of Ram Rajya. But we have abolished this institution and we have also abolished zamindaris etc. Sir, it will be seen that during the days of the Princes, they did render some service. I am not dealing with the political side, but I am dealing with the cultural side. They were not hoarding money; they were putting it in circulation. The method by which they were putting it in circulation may probably be objectionable. There may be *baterbazis*, *morebazis*, *kushti-bazis*, and probably some other bazis. I think Shri Har Prasad understands what I am trying to say.....

SHRI H. P. SAKSENA (Uttar Pradesh): Kabutarbazis.

SHRI V. K. DHAGE: So, there were all kinds of bazis. They were those who were fond of sport, music and art. And now, after achieving democracy, as far as I know, many of the artists are starving. Such of the artists whom these Princes patronised are very much on the streets today. Now, so far as the question of promotion of art is concerned, I think the Princes, to a certain extent, were responsible for its being alive to this day. Whatever

they did at that time, they 1 P.M. were at least putting the money in circulation. You may object to the manner in which they were doing it. But I will not deal with that here. That way you can certainly think in terms of continuing the princedom. So why should you think of removing such of the people who are there because there was an institution existing for a long time.

I will now come to some statistics that have been given by the hon. Finance Minister. He has been good enough to circulate also a statement which came to us yesterday.

MR. DEPUTY CHAIRMAN: We are sitting through the Lunch Hour.

SHRI V. K. DHAGE: It was a circular giving financial particulars relating to managing agencies that managed 1720 companies in India in 1951-52. Relying on this statement, the hon. Finance Minister in the pamphlet which he has supplied yesterday, has drawn certain conclusions.

[THE VICE-CHAIRMAN (SHRI H. C. MATHUR) in the Chair.]

He says:

"I do not know the further fate of the managing agency because they would manage some companies which go into liquidation and some which are running. There is another year, I would take, 1950-51—that is the beginning of the Plan period. New registrations were 2104; liquidations were 830 companies. On the other hand paid up capital was Rs. 3 crores in new registrations but Rs. 9 crores in companies under liquidation. It is true that in all these years, during 1943-44 to 1954-55, the paid up capital of companies which were registered—a very large number of them smaller companies—was Rs. 67 crores, whereas the paid up capital of companies which went into liquidation was Rs. 89 crores. But the point is

[Shri V. K. Dhage.]

wish to make is that this is not the only evidence on which one should adjudge this case; one must also consider what has happened to .

He is trying to make out the case that more companies have been registered and that the Company Law was becoming more popular because the number of companies that have been registered have increased. I can draw from the same figures another conclusion and that can be this, that so far as the capital structure of the joint stock company is concerned, less has been coming into the companies, and more has been going out I am not concerned with the number of companies I am concerned with the capital of the companies. It is stated that Rs 3 crores were in new registrations and Rs 9 crores went into liquidation. That was in 1950-51 which is the plan period stated here. For the years from 1943-44 to 1954-55, a period of 12 years, the new registrations were of the capital of Rs 67 crores and the liquidations were of Rs. 89 crores. Now the conclusion that I can draw is this—and it is conceded in this that all the companies which the hon Minister is quoting are the companies which are managed by the managing agents. I think the hon Minister will agree that what I am interpreting is correct. My conclusion is that because of the managing agents, more capital is being lost and less capital has come in. That does not prove that the managing agency system is rather being approved by the people

There is another thing on page 25 It is:

"The total number of companies in 1943-44 was 13,689, in 1954-55 the provisional figure is 29,779. That is to say, the total number of companies has more than doubled in these 11 or 12 years. The paid up capital of companies at work, that is to say plus new registration minus liquidations, was Rs 354 crores in 1943-44 and 1954-55, it was Rs 983 crores"

I don't know how this is arrived at. On the preceding page for the same period it is given at Rs 67 crores. At the beginning of 1943-44 the capital was Rs 354 crores. During the subsequent period of 12 years till 1954-55 the new registrations were of Rs. 67 crores and the liquidations were of Rs 89 crores. That comes to Rs 322 crores or so. How this Rs 983 crores has been arrived at from this statement, I fail to understand.

SHRI C D DESHMUKH Expansion of existing companies.

SHRI V K DHAGE. It is not stated here. You have only stated the paid up capital i.e., plus new registration minus liquidation. It is not expansion.

AN HON MEMBER Expansion of old companies.

SHRI V K DHAGE I am reading the statement as it is. I am not reading beyond it.

SHRI M C SHAH: If you refer to the Company Law Investment Administration Report, you will get more knowledge.

SHRI V. K. DHAGE That means I should draw knowledge not from the statement here? If you concede that, then I shall give up. Am I to take only the report that has been circulated elsewhere? I have not got a copy of that.

SHRI C D DESHMUKH The hon Member need not give up because it would be so easy to disprove what he is saying. If the hon Member reads this page, he will find that it was "answer to the point—precisely the kind of point made by some hon Member there i.e. the number of companies liquidated is larger than the number of companies registered and that the capital lost by liquidation is more than the capital gained by registration. Therefore he went on to the facile point that whoever was responsible was a very inefficient person. Now my answer to that was "You

look at the total number of companies in India and look at the total capital at charge in these companies. In other words, whereas you may have lost about Rs. 3 crores, now on account of liquidation, the total addition of capital at charge is about Rs. 600 crores."

SHRI V. K. DHAGE: What was there with regard to the number of companies? I am only dealing with the capital of the companies so far as those companies which have gone into liquidation and the amount of capital that has been lost by the public are concerned—and that is due to the managing agents who were managing those companies. I am not concerned with their number but it is the amount of money of the people, the funds of the people which have been lost that I am concerned with.

SHRI LALCHAND HIRACHAND DOSHI: What is the meaning of 'lost'?

SHRI V. K. DHAGE: The hon. Member will have to look in the dictionary for that.

SHRI LALCHAND HIRACHAND DOSHI: The funds were returned to the shareholders. It was not lost anywhere. The companies have gone into liquidation voluntarily perhaps.

SHRI B. C. GHOSE (West Bengal): Were there any funds to distribute to the shareholders? Were any funds left?

SHRI V. K. DHAGE: That is the important point. Anyway, the Finance Minister conceded, in a way, that what I am trying to derive from the statement is not incorrect.

SHRI C. D. DESHMUKH: I concede that nine is greater than six.

SHRI V. K. DHAGE: Yes, nine under liquidation and six under registration. That is exactly what I was saying.

Well, there is another thing, that is this. The Finance Minister has tried to make out the case that the managing agents have been financing the industries. The statement which is given here in this statement corroborates the figures that are given in the speech. He stated that the paid up capital of the managing agents in crores came to Rs. 215.2 crores and the debenture issued by them was 24.9 crores. And the amount subscribed by the managing agents to share-capital was Rs. 29.2 crores. That is to say Rs. 29.2 crores out of Rs. 215.2 crores and debentures are just 9 lakhs out of Rs. 24.90 lakhs. The Finance Minister has said:

"It was found that out of the paid up capital of 251.21 crores, the managing agents had contributed Rs. 29.26 crores, being 13.60 per cent of the aggregate paid up capital of these companies."

And about loans and advances he said:

"Now, as regards loans and advances made or guaranteed by the managing agents, they amounted to a little over Rs. 18 crores in a total of 76.45 crores of all kinds of loans and advances, which gives a percentage of 23.95."

Sir, you will notice that the percentage which the Finance Minister has arrived at here, to my way of looking at it, rests on an incorrect basis, because Rs. 76.45 crores of loans given here include Rs. 58.51 lakhs obtained from banks and Rs. 18.2 lakhs given by the managing agents, including 7.7 lakhs which has been guaranteed by them. That means to say that the cash has not been given by them, but that the cash has been taken from somebody else and they have merely given a guarantee for it.

SHRI C. P. PARIKH: Even this bank loan of Rs. 58.51 crores or rather part of it is guaranteed by the managing agents, but the Finance Minister is not able to get the actual data and so he has not pointed it out here.

SHRI V. K. DHAGE: I do not know probably what the hon. Member says is correct, but I am not at all concerned with what is correct or what is not correct.

SHRI C. P. PARIKH: That is the practice of the banks.

SHRI V. K. DHAGE: I am here concerned only with drawing certain conclusions from the figures that are here. At the moment I am concerned with that. What is behind them, whether any guarantee has been given or has not been given, I cannot say, nor can my hon. friend over there.

SHRI C. P. PARIKH: Most of them are guaranteed and they demand two signatures, my hon. friend should know.

SHRI V. K. DHAGE: I may tell my hon. friend Mr. Parikh that in my experience I have been auditor of banks also and I know that the procedure that is followed when two persons go seeking loans is to give each other their signatures. They give two signatures, but they oblige each other.

SHRI C. P. PARIKH: But the managing agents and the companies are different entities.

SHRI V. K. DHAGE: Let me tell Mr. Parikh that if X asks Y for the guarantee of a loan, that gentleman Y also gets a similar bond from X in order to get a similar loan from the same bank. This is, therefore, something mutual and it does not amount to a liability.

SHRI LALCHAND HIRACHAND DOSHI: But the hon. Member misses his own point. The question is about a guarantee to a company or bank by the managing agent. So the question or the reverse procedure does not arise here. The managing agent's loan is never guaranteed by the company.

SHRI V. K. DHAGE: The hon. Member persists in not understanding my point at all. I am only going on

the basis of the statements here as they stand. I am not concerned with what was said or done by any one. Here I am concerned with the conclusions arrived at from the two statements that are here. I am here challenging and disputing these two statements and my hon. friend will have his chance to speak and then he can attack and criticise me. Let me proceed with my point now.

According to me, the figures that are here are these. This sum of Rs. 76.45 crores is made up of Rs. 58.1 crores obtained from banks and loans and advances by the managing agents which come to Rs. 10.5 crores plus the loans guaranteed by the managing agents which come to Rs. 7.7 crores. So out of this sum of Rs. 76.45 crores, the managing agents have advanced only Rs. 10.05 crores. I would not take the amount that was guaranteed, and the Finance Minister has excluded the liability on account of debentures issued by them. But a loan is as much a liability as a debenture. Probably a debenture has priority in the matter of payment, etc. in case the company goes into liquidation. The debenture has a better consideration in the matter of liability of a company than a loan. We do not know what is the category of these loans, whether they are mortgaged ones or non-mortgaged ones. But I am here not concerned with the class of loans. I am concerned with the total liability on account of the loans. That will be Rs. 101 odd crores out of which the managing agents have really advanced only Rs. 10.5 crores. So the percentage, according to me, will not be 23.95 as the hon. Minister wants us to believe, but it will be much less.....

SHRI SHRIYANS PRASAD JAIN: These advances will not be available to the company unless the guarantee is given by the managing agent.

SHRI V. K. DHAGE: Why Mr. Jain should feel the matter so personally, I don't know. I am sorry, but I am not at all concerned with any particular person. I am concerned with the

speech of the Finance Minister here and the statements that he has made seem, according to me, to be not quite correct. He has tried to build up a case that the managing agents have been financing industry and he said that 24 per cent is the amount that is advanced by the managing agents. But according to me, the real advances come to not more than 10 per cent. That is what I have to say.

There is a fallacy, I have to point out. Here in this statement, the Finance Minister has not stated, whether directly or indirectly, how much loans or how much current accounts the managing agents have taken from the companies which they have been managing. In the absence of that information, to say that the managing agents have been advancing money, etc. and financing industry, seems to be not quite correct. That is one point.

Secondly, what is the cost of it to the company? I do not know whether Mr. M. C. Shah is feeling a little uncomfortable.

SHRI M. C. SHAH: I am comfortable and the hon. Member's point is noted.

SHRI V. K. DHAGE: Thank you very much.

SHRI H. P. SAKSENA: But the truth is being driven home to some other eminent friends and they are uncomfortable, not so much Mr. Shah.

SHRI M. C. SHAH: Yes.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Yes, yes, please go ahead, Mr. Dhage.

SHRI V. K. DHAGE: Old men always express wisdom.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): But young men do not always appreciate it.

SHRI V. K. DHAGE: Excepting myself.

In this very statement which the Finance Minister has provided, it will be seen that the debentures come to Rs. 9 lakhs out of this sum of Rs. 24.90 crores or roughly Rs. 25 crores.

Apart from that, the Finance Minister has also given us the figures of remuneration and other income which they have received from the managed companies, that is, office allowance amounting to Rs. 3 crores, commission on net profits amounting to Rs. 6.7 crores, commission on sales amounting to Rs. 7 lakhs; in all amounting to Rs. 10.4 crores. Now, the dividend declared to the shareholders is Rs. 17.7 crores out of a profit of Rs. 38 crores. I am not concerned with what the profit is but with only what the shareholders got. They have invested Rs. 29.2 crores out of the total capital of Rs. 215 crores. This average figure of dividend is 8 per cent and the dividend which the Managing Agents receive on the capital invested would be Rs. 2.44 crores. Add to that the remuneration which they receive by way of office allowance, commission on sales and commission on net profits totalling, as I just mentioned, to Rs. 10.4 crores. The total figure that we arrive at is Rs. 12.73 crores which works out to 45 per cent of the capital invested and as against the dividend received by the shareholders, comes to 71 per cent. The shareholders receive Rs. 17.7 crores whereas these people receive Rs. 12.73 crores. I ask: is that a fair deal? Is it not an unconscionable thing to give to the managing agents so much for managing the concerns? In the circumstances, is it proper for you to say that the managing agents have been rendering yeoman's service and that their services should be continued. Do you realise the cost that would be involved in continuing them?

SHRI J. S. BISHT: That is limited to 10 per cent now.

SHRI V. K. DHAGE: Mr. Bisht has been a Public Prosecutor, if I mistake not, but not an auditor of a company. I have my own experience and, if you

[Shri V. K. Dhage:]
would like to know, I have had a hand in the floating of certain companies also, I mean in the capacity of a professional man.

SHRI SHRIYANS PRASAD JAIN: I wish you could do that.

SHRI V. K. DHAGE: The managing agent of a company built a house out of the material meant for the factory. The auditor refused to sign the balance sheet and was chucked out.

There is yet another managing agent—I think friends from Hyderabad know whom I am referring to—who bought a particular piece of land for Rs. 5 lakhs and sold it to the company he was managing for Rs. 30 lakhs. When the Board of Directors of that company did not agree to it, he made them do so. I do not like to cite several examples. They are in the investigation records of the Government of Hyderabad and I shall give them, if there is need, chapter and verse to show as to how these people manage companies and as to how they do away with the funds of the companies. Many of these companies are today in liquidation. They are not afraid of this 10 per cent. limit. As the Finance Minister had already hinted in the other House, the persons affected by this Bill are already working on ways to evade the provisions of the Bill. He had made an admission to that effect in the speech he delivered in the other House some days back. However, Sir, I am merely saying to what the managing agents have been doing. In the circumstances, I ask, is the continuance of the managing agency system at this cost and in this manner a justifiable proposition? I have, therefore, appended a note of dissent to the effect that the managing agency system should be abolished. I am all praise for the Registrar of Joint Stock Companies of Bombay who feels for the funds of the poor shareholders of the companies that have gone into liquidation.

There is another reason also. When the Jaipur Congress adopted a Resolu-

tion recommending the abolition of the managing agency system—this I take on the strength of what Kaka-saheb Gadgil said in the other House—there is no reason why Government—a Government composed of the Congress Party—should have now come forward recommending the continuance of the managing agency system. That Resolution of the All-India Congress Committee passed at the Jaipur Session recommending abolition of the managing agency system has not been done away with; that Resolution still stands.

SHRI P. T. LEUVA: Will the hon. Member kindly quote the Resolution instead of relying upon the report of somebody else?

SHRI V. K. DHAGE: Am I to take it that what Mr. Gadgil said is not.....

SHRI P. T. LEUVA: In this House we are not concerned with a speech made by somebody else. Let the hon. Member quote the Resolution itself word for word.

SHRI V. K. DHAGE: If the hon. Member denies that there was any such Resolution, I give up my point.

SHRI P. T. LEUVA: Kindly quote the Resolution.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The hon. Member cannot be forced to do it.

SHRI V. K. DHAGE: I am only quoting a thing which has not been denied in the other House by any Congress Member or any member of the Government or even by any member of the Working Committee of the Congress. It has been stated in the other House and I am merely quoting it.

SHRI P. T. LEUVA: It is not the usual practice to refer to the proceedings of the other House.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The hon. Member has just referred to it; he cannot be forced to

produce any document that he refers to. He has only referred to it. That is all.

SHRI V. K. DHAGE: The Congress passed a Resolution—according to Mr. Gadgil—recommending abolition of the managing agency system but still we are continuing this system today.

I would now like to point out certain things and would like the House to draw its own conclusions. The Shareholders' Association, as I stated earlier, submitted a memorandum on the 26th June; it submitted another one on the 16th July giving up the old position enunciated in the former memorandum and in the oral evidence tendered by it. It was maintained by them in the oral evidence that there should be no managing agency for a new company, a company registered after the passing of this Act and that there should be no managing agents in the case of transport and shipping concerns. On the 15th September we heard a policy statement in the Joint Committee. This was made by the hon. Finance Minister and related to the future of the managing agency system. Now that statement, as I said and was told, if I remember aright, was a confidential statement, and on the basis of that the discussion in the Joint Committee was to proceed. But, Sir, here is a document circulated by—I would like to read the names—several gentlemen who are managing agents individually or represent the managing agency firms. The names are these: H. P. Mody; Shri Ram; Kasturbhai Lalbhai; Robert Menzies; Dharamsey Khatau; R. E. Castell; J. R. D. Tata; G. M. Mackinlay; Joseph Kay; V. N. Chandavarkar; Krishnaraj Thackersey; E. D. Sheppard; R. D. Birla; Ambalal Sarabhai; Biren Mookerjee; G. A. S. Sim; Neville Wadia; Partapsinh M. Vissanji. These gentlemen represent Tata Industries Ltd., Birla Brothers Ltd., Bharat Ram Charat Ram & Co. Ltd., Jardine Henderson Ltd., Sarabhai Sons Ltd., Narottam Lalbhai & Co., W. H. Brady & Co. Ltd., Martin Burn Ltd., British

India Corporation Ltd., N. Sirur & Co. Ltd., Andrew Yule & Co. Ltd., Khatau Makanji & Co., Thackersay Mooljee & Co., Nowrosjee Wadia & Sons Ltd., Binny & Company (Madras) Ltd., Killick Industries Ltd., Vissanji Sons & Co.

Now, Sir, what these gentlemen said in their Memorandum is interesting to read. I do not know to whom else it was circulated, but I have got a copy of it and this is a confidential document. It is marked: "Confidential". Memorandum presented to the Joint Select Committee on the Companies Bill, 1953, on behalf of some of the representative Managing Agency Houses in the country."

Now the Policy Statement was made as I said, on the 15th of September by the Minister with regard to the future of Managing Agencies and here is a document which is being circulated in November 1954 and those things which were mentioned by the Finance Minister in the Joint Select Committee with regard to the future are all in this and you will be interested to find as to how it reads:

"We will now turn to the two representations of the Bombay Shareholders' Association submitted to the Select Committee—the first on 26th June 1954 and the second on 16th July."

Where did they get that information from I do not know. "The first concedes categorically that 'a sudden termination of the managing agency system in our opinion is undesirable, because it will disorganise industrial management and therefore retard new industrial development which we regard as vital.' The two representations of the Shareholders' Association further emphasise the dangers which lie ahead if such restrictions are imposed as would undermine the very existence of the managing agency system itself. When confronted by a question from the Union Finance Minister"—now please note how much inside information these big gentlemen.....

SHRI P. T. LEUVA On a point of order This confidential document was submitted to the Select Committee and it has not been published and circulated to hon Members by the Select Committee and unless and until the Chair has permitted the use of it, will the hon. Member be in order in quoting that document

SHRI B. C. GHOSE Sir, the obligation of the hon Member is to produce it on the Table of the House, if you so direct But if the hon Member has already read

SHRI P. T. LEUVA It is a confidential document which has been submitted to a Committee of the Parliament and the Joint Select Committee was considering this document This document had not been published as a record by the Joint Select Committee and so long as it remains a confidential document it cannot be quoted in the House. No witness would henceforth come before the Committee Even though you are giving them protection that they can ask the Committee to treat certain portions of their evidence as confidential, if subsequently any hon Member is permitted to read such confidential documents, then where is the protection of the witness who comes before you?

SHRI V. K. DHAGE The evidence has been published and has been circulated.

SHRI P. T. LEUVA Not the question of evidence, I refer to that particular document which has been marked 'Confidential' by the Select Committee.

SHRI V. K. DHAGE This is not marked 'Confidential' by the Select Committee.

SHRI P. T. LEUVA That is what you stated

SHRI V. K. DHAGE This is marked 'Confidential' by those who have circulated it.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR) Mr. Shah, was it part of

the proceedings of the Joint Select Committee?

SHRI M. C. SHAH It was not part of the proceedings of the Joint Select Committee

SHRI B. C. GHOSE If the hon Member says so, then it is his responsibility, it is for him to produce it, if you so direct, on the Table of the House.

SHRI M. C. SHAH So many documents are circulated among Members of the Joint Select Committee, but they do not form part of the proceedings of the Joint Select Committee.

SHRI RAJENDRA PRATAP SINHA (Bihar) The point is whether it forms part and parcel of the Joint Select Committee Report or the proceedings of that Committee If it does not, then the hon Member is entitled to quote

SHRI B. C. GHOSE Mr Shah says it is not a part

THE VICE-CHAIRMAN (SHRI H. C. MATHUR) Well, he will have to lay it on the Table

SHRI V. K. DHAGE I suppose, it not every Member, probably many more have received it. Though marked 'Confidential' it has been printed and circulated.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR) Place it on the Table of the House

SHRI P. T. LEUVA We have not got those copies

SHRI H. C. MATHUR You will see it now. It will be placed on the Table of the House for your reference.

SHRI JASPAT ROY KAPOOR It will be made more public than hitherto

THE VICE-CHAIRMAN (SHRI H. C. MATHUR) Let us have it

SHRI V. K. DHAGE This deals with the proceedings of the Joint

Select Committee which were confidential and see how these things have gone out. That is my point. That document was also circulated to Members. Now to continue the quotation this is what it says: "When confronted by a question from the Union Finance Minister, at the time of the oral evidence of its representatives before the Select Committee, as to whether it would be desirable or practicable to disallow managing agency for all new companies formed after the commencement of the new Companies Act, presumably as a prelude to the total termination of the system itself, they had conceded that that was one of the possible lines of approach. However, on second thoughts, these critics of the managing agency system were themselves constrained to submit a second representation to your Committee to the effect that this suggestion was unworkable. In support of this view, they pleaded that 'if incentive is required for the development of industry, the new companies require it to a greater degree as compared to old companies, while ban on managing agency of new companies would act as disincentive and therefore it may retard the promotion of new companies.' They similarly revoked their earlier admission that shipping and transport might be added to banking and insurance in which the managing agency system had been abolished."

Here, Sir, is a pamphlet which has been received by me, and I hope it has been received by other Members of the Joint Select Committee as well. I see Mr Amolakh Chand nodding to say that he has also received a copy.

SHRI AMOLAKH CHAND (Uttar Pradesh) No, I do not recollect to have received it.

SHRI V K DHAGE Perhaps I misunderstood your nodding. What I want to know is as to the manner in which these people had been working to get the information or the proceedings of the Joint Select Committee

itself which proceedings, we were told, were confidential, but here.....

SHRI P T LEUVA The hon Member refers to the leakage of the Select Committee proceedings now. When this document came into his hands he must have realized the seriousness of it and taken up that point at the relevant time.

SHRI V K DHAGE I am sorry Mr Leuva is rather trying to be obstructive than try it to get at the real thing.

SHRI P T LEUVA There is no question of obstruction. He says there was leakage of the proceedings of the Select Committee. I say it was his duty to have pointed it out to the Select Committee at the very stage when he got the document. Did he do it? At the time he got this document, he should have raised this point then and there in the Select Committee. He is now making out a point that the proceedings of the Select Committee leaked out as a result of which there was a Memorandum submitted by those particular persons. Now what I want to know is whether the hon Member who was a Member of that Select Committee raised this question in the Select Committee that the proceedings of the Select Committee had leaked out. I want to know this on a point of information only.

THE VICE CHAIRMAN (SHRI H C MATHUR). That is absolutely irrelevant to this.

SHRI V K DHAGE What I have been trying to say is that there have been definite efforts made by certain interested parties in order to get the Government to do the things, which are there with regard to managing agency now.

In this document, Sir, I will just read out the points that they have dealt with. They say that the Government is thinking of five or six things and if you like I will probably be able to point them out from the statement that was circulated by the

Finance Minister to the Members of the Joint Select Committee.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): You need not read it *in extenso*. You can place it on the Table of the House. You have already taken an hour and a quarter.

SHRI V. K. DHAGE: I will finish it in a minute and I will deal with the other points when the stage of Clause by Clause consideration comes up. I shall end with this point.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): You had better place it on the Table of the House.

SHRI V. K. DHAGE: All right, Sir. I hope you will not mind if I take two minutes on this point. It says here—"we shall consider these proposals one by one." This is the Government proposal: "The Bill may vest Government with power to notify industries in which after a certain date no managing agency would be permitted." That is opposed. The second one is this:

"In the case of industries not so notified, the Bill may lay down that Government's prior approval should be obtained whenever the managing agency agreement in any undertaking falls due for renewal, or any new managing agency is to be set up. Before giving such approval, Government would require to be satisfied that it is in the public interest to allow such renewal and that the managing agent in question is a fit and proper person."

This is also opposed. I will not read further because all the points have been dealt with but I wish to draw your attention to a news item which, with your permission, I wish to read out. This is the proceeding of a certain meeting which is reported here in "Blitz" of Saturday, September 10, 1955. My fear is that there may be some other reason than the merits of the managing agency system and it will be clear from this:

"In regard to remuneration the fighting section in the Congress Party, which takes the Avadi Resolution seriously, advocated a descending scale of remuneration over and above the Rs. 20 lakhs ceiling on profits. On this the Finance Minister was adamant and the Congress Party had to give way."

The second point is this:

"A managing Agent will not be allowed to manage more than 10 companies, whereas a Secretary or a Treasurer can manage any number. It means a Managing Agent of today, who manages 25 companies can manage all of them even after 1960. All that he needs to do is to print two different letter-heads one for Managing Agent and the other for Secretary."

Mr. Avinashilingam Chettiar and also Mr. C. C. Shah reportedly pointed out the self-defeating nature of this provision and asked for an explanation from the Finance Minister. His reply was shocking. Without mincing words the Finance Minister told the Committee that that was precisely the purpose for which he introduced that provision!

I shall come to another provision with regard to contribution out of profits to charitable and other funds. This is what is said here:

"Mr. Deshmukh pointedly asked his colleagues what this 'other funds' meant, if not Congress Party funds, particularly for elections and implied that those who opposed the Companies Bill in the name of the Avadi Resolution had better stop the double-talk and drop the amendment."

That is a perfect description of what has been happening so far and this is a case which establishes that managing agencies should be forthwith abolished.

SHRI RATANLAL KISHORILAL MALVIYA: Mr. Deputy Chairman, The Companies Bill as presented to

this House is a mammoth document. It is probably the biggest of all Acts, having the largest number of clauses. It has more clauses than the Indian Penal Code and the Criminal Procedure Code and including rules which are to be framed under this Act, it will be still bulkier than the Civil Procedure Code which governs our civil life. This discloses that the economic factor in our life has got greater importance and therefore the Bill requires close scrutiny and close attention. While speaking in the other House, the hon. the Finance Minister has disclosed the object of the Bill in these lines:

"Now, in these two decades that we have passed from 1936, the economic scene has shifted and political conditions have altered profoundly. Our ideologies and philosophies have, as a result, had a change—so rich and strange. Many new factors have emerged and our approach to old ones has also altered but the basic aim remains the same, that is, encouraging and reasonably safeguarding private investment in fields which are not marked out for the public sector and regulating it for the common good."

I emphasize the words "common good". This objective is to be read with the Directive Principles laid down in our Constitution under article 39 (b) and (c). Article 39 (b) says:

"That the ownership and control of the material resources of the community are so distributed as best to subserve the common good"

And article 39(c) says:

"that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment"

Now, only last year we have adopted a socialist pattern of society as our goal and thus we have added to the provisions of the Constitution. It is in this context that I would be examining this Bill and would be

offering my observations. Out of the 649 clauses of the Bill.....

SHRI M. C. SHAH: It is 658 now.

SHRI RATANLAL KISHORILAL MALVIYA: Yes. out of these, most of the clauses have been taken, so far as procedure etc. are concerned, from the old Companies Act. About 170 clauses have been scrutinised by the Select Committee and of these about 40 or 50 are the most important and controversial clauses which relate to the managing agency system, directors secretaries, treasurers etc. When this Bill was introduced for reference to the Joint Select Committee last time, there was a very strong bias against this managing agency system from all corners, including my organisation, the Indian National Trade Union Congress to which I belong. And we expected that the system of managing agency would be abolished. But we see that it is retained. No doubt there have been some alterations; no doubt some restrictions have also been placed upon the managing agency. But as I will show later, to me it appears that the evil has come as it is in a new form. It has not substantially changed and the Bill has not been able to check-mate the evils which are existing in the system at present. The Finance Minister has suggested that it is a middle course and probably it may be due to the fact that he has introduced a new system of Secretaries and Treasurers. I will deal with these Secretaries and Treasurers later. But I may say, at the outset, that this new introduction is not going to change the system or do away with the evils which are existing in the present system. It has been said that the present managing agency system has been financing the industries and it is good for capital formation. I may submit that in support of this, the hon. Finance Minister has said that the number of companies has increased from 13689 in 1943-44 to 29779 in 1954-55. He has also said that the paid-up capital of companies at work in 1943-44 was Rs. 354 crores; whereas it is Rs. 983 crores in 1954-55. True

[Shri Ratanlal Kishorilal Malviya.]

But if we ponder over the reasons—and there would be reasons for my conclusions—we will find that most of the companies which have increased—more than about sixteen thousand have increased since 1943-44—we cannot forget that that was a boom period in the life of the country, the war period when money was made very easily and was also spent very easily. And these new creations were of that boom. No doubt large profits were made by the Big capital, but as I shall show later, it is the contribution of the humble man which has formed this large number of companies—about sixteen thousand and more in number. The figures which have been given to us on the basis of examination of statistics of about 1700 companies managed by 1340 managing agencies, and which cover a large number of the bigger managing agents of this country, show that the capital contributed by the managing agents was Rs. 29.26 crores, out of a total capital of Rs. 251.21 crores, that is, 13.60 per cent. of the total capital. It has also been suggested that loans and advances have been made or guaranteed by the managing agents and the amount is a little over Rs. 18 crores in a total of Rs. 76.45 crores, or 3.95 per cent. Sir, I think I will not say much about the loans and advances, the history of which has been disclosed or exposed by Mr. Dhage just now. I will confine myself to the capital which is alleged to have been contributed by the managing agents and that is 13.60 per cent. We are afraid that if the managing agency is abolished, capital formation may cease to exist or the formation of capital in the future may become difficult. May I submit, what are we to fear? When the contribution of the managing agents is only 13 per cent. and that, too, from the very beginning, are we to be afraid of this 13 point something which they have contributed and retain them there with all the evils which have been told many a time on the floor of this House? And there has been a great amount of bias against the system. This 14 per cent.

of capital will not be difficult for the country to raise, especially when we are running the Plans, when we are creating capital, when the contribution is coming from all sides, especially from the middle class and from the workers now. The House will remember that in regard to all the new schemes sponsored by the Government the scheme, of State Insurance Corporation, the scheme of Provident Fund and other schemes which have been applied to Labour, they are contributing quite a lot to the activities of the country. And if necessary, in regard to these and other schemes which may be promulgated by the Government for creation of capital they will be able to create this capital which has been invested by the man-

ing agents. May I say?

2 P.M. word more? Is there a fear that, if the managing agency is abolished, the existing managing agents and capitalists will be able to sabotage the Government's plans or the progress of the country? I have not got the least fear. I know for certain that these persons who are working today as managing agents etc. will adjust themselves to the new pattern, the new law, the new system which we may introduce for safeguarding the industries of the country. Are we afraid that, if these managing agents withdraw themselves from this sphere of industry, the industry will die? No. I am positive of that. Somebody suggested that they provide the brain. I do not deny that. Brain, of course, they provide. There is no doubt the coins are accumulating to them. They are available in the mints. I do not accuse everybody. Instances are there whether the whole of the capital is used. So far as the brain is concerned, I may submit that it is the brain of the middle-classes, it is the brain and sinews of the poor who are running the whole show of the industries in this country. I am very emphatic that if they withdraw, these middle-classes will not only be able to provide capital for the industry, but the work and the brain of the middle class people will run them on better lines and the industries will have

more prosperity than they have today. It is not a hidden fact. Everybody knows the treatment which the employees, the workers, are getting at present at the hands of these big guns, the managing agents and the big capitalists. I have had experience of working among the labour for the past nine years and I know it. I have dealt with hundreds of cases in which at every step, I had to face difficulty—the difficulty about getting the legal wages, the legal remuneration and the just rights for the workers. For petty practical things, petty affairs, they have to run to the State Governments or the Central Government and ask for relief, the relief which the workers want immediately. They have not got the mood nor the capacity to stay long without wages, etc. They have to wait for months, sometimes for years, for getting relief. I must submit that this trouble is due to the creation of this system of managing agency and the one-sided control of the industry by capitalists. These are not the ways of people who have got the interests of the country and the interests of the workers at heart. The result is that the man who is the managing agent of an industry is the supreme boss and acts arbitrarily and in any way he likes. Sir, I will quote now certain instances to show how the present Bill is unable to meet that desire of the country, to meet that ideal of the common man and how it has failed to achieve the goal which we had sought. No doubt, restrictions have been imposed on the managing agents. But I submit that this Bill leaves sufficient scope to circumvent the provisions of the Bill.

SHRI H C DASAPPA (Mysore): What are they?

SHRI RATANLAL KISHORILAL MALVIYA: It is in Section 348. The remuneration of the managing agents has been fixed ordinarily at 10 per cent. But in Section 352, the additional remuneration has been allowed to them, of course, with the approval of the Central Government.

SHRI M C SHAH: And in public interest.

SHRI RATANLAL KISHORILAL MALVIYA: Yes. It means that as soon as it comes to Government, the public interest is there. I have no doubt that with the machinery which the Government are now creating—and I am told that they have already set up a Department—there will be a stricter control. But the ways of the industry are many to defeat the object and I am very doubtful if

SHRI M C SHAH: There is a special provision for 75 per cent of the voters voting, approval of the Government and in public interest.

AN HON MEMBER: What about shareholders?

SHRI RATANLAL KISHORILAL MALVIYA: I do not want to talk about the shareholders' 75 per cent voting, how it is done and how it is manipulated till today and how in future this question of shareholders will be managed. I am doubtful whether even with such a strict control the object will be served as has been said by Mr Dhage just now. They have already started thinking of how to defeat the provisions of this Bill.

Now, another thing which I would like to point out and which is likely to defeat the object is the question of restrictions on the managing agents and their associates to make purchases and sales. The commission has been disallowed to the managing agents and their associates under Clause 356. I have gone through the definition of "associate" given in sub-clause (3) of Clause 2 of the Bill and the way in which it has been put, of course, caution has been given, care has been taken by the Government to see that mischief is not played. But I am not very sure if the Government will be able to check that mischief which will be committed, not in the name of "associates"—because they have been restricted—but the various other forms in which these associates are likely to come which have not been defined in the definition clause.

SHRI SHRIYANS PRASAD JAIN:
For example?

SHRI RATANLAL KISHORILAL MALVIYA: It has been quoted in the other House—I have got no personal knowledge—where it was said that the cook of a managing agent was a Director. So these are the ways. I have not worked in the companies nor have I managed them, but I have worked for the workers.

SHRI SHRIYANS PRASAD JAIN:
But, Sir, as soon as the cook becomes a Director of the company, he becomes the associate of the management

SHRI R. G. AGARWALA (Bihar): It may be a bakery shop and not a company.

SHRI RATANLAL KISHORILAL MALVIYA: That is not the point. The point is whether the cook could become a director of the company in some other way? Tomorrow some others will come in and will become agents of that company and the major profit will go to the managing agent. The man may get a commission and thus the objective may be defeated.

It is said, Sir, that if the managing agency is abolished all of a sudden, a vacuum may be created resulting in disharmony and disorganisation in the industry. The provisions of the Bill here provide for the appointment of Secretaries and Treasurers. My humble submission is that if creation of these new set of agents for the industry is allowed to work side by side with the managing agency system, as appears to be the objective of the Bill, there is a grave danger of interlocking which is more dangerous than the managing agency itself.

[MR DEPUTY CHAIRMAN in the Chair.]

Therefore I plead that the best alternative would be to agree to the proposal of the Bill that the managing agency should be allowed till 15th August 1960. There should be a gradual system adopted for abolition

and the time-limit, which has been fixed for "other purposes" by this Bill namely 15th August 1960, should have been fixed for the complete abolition of managing agency and changeover to the new system which is proposed here, namely the appointment of Secretaries and Treasurers. My submission is that the allowing of the managing agency system and the Secretaryship and treasurership of the company simultaneously will create fresh troubles, if not today, after 1960

SHRI M. C. SHAH: Do I understand the hon. Member to say that the managing agency system should be abolished from 15th August 1960 and thereafter the Secretaries and treasurers should be allowed to function?

SHRI RATANLAL KISHORILAL MALVIYA: Yes. Of course, I am not in favour of that system as well because the powers which have been retained for the managing agents here in this Bill are to be acquired by the new system also. So far as that is concerned I am doubtful if the secretaries and treasurers should be allowed to acquire powers as they have been allowed within the provisions of this Bill. I am coming to some other subject which will explain my position in regard to the election or nomination or appointment of the directors. This subject I will deal with when I deal with other subjects which I have in view just now. In a nutshell my position is this: the managing agency system should be gradually abolished and the last date should be fixed at 15th August 1960.

Now, there is one very important point which the Bill has lost sight of i.e., the right of workers to participate in the management of the industry. In my speech, Sir, before the Bill was referred to the Joint Select Committee I had pleaded for such an inclusion in the Bill. But I find that no such provision has been made; "the workers have again been left at the mercy of the companies or the directors or the managers of the companies

for the relief which is their right which they have acquired by the introduction of the Constitution in this country. If for the protection of the rights which the Constitution has conferred upon the workers, we have to beg at the door of the manager, director or the managing agent, I think the object of the Constitution is defeated. It may be said that this is not within the scope of the Bill. I very humbly differ from those who contend that. I am, Sir, of the emphatic opinion that same provision for the protection of the workers' right to participate in the management of a company should have been incorporated in this Bill. And when I say so I am supported by personalities like the Prime Minister and the Labour Minister. After his Russian tour, and especially after seeing the conditions in Yugoslavia, the Prime Minister appeared to be of the opinion that the workers should be associated with the management and the administration of the companies. And the hon. Labour Minister, for whom I have got the greatest regard,—the man who has spent all his life with the workers, the man who has conducted hundreds of strikes, the man who has settled thousands of disputes of the workers throughout the country—has been dreaming, and he has disclosed this dream of his after he became the Labour Minister, that there should be some right conferred on the workers to be able to participate in the administration and the management of the companies. And it is not only this country, Sir, which is laying down any precedent about the association of workers in the management of the companies. May I just quote, Sir, that in Western Germany, 50 per cent. of the directors associated with the industry are the workers' representatives? So, it will not be out of place, Sir, if I plead, and plead very strongly, for such a provision. And I request the hon. Minister to reconsider his position, and if such a provision in respect of the participation of the workers in the companies could not be introduced in the Bill in the Lok Sabha, it can be very easily done

here. The difficulty that we have to face daily, Sir, is that the workers and the employers cannot come to any understanding due to misapprehension and mistrust on the part of both. If I am not wrong, one of the hon. Members in the Lok Sabha, when this proposal had been put forth before the House, drew an analogy and he asked: Will it be proper if the Cabinet of the country is formed of different Parties in the House? It is not a correct analogy. Does he mean by this that the worker belongs to the opposite camp? Does he mean that the worker is an enemy of industry, is an enemy of the directors or of the company? It is not so. It will be a great mistake if we say such a thing in that perspective. The employers and the workers, both, have got to work hand in hand for the prosperity of the country. The misunderstanding which has been created in the minds of the workers and the employers by the prevailing system must go, and we must be able to co-ordinate their efforts, co-ordinate their minds, and co-ordinate the capital also which may be forthcoming, even though the contribution from the workers may be very little, but still they will be willing to contribute that. And the workers will also be willing to contribute and sacrifice some of their income. If they are satisfied that they have gained the confidence of the employers, and if they are satisfied that some security is there

Sir, very recently, in this connection, I read something in the news papers. Some of the industrialists went to see Acharya Vinoba Bhave, and Acharyaji point blank told them to their face that the employers—of course, not all of them, but most of them—had lost the confidence of the workers, and if they wanted their country to prosper, and if they wanted their own well-being and welfare they must gain back the lost confidence of the workers. And, Sir, is this the way in which their confidence can be gained back? They have been taken away from the purview of this Bill altogether

SHRI H. C. DASAPPA: Would you like the shareholders to select the labour directors, or would you like the employees themselves

SHRI RATANLAL KISHORILAL MALVIYA: I am coming to that, Sir, so far as the point raised by Mr. Dasappa is concerned, my submission is that the Government has reserved the right to appoint directors. Of course, some way has been suggested for the shareholders, and if such reservation could be made in the interests of the shareholders, it can also be made in the interests of the workers.....

SHRI H. C. DASAPPA: I did not say anything about reservations. I simply asked: Who is to elect them?

SHRI RATANLAL KISHORILAL MALVIYA: There is a provision here that the directors will be appointed by the Government.

SHRI M. C. SHAH: Only in certain cases, whenever there is oppression of the minority.

SHRI RATANLAL KISHORILAL MALVIYA: But in the case of workers, I will say 'positively'. My suggestion in favour of the workers introduces the principle of co-determination of the right. Sir, labour forms the majority in an industry. It is the man who creates the goods who has got to be protected. And he must have a direct voice in the matter of preservation of his rights. And the system of appointing directors in an industry from among the labour will give him that right of co-determination. There is no other system which I can conceive of, which will be able to give satisfaction to the workers and which will be able to preserve their rights. Unfortunately, as I have said, a wide gulf has come about between the employers and the employees, and this Bill does not provide any bridge for that gulf. And the only way to bridge the gulf between the employers and the workers will be the appointment of directors from among the workers in every company.

With these observations, Sir, I very strongly plead that the two points that I have made should be seriously considered by the hon. Minister, and he will find that the suggestions that I have made are in consonance with the socialistic pattern of society that we have set before ourselves. With these observations, Sir, I support the Bill.

SHRI J. V. K. VALLABHARAO (Andhra): Mr. Deputy Chairman, I am neither a lawyer nor a businessman to go into the technical details of the Bill but as a humble student of economics and as one who is working in the Trade Union movement, I will commend the Bill though it has a good deal of limitations. This Bill does not satisfy the working classes—I must state that categorically first, because, as the hon. Finance Minister stated in his opening speech that this Bill is necessitated only to minimize certain abuses of the existing Company Law, it means that certain other abuses will be retained. We have been told for many years now—and everyone who is sitting on the other side of the House and those who were supposed to be great nationalist leaders at one time know perfectly well—what havoc these managing agencies have done to the economy of our country and how at every stage they were a hurdle to our growing and budding national industries. This hurdle is not removed by this Bill. One hoped that the Bill would have a very vital bearing on the industrial structure of our country and would have, as its object, the elimination of the abuses and the promotion of honest business. Unfortunately, the monopolist stranglehold of the managing agency system is still there. Not only that. Here and there some checks are made, yet a great amount of lacuna is left to circumvent the law. On the question of limitation of dividends and on the question of pooling of surplus funds of the companies, we thought that this would be brought within the purview of the Bill but unfortunately, it has been left out because, as the Minister said, it is not

the intention of the Government to do away with the managing agency system. One is pained to see that in such a voluminous Bill as this, the fundamental is forgotten, viz., the industrialisation of the country and the promotion of honest business.

On the question of the managing agency system, I need not dwell much though that is the only thing that every one of the Members—from this side of the House and even friends on the other side who are interested in the Trade Union Movement or in honest business—want to attack. The industrial set-up of our country has been vitiated by the existence of the managing agency system. The managing agencies have been skimming off huge amounts of profits, engaging in all sorts of inter-locking of funds, boosting one unit in which they are interested as against others and spreading their grip over the companies through various means of buying and selling agencies. There are various other dubious methods that are followed by them and many an honest businessman has run away from doing business. We don't find any irrefutable argument advanced by the hon. Minister or by the protagonist of the managing agency system as to why it is essential to retain it. The hon. Minister was telling the other day that they have not outlived their utility. I would like to know what their contribution was in the past. There was a time when the banking system in our country was not developed. There was a time when capital was shy to come in but today the Government has got various finance corporations and the banking system has developed. Why they should retain this, we don't understand. I don't want to go into details because enough material is given in the voluminous reports that have been prepared by the Company Law Committee of 1950-51 wherein it is given out how huge sums of money are swindled by these managing agencies in the name of their various nefarious businesses. The Bombay Shareholders' Association has also given

irrefutable facts to prove that the managing agencies' contribution so far as finances are concerned, is negligible. I find from the hon. Minister's statement that something like 13 per cent. is the contribution of the managing agencies. Compare this with the capital that is shied away by the managing agents. You know very well that the managing agencies have taken such methods that they have virtually got a grip over some industries and no honest businessman would venture and I know even in some cases the Government is scared away by them and they don't enter in the businesses which are managed by the certain firms. The hon. Mr. Deshmukh, in one of his statements, said that among the managing agents, the names of certain managing agents carry weight and they attract shareholders. I would like to know whether the managerial system of companies also does not attract shareholders. Why should you one fine morning become the protagonist of only the managing agents? Is it not a fact that companies under managerial system also are attracting shareholders? This argument, I think, is one which is not expected of a Government which is supposed to have a socialistic ideal.

SHRI M. C. SHAH: Where was that said?

SHRI J. V. K. VALLABHARAO: Not in this House. I have a gist of that statement.

SHRI M. C. SHAH: Will you give the date?

(Interruptions.)

SHRI J. V. K. VALLABHARAO: Yes, he said that the names of certain companies attract shareholders. On the question of technical know-how, this is also another misnomer. It is stated that the managing agents have the technical know-how. Every company pays for the technical know-how. Technicians are paid in addition to the payments made to these managing agents. On this point also, I don't

[Shri J. V. K. Vallabharao.] think there is any ground for keeping the managing agency system. What qualifications are there? The managing agents can have their nominees on the Board of Directors. How do you prescribe the minimum qualifications? Do you prescribe any minimum amount that the managing agents have to invest in the finances of the company? I ask this because I know that every day we face the situation in our day to day struggle in the Trade Union. The managing agents will be there and they skim off a great percentage of the profit and when we go to the paid up capital, their share is very meagre. But their nominees in the company and the Board of Directors will always be present at the meeting of the Board of Directors in substantial numbers. Unfortunately, poor shareholders cannot get proper representation there. What you have done for that, we would like to know.

SHRI M. C. SHAH: Go through the clauses and you will find what we have done.

SHRI J. V. K. VALLABHARAO: Now I will come to some of the provisions in the Bill. Every one of these provisions, if I may be permitted to say so, can easily be circumvented. Take for instance this provision that you have made about the number of directorships that one can hold. It is notorious how they are able to hold nearly 30 or 40 or even 50 directorships. Of course limiting the number of directorships that one can hold is very good. But it is a sad fact that though you may limit it, you cannot check the man distributing the directorships among his brothers and cousins and so on. If you really want to limit this stranglehold of one house—I do not mean one individual—you have to do something else. Take as an instance Singhanian Brothers. They among them hold not only 107 and if you limit the number to be held by Shri Padampat Singhanian to 20, his son or some other Singhanian will take the rest; another Singhanian who sits at the same table, stays in the same house, will share the rest. Therefore,

in this connection I would like to suggest to the Government the limiting of directorships of the business houses. This should be taken into consideration if you want to remove the hold that these houses have on the economy of the country. It is not enough if you limit the directorship of the individual, for they are working as a corporate body, they are working as a group and they have spread their tentacles all over the country. As such we should seek to limit the directorships of the business houses.

Then there is the provision in the Bill relating to the number of companies that a managing agent can manage. Here also, Sir, I find that they have provided a wonderful clause, for I find that a jute company can have a cement department. A textile concern can now have some different departments. A textile company can have a chemical department and then they all go as one concern. So to avoid this also I would like to suggest that it is not enough if you limit the number of companies. You have to limit the amount of block capital that a managing agency can deal with. This, I think, is highly essential in view of the fact that they can easily circumvent the present provision. Already, I understand certain firms have taken recourse to this device. There is also this danger of one business house spreading its tentacles in different spheres. So I would suggest that the block capital that one managing agency can manage should be limited.

Now, Sir, I come to the question of remuneration. This provision also is very nicely put, that 10 per cent. of the net profits should go as remuneration to the managing agency. And 11 per cent of the net profits the managing directors and the directors and registrars can get.

SHRI M. C. SHAH: It is 11 per cent. overall and not first 10 per cent. and then again 11 per cent.

SHRI J. V. K. VALLABHARAO: I am sorry, it is 11 per cent. overall.

But I would like to invite the attention of the hon. Minister to the wonderful way in which the provision can easily be circumvented, as is shown by the Eastern Economist in its Company Law Number. They ask, "Why don't you take them as your paid staff and make them your paid managerial staff?" They can swindle any amount.

SHRI M. C. SHAH. Then they come under clause 199

SHRI J. V. K. VALLABHARAO: I would like this point to be considered by Government and they should see that more money is not swindled by these men by circumventing the law in this way.

Lastly, Sir, I would like to refer to the question of buying and selling agents. Here I would like to bring the irrefutable evidence and the irrefutable arguments that have been advanced by no less a person than Dr. Lokanathan. I would like to draw the attention of the hon. Minister to that. I know they have gone through it in detail and they have seen this detailed study of how the managing agents by their operations as buying and selling agents and by their engagements in the industrial investments are swindling huge amounts of money. We are, of course, glad that a new provision has been brought in that a managing agency can act as buying and selling agents only outside the country. But even this, I must submit, is unnecessary and they should not be allowed to do even that. I say so because when they are the buying agents, who will vouch for the fair price of the commodity? Who will vouch for it that the managing agents who are sellers here and buyers at the other end will not swindle the shareholders? Therefore I would submit that on no account should they be the buying or the selling agents. The Income-Tax Investigation Commission—I am referring to the report of 1949—has given many details regarding the dubious ways followed by the managing agents to avoid income-tax. A chain of buying and selling agents has been started, they say, at differ-

ent places and at every stage commissions are deducted and the profits are shown in such a wonderful way that they avoid having to pay income-tax and thus swindle the public coffers. I am not bringing in arguments from my Party's point of view or anything of that sort. I am pointing out facts from your own reports and your own statements and from the various books that you have placed at our disposal. So I would submit that there is no case whatsoever for you to permit the managing agents to operate as buying or selling agents anywhere, even outside India. I would like to bring to your notice how the MacLeods have swindled money in the notorious Walker affair, how they swindled lakhs of rupees of the shareholders' money.

I do not want to go into other details, but I would like to remind the hon. Minister that no one would like these concerns swindle away the profits of the public. So there is no proper case made out for allowing them to be buying or selling agents, even outside India.

Lastly, Sir, I come to the question of bonus. This, Sir, is really a big fraud on the workers. Huge amounts are taken away from the profits and kept as reserves. Then one fine morning they come as bonus shares. Let me give the instance of a small mill at Chittivalsa, which has a thousand looms and a share capital of Rs. 26 lakhs, but the reserve amounted to as much as Rs. 2 crores.

One fine morning I found the reserves becoming bonus shares for the shareholders and the workers were shown a 'loss' balance sheet. They were told that they would not get anything as everything had gone to the shareholders. To the public, a dividend of 4 per cent was shown and the Government was not given any income-tax. The question that I would like to put straight to the Government is this: What is the decision on taxing bonus shares? I am not satisfied with my friend's demand that we too should get some share in

[Shri J. V. K. Vallabharao.] managing the industry, that there should be one director from the workers on the Board of Directors. I am not satisfied with it. I want 50 per cent. of the bonus shares to be made available to the workers. After all, they have contributed as much, if not more, as the managing agents who sit in lounges. We know—and everyone on the other side also knows pretty well—what the Burra Sahebs have done towards development of our industry. With the socialistic pattern as your ideal, you come and tell us that bonus shares are being permitted and that the quantum of the workers' shares is still being finalised. This quantum can easily be decided; it should be 50 per cent. This is a demand which you cannot very easily refuse. You can only say that this is a just demand. I demand that this system of having bonus shares should be dispensed with; in the alternative, if you want to be so generous to them, then be generous also to the workers and let 50 per cent. of the amount distributed as bonus shares be distributed to the workers as bonus.

With these words, in spite of so many lacunae, I support the Bill.

KAZI KARIMUDDIN: Mr. Deputy Chairman, there is no doubt that this is one of the most important Bills that have come before the House and is of great magnitude and size. However, according to me, no drastic changes have been introduced to suit the socialist pattern of society that is being aimed at. I may say in the very beginning that this is a great triumph for the capitalist system and the jubilation of the three Members sitting on one bench and their demonstration from time to time will support my view that this is a great triumph for the capitalist system. (*Interruption.*) Now, Sir, the hand that finished the zamindari system and the Princes should not hesitate to finish the capitalist system. What has been stated is this: The Managing agency system is bad but it has to be controlled. Why should it be controlled?

It is because, it has, according to them, served a useful purpose. The stand of the Congress is very clear. It is that the managing agency system must go. This institution is bad. It is said that the institution is bad but it can be corrected as per the provisions of this Bill. I am one of those who is opposed to this institution itself. The answer is like this: When a woman gave birth to an illegitimate child, she was asked as to how this happened. She said, "You need not worry. The baby is very small". This exactly corresponds with the reply that is sought to be given in this particular case. Several instances were given to show as to how this system has worked to the detriment of the national interest and to the detriment of the workers. It has, in some cases, worked to the detriment of the industries of a nation-building character as well. This institution was started mainly by the Britishers. The directors were living in England and, to suit their convenience, they wanted to have this system of managing agents in India. The managing agents were looting the concerns but the directors did not worry because they were getting huge profits because of the preferential tariffs given to them. There is not the least doubt—and I do not think anybody is going to challenge my proposition—that the managing agency system develops into political and economic exploitation, creates inequality and has only the profit motive as the sole guide in the economic activity. It also introduces an anti-social element by way of concentration of wealth. This system works to the detriment of the shareholders also. In the past earnings due to this system had gone even to the extent of 70 per cent. in some industries. It is true that the present Bill restricts earnings by this system to 11 per cent. In several companies, false balance sheets are shown and corruption and nepotism are rampant. They also make false purchase and sale deals and employ their own relations in important posts. These are some of the instances which have been brought out in the Report read out by Mr. Dhage. Even purchase and sale deals

are done by relations. If a deal was a profitable one, it goes in their names but, if it is a loss, then it goes in the name of the company.

Previously, these managing agents were taking part in twenty companies even but now it has been restricted to ten. How does it matter? If the system was bad and if it was to the detriment of the people and the nation building programme, it should be done away with. If an industry, considered important from the national point of view, does not give profit, they would divert all their energies to other industries which would give them profits. That way, even ten will be a great number. They should not be allowed to manage ten companies.

It is admitted that the underlying object of this Bill is the elimination of this system in regard to some companies which would be notified in 1960. The Minister in charge of this Bill accepts the principle that there will be no managing agency system in future in regard to companies which do not have such a system now and also in regard to some which will be notified in 1960 but there are some exceptions. These exceptions will provide an opportunity under some garb or the other to continue this system. The patent argument that is advanced is, "Supposing this system were taken away. What would happen? There would be a vacuum." This was the patent argument of the Britishers when we wanted them to withdraw. They said that there will be a vacuum in this country. We have found that, after 1947, our Government has functioned very efficiently even though the Britishers left this country.

What about those companies in which there is no managing agency system and which will not be allowed to have this system after the passing of this Bill? In the case of some, you will notify in 1960 that they too should not have this. What is to happen to such companies? In one breath you admit that this institution is bad and, at the same time, say that

you want to continue it under some garb or the other. It may be said that financing is done very efficiently by these agencies. We are introducing literacy in the country and people are alive to the aspirations of the Nation. Whenever any loan is floated by the Governments, we find that it is all subscribed in a few minutes. If there are any nation-building industries, I am sure that the capital will not be shy of coming forward in this country.

3 P.M.

Now, Sir, our ideas are very much influenced by ideas of the capitalists in England and America, and those of us who are educated on those lines of England and America think that the managing agency system is the only system that does good to the industry. I think we will have to revise those ideas.

SHRI H. C. DASAPPA: There is no managing agency system there in the U.S.A., generally speaking.

KAZI KARIMUDDIN: In England there is.

SHRI H. C. DASAPPA: Hardly any.

KAZI KARIMUDDIN: There is, you will find.

Our Constitution has already laid down in the Directive Principles of State Policy that "The State shall, in particular, direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment." Now if it is an accepted fact that this system creates concentration of wealth, it must be abolished.

Then, Sir, in this law also under clause 333 there is a charge on assets, I mean, managing agency dues is a charge on the assets of the company when the company goes into liquidation. Now there is no mention that the arrears of the labour also will be a charge on the assets of the company.

SHRI R. G. AGARWALA: They are always there.

KAZI KARIMUDDIN: It must be a first charge.

SHRI R. G. AGARWALA: Yes, first charge.

KAZI KARIMUDDIN: Then, Sir, it will be seen that if a company is dissolved and liquidated, the managing agency, I have said, has a charge on the assets and the bonus reserves. Now in regard to bonus reserves it has been stated by a friend on the other side that shares should be issued to the labour out of that reserve, and if shares are issued, they can elect the directors on the Board, or the Government can reserve the right of nominating one or two directors on the Board on behalf of the labour.

Now, Sir, it has been said that this law is to the betterment of the shareholders. Shareholders have suffered very much and now under sections 397 to 399 there is provision against oppressive mismanagement, but if these provisions are studied, it will be seen that it would be impossible for shareholders to go and complain and get redress because clause 399 reads as follows regarding "Right to apply under sections 397 and 398": "The following members of a company shall have the right to apply under section 397 or 398(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, provided that the applicant or applicants have paid all calls and other sums due on their shares." The two conditions which are laid down are so prohibitive that it would be impossible for shareholders unless they bring that much strength. If, suppose, ten rupees are due and he has not paid, then he is gone. If, suppose, there is oppression on the shareholders and if there is mismanagement, why cannot one shareholder bring it to the notice of the Central Government? The Central Government can examine the problem and say that it is not so.

SHRI M. C. SHAH: That means thousands and thousands of applications from the shareholders if each shareholder is to do it.

KAZI KARIMUDDIN: It will be very difficult for a shareholder.....

SHRI H. C. DASAPPA: Please see sub-clause (4) of clause 399.

KAZI KARIMUDDIN: Yes, it says:

"The Central Government may....."

that is an exception—

".....if in its opinion circumstances exist which make it just and equitable so to do, authorise any member or members of the company to apply to the Court under section 397 or 398, notwithstanding that the requirements of clause (a) or clause (b), as the case may be, of subsection (1) are not fulfilled."

SHRI H. C. DASAPPA: The word "notwithstanding" is there.

KAZI KARIMUDDIN: This is a provision which will be made use of in exceptional cases. The Central Government may do it; may not do it.

Then I come to clause 545 "Prosecution of delinquent officers and members of company" and it is said: "If it appears to the Court in the course of a winding up by, or subject to the supervision of, the Court, that any past or present officer, or any member, of the company has been guilty of any offence in relation to the company, the Court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator either himself to prosecute the offender or to refer the matter to the Registrar." Why refer the matter to the Registrar? The court itself can lodge the complaint if the Court of its own motion is satisfied with the grounds for prosecution. Why should it then be referred to the Registrar? The Registrar will refer it to the Central Government and in the circum-

cution of office the papers will be kept pending for years and then it will be said that it is not in the public interest to prosecute. This dilatory method of prosecution as mentioned in clause 545 should be corrected.

Then, Sir, I take up clause 539; it refers to "falsification of books" and it reads:

"If with intent to defraud or deceive any person, any officer or contributory of a company which is being wound up—

(a) destroys, mutilates, alters, falsifies or secretes, or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities, or

(b) makes, or is privy to the making of, any false or fraudulent entry in any register, book of account or document belonging to the company,

he shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine."

The words "any person" have to be deleted because in the section of the Indian Penal Code which is 477 there is an Explanation which reads:

"It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed"

and it is said in the end under the heading "Comment":

"This section refers to acts relating to book-keeping or written accounts. It makes the falsification of books and accounts punishable even though there is no evidence to prove misappropriation of any specific sum on any particular occasion."

Now, the making of false entries in a book or register by any person in

order to conceal the facts comes within the purview of this section 477A. Now, looking to the general law regarding falsification of accounts, if you put "any person" to be defrauded, then 90 per cent. of the cases will be let off in a court of law. Therefore language of section 477A should have been adopted and I really.....

SHRI M. C. SHAH: It is not the opinion of the Law Ministry.

KAZI KARIMUDDIN: I really fail to understand why this language has not been accepted.

Further, Sir, it has been said that all that is necessary to bring a person within the purview of this section, 477A, is that he should have altered, mutilated or falsified any book, paper, etc. wilfully and with intent to defraud, and it is not necessary whom he is defrauding. I do not know how the Ministry for Legal Affairs has gone against the provision of section 477A.

SHRI H. C. DASAPPA: There is no difference.

KAZI KARIMUDDIN: There is very great difference.

SHRI H. C. DASAPPA: Wilfully or if there is *mens rea*; it means that.

KAZI KARIMUDDIN: It is not necessary to put in in the charge that a particular person has been defrauded. In the present section, I mean clause 539, it is necessary to say that a person has been defrauded. Therefore I draw the attention of the Minister-in-charge that this should have been avoided.

Again, Sir, the word 'abetment' is not mentioned.

SHRI R. C. GUPTA (Uttar Pradesh): A person guilty of that may also be proceeded against under section 477A.

KAZI KARIMUDDIN: But why should we mince matters? Sir, in clause 539 there is no mention about abetment by acts of omission or commission. That has been avoided.

[Kazi Karimuddin.]

It is said there, "makes, or is privy to the making of any false or fraudulent entry.....". 'Privy' means being party to the falsification of accounts but if a man commits an offence of abetment by acts of omission or commission, he cannot be prosecuted under clause 539. Therefore, Sir, I oppose the provisions regarding the managing agency system and I submit that the penal provisions in this Bill are very very defective. I have pointed out some of them but there are many and they should also be corrected at the clause by clause consideration stage.

SHRI AKHTAR HUSAIN (Uttar Pradesh): Mr. Deputy Chairman, I rise to support this Bill but I wish to make it clear to my hon. colleagues that I have no intimate knowledge of company management and I have not in any way been associated with companies except as an official liquidator to wind up a company. Now, with the study that I made in that connection—that was about 20 years ago—I have, since those days been feeling that the Company law as it then stood was wholly inadequate to protect the interests of the shareholders. Looking at the Companies Bill from the point of view of the shareholders it is obvious that the poor shareholder, the poor middle class person who makes an investment of his savings in a company does so with the idea that when he is unable to earn his living or to work for his living, when he is incapacitated by old age, whatever he saves while he works will be available to him in the shape of dividends and profits on the shares that he purchases in the companies. It is with this or similar objects that the average middle class person makes investments in shares. If the companies fail and the shares yield no profits, the unfortunate person who had not spent that money on himself but had reserved it for the purpose of being utilised in his old age finds to his great disappointment that all his savings are gone. He does not get any return for what he had invested.

Now, we know that as many as 700 companies failed or were struck off or were dissolved or liquidated during the years 1952, 1953, 1954 and 1955. Now, for a country like ours the failure of 700 companies in four years is a very large number. Indeed, what must be the feelings of those unfortunate people who had invested all their savings in such companies?

SHRI H. C. DASAPPA: They were mostly war babies.

SHRI AKHTAR HUSAIN: I am grateful to my learned friend for having pointed that out. Whether they were war babies or not their failure deprived many shareholders of their savings which would normally have been a source of subsistence to the shareholders or their heirs. Whether they are war babies or born during normal times is a matter of little consequence. The fact that the poor middle class investor loses his money is the hard fact. Now, in order to put a stop to that kind of thing and in order to prevent the failure of such a large number of companies in future, if any provisions are enacted, can it be said that all such provisions are calculated to put a stop to private enterprise, or to kill private enterprise or to destroy the incentive for private investment? I would beg of the House to consider the provisions contained in Chapters VI and VII in the light of the submission that I have just now made that 700 companies failed during those four years.

Now, most of the provisions contained in Chapter VI are provisions which existed in the previous Act also. The new ones are contained in clause 408. This is a very salutary clause. It confers on the Central Government the right to insist that two of their nominees would be appointed as directors in any company at any time in appropriate cases. The appointment of such persons— independent persons—selected by the Central Government to act as directors would be extremely helpful in preventing the management from being carried on in the interests of

either a majority or of some people who get the upper hand and run the company in their own interests and not in the interests of the shareholders. These two nominees of the Government would be effectively able to put a stop to mismanagement of the affairs of the company. Such provisions, as I said, are beneficial inasmuch as they confer a right on the Central Government to prevent mismanagement. It is a well recognised principle—at least it has been recognised all these years—that a person should not manage his property or use the powers of management to the detriment of others affected. In my own State of Uttar Pradesh we had a Court of Wards Act and the Court of Wards could assume superintendence of any estate if the management was carried on by the proprietor for the harassment of or to the detriment of the tenantry. If the management led to discontent in the tenantry or if harassment was caused to them, then the Government had the authority to bring the estate under the superintendence of the Court of Wards. If for the protection of the tenants the proprietor of a zamindari estate could be deprived of the right to carry on the management, this is a very small power that is being conferred on the Central Government by this Bill to have two directors nominated by the Government or approved by the Government on the Board of the company who would be able to put a stop to the harassment of the other shareholders or who would prevent the interests of the minority from being in any way jeopardised by any section in the directorate or in the management by persons who happen to be in control or power. It would not be right if the law fails to regulate exercise of power and prevent recourse to means which may not be considered to be fair and proper by any appreciable body of shareholders.

Then there are the provisions contained in Chapter VII relating to the constitution and powers of the advisory commission. These are new pro-

visions and I welcome them for this reason that it is very much better to enquire into the affairs of a company and stop mismanagement and prevent it by nipping the evil in the bud before it assumes tremendous proportions. It is no use allowing things to drift, allowing mismanagement to be carried on, allowing shareholders' money to be frittered away and later on when the company goes into liquidation, to haul up the directors, have a public examination and then bring to book those who are responsible. That would not enable the shareholders to regain what they have lost. A timely advice may prevent future losses of considerable magnitude. So, whenever it is brought to the notice of the appropriate authorities that evil practices are practised in any particular company, and Government is satisfied that the complaints are true that actually malpractices are being carried on, it becomes incumbent on the Government to put a stop to that and the experts who are in the Advisory Commission would use their expert knowledge for purposes of giving the appropriate advice. Therefore, there should not be any serious objection to this new provision that is contained in the Bill. There is no reason why our capitalists should apprehend that the authority that has been vested in this Advisory Commission would be used in such a manner as to obstruct or hinder their lawful activities.

Then, Sir, there is the question of ceiling on the remuneration and payments to the managing agents or directors. I do not know if my views would be acceptable either to the capitalists or the leader of the Communist Party on the side opposite. I am one of those who believe that unless there is proper incentive and unless management is paid well—so much so that they cannot earn the same amount elsewhere—the best men would not be drawn to serve companies. If such a low limit is fixed as to dissuade people of intellect, people of enterprise, people of brains from coming to give of their best to

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the management and the establishment of our companies to carry on industries and work our factories, then the best people would not come. Therefore, in order to attract the best talent in the country—and I need hardly point out that at this stage of our nation's development it is essential that for purposes of improving the standard of living of our people the very best men should be attracted to our industry—the amount of remuneration that is fixed should not be disproportionate to the return that the particular individual may be able to get for his intellect in other walks of life. Sometimes the establishment of a company necessitates the investment of large sums of money and a very big risk is taken that if the enterprise fails the entire investment will be lost and will be wasted. Therefore, in order to persuade the capitalist and the enterprising businessman to invest his money in industries and in business and in the flotation of companies, there should not be any undue restriction on the amount that is to be paid to him as remuneration, because we all know that in the first few years the income from companies would be very small indeed. And to fix any percentage during the formative period or during the earlier stages of the existence of a company would not be very attractive for prospective businessmen. Sir, we can point out to our own countrymen the advantages of plain living and high thinking and being content with very small remuneration. But what about businessmen from other countries? If we are going to place the same restrictions on businessmen from foreign countries or industrialists from foreign countries, is it likely that foreign talent or capital would be attracted to our country when they know that they can earn very much more, in some other country of the world where such restrictions are not in force? If they can earn a larger dividend or a larger return or a larger remuneration for their own particular services elsewhere, why should they come to our country? Therefore, I believe

that the placing of these restrictions on the remuneration that has to be paid to businessmen for the management of companies is not likely to attract the very best men either in our own country or from other countries abroad. If Company law has been developed in other countries to such an extent that experts in management in those countries who have vast experience if invited to our country would be helpful in promoting companies here or in carrying on the affairs of our companies, there is absolutely no reason why we should place such restrictions as would discourage them from coming to give of their best to our own country. Of course, as I said before, I have no personal experience of these matters, nor any intimate knowledge. But to me it appears that if these restrictions are not enforced in other countries against their own citizens, there is absolutely no reason why we should press hard for restricting the remuneration to be paid to experts for management. And I think it is a salutary provision to leave that to the discretion of the Central Government, to fix the amount as it may deem expedient in particular cases.

Then, Sir, the next point on which I would beg to address the House is the theory of my Communist friends that labour should be associated with the management of companies. Now, I do not wish to be.....

SHRI BHUPESH GUPTA (West Bengal): Now, I wish to make one point clear. It is not our standpoint that labour should be taken on the Board of Directors of private companies. Some misgiving has arisen from a speech in the other House. So, I make it very clear for my party.

SHRI AKHTAR HUSAIN: Then, I am very glad to get this assurance from the leader of the Communist Party.....

SHRI BHUPESH GUPTA: It is not an assurance; it is a statement of our position.

SHRI AKHTAR HUSAIN: Then he should not press that representatives of employees and labour should be brought on the directorate. Is that clear? I hope I have understood him correctly.

SHRI BHUPESH GUPTA: We do not demand that labour should be represented on the Board of Directors in the joint stock private companies, because we think this is one of the ways of corrupting labour and it serves no useful purpose.

SHRI AKHTAR HUSAIN: Very well. The conclusion which both myself and the hon. leader of the Communist Party have arrived at is the same, although our reasoning is different. My reasoning is that if labour is associated with the management, then they would cease to work even as hard as they are working now, because there is a general complaint that our labour is not giving of its best towards the industrial development of our country. If they had only worked harder, if they had been more interested in developing our country than in getting wages, then probably the amount of work that we have done during these seven years of independence would have been about twice as much, if labour had played its part well. However, I am greatly assured by the view expressed by the Leader of the Communist Party.

SHRI BHUPESH GUPTA: I assure you that we will not allow you to corrupt workers.

SHRI AKHTAR HUSAIN: We did not ask for labour to be associated with the management. It was only the followers of the Communist creed who put forward that point of view and I am very glad to get this assurance from the Leader of the Communist Party here.

SHRI KISHEN CHAND (Hyderabad): Why did you make a demand that labour should be associated with the management?

SHRI AKHTAR HUSAIN: I have not been able to follow exactly the

point that has been put forward by my hon. friend. But is it necessary for me and him to bandy words on this matter when the Leader of the Communist Party has repudiated that suggestion. That should be the end of the matter. We should stop at that.

I was just reminded of the claim of the I.N.T.U.C. I am told that they have also made a demand that Labour should be associated with the management. I wonder whether my friend was there when Mr. Malviya was speaking, when the demand was put forward and I mean.....

(Interruption.)

I have met their argument. I am sorry I should have yielded as the hon. Leader of the Communist Party wanted to.....

SHRI BHUPESH GUPTA: I understand reference is being made to a certain demand that was put across in the other House that representatives of Labour should be there on the Board of Directors. Our point of view is, as far as the Joint Stock Companies, the capitalists, are concerned, we do not stand for Labour being sent there on the Board of Directors because we think it is absolutely useless. It is a device for corrupting labour, as is done in some countries.

SHRI AKHTAR HUSAIN: I am only making general remarks from the point of view of the average citizen who looks at these matters in the interests of the company and not as a partisan either of labour or of capital. I am only putting forward the point of view of the average citizen who wants the industrial development of the country to be carried on as expeditiously as possible and to the best advantage of the country. I do not wish to say anything that would enable any of my friends on the opposite side to suggest that I am acting as either the partisan of labour or of capital. I just want this matter to be considered very calmly and coolly purely in the inte-

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rests of the country, because after the abolition of the Zamindari and restrictions on other forms of property and the difficulties in finding suitable investments purchase of shares is the only form that exists and it would be in the interests of the country that there should not be any lacuna in this Act or in any provision of this Bill, which would in any way discourage formation of companies or retard the progress of our industrial development or prevent the financial progress of our country.

Then the other point on which I beg to address a few words is the restriction on the powers of the Directors. So far, it has been the practice that in the name of charities, some companies have been spending large sums of money on objects not strictly charitable. One does not know what kinds of expenses are covered by charity. Shrewd businessmen have enlarged the scope of charities to benefit their relations or friends. Some company funds, it is well known, were utilised for the purpose of carrying on propaganda against the Government of the day which had incurred their displeasure and the management or directors opened the strings not of their own personal purses, but of the purses which contained shareholders' money and utilised those funds for the purpose of financing political parties in the name of charities. It was not a right thing or not at all proper for the funds of the company to be misused or the shareholders' money being misused for propaganda against the Government of the day in the name of charity. We could not put a stop to it completely, but restrictions have been placed on the powers of Directors. And I think that the limit which has been placed is a very salutary limit and this power should not be misinterpreted by the members of the Opposition. I believe that the framers of the Bill have introduced this provision as a result of the experience gained seeing how certain directors have been making free use

of the shareholders' money for carrying on propaganda and publicity against the Government and helping people who were, by their policies, acting in a manner against the national interests and who prevented the orderly progress being made by the Government in industrial undertakings. Therefore, I am one of those who believe that the restriction that has been placed is a very salutary restriction and should be approved by the House.

Then, another point which deserves the consideration of the House is to what extent the general framework of this Bill would be a deterrent to private enterprise. I believe that we have done nothing to justify the criticism by the capitalists that this would kill private enterprise and would prevent our industrial development being carried on in a manner which would be most beneficial to our country. I believe that the inherent powers and the discretionary powers of the Government would in all cases be exercised for the better management of companies. There should be no occasion for complaint that the new powers conferred on the Government would in any case be misused or misapplied. At least we are confident that during the time our present Finance Minister continues to be responsible for our financial affairs, there would not be any occasion for complaint against the misuse of those powers. We all know that the manner of approach of the Finance Minister to all national problems is such that he would look at all these matters purely from the point of view of the interests of this country, the interests of promoting the industrial development, in advancing the financial interests of our country and in placing our finances on a sound basis. This is the only criterion on which these powers will be exercised and for the other side to express apprehension that they would be misused is wholly unwarranted. I submit, Sir, that in other spheres of life, there are other powers which have

been conferred, on Government about which there has been a hue and cry from the opposite side that they would interfere with their legitimate rights. But there has not been any case in which there has been any flagrant or even obvious misuse of those powers. If in any particular case the powers are misused by officials there is the Central Government to set that right. There is our Parliament that can bring such abuses to the notice of the government; we can raise our voice against misuse of powers in so many ways. Therefore, for the other side to express idle apprehensions that these powers will be misused is wholly unwarranted. Simply because there is apprehension that such powers may at some remote time be misused, there is no justification for not investing our government with those powers. These powers are essential for the orderly progress of our industrial development. With these words, I commend this Bill to the House.

SHRI SHRIYANS PRASAD JAIN: Mr. Deputy Chairman, this long and comprehensive Bill is the result of nine years' labour. It has undergone very thorough and critical revision at the hands of the Joint Select Committee. The Committee not only considered every part of the voluminous Bill but also had a thorough examination of the basic principles underlying the Companies Law.

The Joint Select Committee took evidence from institutions, associations and bodies representing the shareholder, the labour, the business community. Chartered Accountants and Law Society also tendered their evidence. Written memoranda were also received. The association representing the business community emphasised the restrictive character of the provisions of the Bill and the difficulties which the companies will be faced with in their day-to-day administration.

Sir, we are at the end of the First Five Year Plan and the country is pulsating with new life and a new

urge to secure better and better progress in moral and material life of the people. In the plans and proposals for the programme of economic development, an important role has naturally been assigned to the private sector. The private sector fundamentally functions through the joint stock companies; for it is only through the structure of the joint ownership that the necessary organisational set-up and the financial resources for the purpose of undertaking obligations involving sizeable developmental activities can be marshalled. It is, therefore, necessary to prominently bear in mind that the joint stock enterprise has an important and vital role to play in the realisation of the plans and proposals for economic and connected development. It is from this perspective that I am endeavouring to examine the implications and consequences of the proposals now under discussion.

Sir, the managing agency system has been a target of attack. The feeling of antagonism to the system in certain sections is either political or to a certain extent, due to the ignorance of the part it has played in the past and its potentialities for future development. There has been ample testimony paid to the influence of the managing agency system on the structure of industrial organisation and joint stock enterprise in the country. On occasions it has become necessary to stress even the obvious. As far back in 1927, the Indian Industrial Commission acknowledged that the system had a far greater success to its credit than could be shown by an ordinary company managed under individual managing directors.

Similarly, referring to the pioneering functions of managing agents, the Indian Tariff Board in its Report on the Cotton Textile Industry in 1937 acknowledged that:

"Nearly every important Indian industry had been brought into existence by the enterprise of the managing agents. The leading managing agency houses in India,

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through their efforts have brought about the development of these industries, and on the whole still maintain a tradition of healthy and cautious development of industries, which is one of the most important influences favouring the continuance of the managing agency system in India."

Sir, not only the Indian Tariff Board but the Banking Enquiry Committee has recognised in unmistakable terms the role played by the managing agents in providing either directly or indirectly industrial finance to a substantial extent.

Similarly, the Fiscal Commission, the report of which was published after the War in 1950, after making a brief reference to the malpractices which have crept into the system during the war period and indicating the need for introducing improvements, have acknowledged the part played by the managing agency system. The Commission has observed:

"The managing agency system came into being for historical reasons which are well-known and has rendered signal service to the Indian industries during the last 75 years. In the early days of industrialisation, when neither enterprise nor capital was plentiful, the managing agents provided both, and India's well-established industries like cotton, jute, steel, etc., owe their present position to the pioneering and fostering care of several well-known managing agency Houses."

Even now, Sir, a dispassionate survey of the results achieved so far leads to the conclusion that the managing agency system was the spearhead of industrial development in the country. It has been propagated that whatever be the past record of the system and its merits, it has outlived its use in the existing stage of development. No attempt, however, has been made to justify the soundness of this contention.

It is an irony of public life that even the most reasonable suggestions, if advanced by the interests concerned with the issue, tend to be lightly dispensed with as promptings of self interest, while the most radical and unreasonable claims, when they emanate from the vocal sections of the community, receive a semblance of reasonableness and justice. When I take up the cause of the managing agency system, I should not be misunderstood as advocating that we should be blind to malpractices and abuses. I am as earnest as anybody else to see that no scope or room is left for the continuance of questionable activities. But I am, at the same time, only anxious that the boundless benefits that the managing agency system is capable of conferring should not be done away with to the detriment of the industrial growth of the country. If some pages of the history of the growth and development of the managing agency system have been marred by the black deeds of some of the opportunists, there are many which glitter with the solid achievements of a good number of managing agency units, who by their pioneering zeal, organising ability, business acumen, managerial skill and their resources and enterprise have contributed immeasurably to the industrial growth of our country. The point, however, is that the malpractices and abuses have been going on out of proportion, and there is no appreciation of the role which the managing agency system has played in the country. It is this system which has placed India on the industrial map of the country. It is because of this system that India enjoys today the foremost industrial position in the East, except Japan. We have made all-round progress, and the production in our various important industries has increased considerably and in some industries the production has exceeded the target very much earlier than the period fixed by the Planning Commission. If one has to take stock of the achievements of the system on the one hand and the malpractices and abuses on

the other hand, I am sure it will be quite obvious that the system has done great service to the country.

In this connection, Sir, I would like to draw the attention of the House to the fact that whatever abuses and malpractices have come to our notice, it is not because of the system, but because of the individual. These abuses were noticed particularly during and after the second World War, and they were the result of the laxity during the War years which pervaded all walks of life. It was not as if the lapses were peculiar to the managing agency system alone. If one examines the position carefully, he will find that—whether it be in trade and commerce or in any other profession, maybe, medicine or law, or even in the Government services—some kind of looseness was creeping into the public morale. The I.C.S. people are considered as men of great integrity and intelligence, and they are considered to be the best brains in the country. It has been found that during the War they were also the victims of temptations.

In view of all that I have said, may I ask whether it will be justified to condemn the Government machinery as a whole? Speaking for myself, I would say that these people are doing much more good to the country than what others do.

Sir, there was a divergent opinion about the continuance or the total abolition of the managing agency system in the Joint Select Committee. Much has been said about the virtues and abuses of the managing agency system. Taking all the factors into consideration, and the huge industrial expansion programme, particularly in the private sector, which is going to take place in the Second Five Year Plan period, the Committee has come to the conclusion against the abolition of the managing agency system, and has adopted a *via media* by giving power to the Government to notify certain industries in which the managing agency is no more needed. At this stage, Sir, I

would congratulate the Finance Minister for giving guidance to the Committee in the right direction. The critics of the system did not suggest a really workable alternative system. The result has been that of chaos and vacuum would be created in the company's management. The whole issue was discussed in an atmosphere of suspicion and prejudice. I would suggest for the consideration of my friends that they should not destroy the very system which is giving good dividends in our expanding activities.

My only submission is that when the system has been allowed to continue in a restricted form with all the tightness which has been proposed in the various provisions of this Bill, we should not discourage the people who have been conducting the affairs of the companies and we should not condemn them day in and day out and thus mar their enthusiasm to industrialise the country more and more.

Sir, I have no quarrel with the powers that have been taken over by the Government. Though according to me no useful purpose has been served, it might create some bad effect in the minds of some people. If the Government wanted to abolish the managing agency system in any particular industry, they could have done that by bringing in some legislation at that time. And it could have been passed without any delay. We have changed our Constitution four times during the last four years, and I do not see the slightest difficulty in the Government bringing forward a simple amending Bill. However, now when these powers are taken over, I would at least ask for an assurance from the hon. Finance Minister to the effect that before any such notification in the case of any industry is issued, a comprehensive enquiry would be made into this question, and only on the recommendation of some expert committee, some decision would be taken. Sir, opportunity should also be given to the industry to state its case, and it will certainly be helpful in coming to a correct con-

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clusion. In the absence of this procedure, a situation may be created which may have an adverse effect on the economy of our country, and the experiment may be a bit costlier and too difficult to be remedied later on. I hope this is not the intention of the Government and they will bear in mind the point while framing the rules in this connection.

After all, what is our objective? We are thinking in terms of increasing our national income by 25 per cent. We are thinking of creating ten to twelve million new jobs in the next five years. We are thinking in terms of decentralised economy. We are also thinking in terms of the growth and development of small-scale industries throughout the length and breadth of the country. May I ask respectfully whether these objectives are going to be achieved by the Bill that is before us, or whether this Bill is going to come in the way of the fulfilment of those objectives? It is from that point of view that I would appeal to the hon. Members to seriously and dispassionately consider the implications of this Bill taking into consideration the various objectives that we have set before ourselves.

So far as the big companies are concerned, I know that they will be able to function all right, because most of them are located in important centres like Calcutta and Bombay, where expert legal opinion is available. But I feel that if the managing agents are at all to function properly, nothing should be done to interfere with their day-to-day administration and thus involve them in committing any breaches of the law, and incurring penalties. There are as many as 139 clauses which have prescribed one sort of penalty or the other. It is more or less a miniature Criminal Law in addition to the Companies Bill. I would, therefore, even at this late stage, request my friends to apply their mind

to the question as to how far this legislation will enable the fulfilment of the decentralised economy and the formation and smooth running of the industries, particularly the small-scale industries in the country.

The policy of the Government is that equal opportunity should be given to all the citizens of this country and the concentration of the economic power should not be in the hands of a few. This is a very laudable object, and I fully endorse the same. The various utterances which have been made in and outside Parliament confuse the issue. I would request the Finance Minister to clarify the objectives and let us know what he expects from the existing managing agency houses in order that they should be able to develop and expand their activities.

4 P.M. I quite understand that if a newcomer comes to any industry, every guidance and assistance should be given to him in preference to existing ones but when a new-comer comes in and the present managing office approach the Government to expand their activities in the lines in which those companies are not engaged, they should be allowed to function. A clear and categorical statement of the policy of the Government should be made so that these people should know where they stand and whether they could devote their money and energies for the expansion in those lines in which they are so far not directly engaged.

PROF. G. RANGA (Andhra): Would you kindly explain it a little more?

SHRI SHRIYANS PRASAD JAIN: A friend of mine on the other side said that a company engaged in a particular industry has started another industry. This was his objection. He says that if there is a company which is engaged in textile mills, they should not engage themselves in, say, a cement factory or a chemical factory. I would like to know what is the policy of the Government in

this regard. Do they or do they not want to allow companies in a particular industry to expand their activities in lines in which they are not engaged?

PROF. G. RANGA: You mean, a particular managing agent?

SHRI SHRIYANS PRASAD JAIN: A particular company.

MR. DEPUTY CHAIRMAN: A textile mill should be allowed to start a chemical unit or whether a chemical unit should be allowed to start an engineering unit—that is what he is asking.

PROF. G. RANGA: What is the policy of the Government?

SHRI C. D. DESHMUKH: That is given in my speech. I said that I don't see any reason why a body of shareholders getting together and wanting to use their money, should not be allowed to decide to use it in four or five different kinds of units. I think it would be wise because it would be spreading the risks instead of putting it all in one basket.

SHRI SHRIYANS PRASAD JAIN: My only submission is that if new-comers come in that industry, then preference should be given to them; but in case they do not come in, industrial activity should not be, for ideological reasons, stopped. If the existing agency houses want to expand their activities, they should be allowed, but in case new-comers come in and want to expand, they should be given preference in that. I think the intention of the Government should be made clear. They want to expand the industrial activities and they should so formulate their policy that they enable everyone to know the Government's policy and.....

SHRI C. D. DESHMUKH: That will be clear by the operation of the Capital Issue

SHRI SHRIYANS PRASAD JAIN: I would now deal with some of the points advocated by some hon. Members. Shri Malviya suggested that there are some loopholes in the Bill and an attempt would be made by the industrialist to see how it can be circumvented. I am sorry to say that in spite of my asking what are the loopholes in the Bill, he has not mentioned any of them. He just said that some of the industrialists have appointed cooks as Directors and they will be avoiding the definition of 'associates'. I don't think that he is correct in that matter. When a cook is appointed as a Director in a company, he will be an associate of the managing agent. I don't think that by appointing a cook as a director it can be avoided that he may not be an associate. When he becomes an associate of the agent, he gets all the disabilities of the associate and there should be no fear about that.

SHRI V. K. DHAGE: He will cook better.

SHRI SHRIYANS PRASAD JAIN: I think it is better. We should not object to a cook being appointed on the Board of Directors.

SHRI C. D. DESHMUKH: Is that for catering?

(Interruptions.)

SHRI SHRIYANS PRASAD JAIN: As regards the participation of workers in the Board of Directors, I have my own reasons for that though my friend Shri Bhupesh Gupta has said that he does not want the participation of the workers on the Board of Directors but my reason is different.

PROF. G. RANGA: You agree with him?

SHRI SHRIYANS PRASAD JAIN: Yes, but on some other ground.

SHRI AKBAR ALI KHAN: That is a

SHRI SHRIYANS PRASAD JAIN:

My submission is, after all we want a homogeneous Board—not in the sense that there should not be some other opinion in that Board, but we don't want that there should be an arena of struggle in the Board. I may give an instance. I know of a company which wanted to expand its activities. Fortunately or unfortunately, the workers of that concern were the shareholders of that company. For that expansion they got the permission from the Government and the capital issue also was sanctioned. But some shareholders who were workers opposed the motion and they said "We don't want expansion of this unit". The plea which they advanced was: "If this unit is to be expanded, our bonus will be affected for a year or two." They did not see from the larger angle that after 3 or 4 years the profits of the company will increase and therefore they would have a larger bonus. They had a smaller and narrow vision of the whole issue and they said that they did not want any expansion and that they were satisfied with their existing position. So it will always be a struggle between the management and the representatives of the labour on the Board about their bonus, wages etc. We want peace in the next Five Year Plan and we want to go ahead with the industrial programme of the country. I understand that some kind of a scheme is being discussed before the Planning Commission and they are thinking of some arrangement. I am not entirely opposed to labour having a say in the management but what I say is that if they come on the Board, and if they adopt those tactics which may not be in the ultimate interest of the concern, it will create more harm than good to have them on the Board. Therefore the Planning Commission are discussing this matter and they are thinking of having some kind of a Council which may discuss the points of common interest and when they arrive at some decisions, they might be implemented. If some such scheme comes into force, it will be very welcome instead of

being merely participation as directors in the Board of Directors.

My friend Shri Vallabharao said that the managing agents don't command the finances and most of the finances have come from the Corporations. Even Corporations do not give loans to the concerns unless the managing agent guarantees those loans. Therefore it is the guarantee of the management which brings the loan even from the Industrial Finance Corporation to these concerns. So it is not only their direct participation in the fund but even their guarantee that brings the loan and that is much more valuable or equally valuable to secure the finance for the expansion of the company. In this connection I would like to draw attention to one thing. The Finance Minister has issued a note which says that the loans guaranteed by Managing Agents amount to 7.7 crores of rupees. This note has been prepared on the basis of financial particulars relating to managing agencies that managed 1,720 companies in India in 1951-52. We have made certain enquiries from the Members of the Bombay Mill Owners' Association and that enquiry was confined to textile mills in the Bombay City alone. According to the Bombay Mill Owners' Association, the amount guaranteed by the managing agents functioning in respect of Bombay Mills alone in 1951 was for Rs. 12.18 crores in 1952. And it is Rs. 16.30 crores in 1953 and Rs. 15.93 crores in 1954. If these are the figures for one industry in one particular city, the figure is as much as about Rs. 16 crores. I fail to understand or reconcile myself to the figure of Rs. 7.7 crores given by the Finance Minister.

SHRI C. D. DESHMUKH: For the purposes of the Select Committee we wanted to collect figures and we addressed the Registrars. They in their turn addressed the various companies and after a certain time, they sent to us whatever information had been collected by them by way of replies sent from many companies

addressed. Now, the total companies, they said, number 1,720, but all of them did not reply to every single question. So it is from that field, from those who had replied, that these figures are collected. It may be that there are some companies which gave particulars about their paid up capital and not about the finances sanctioned by the managing agents. So these figures are not even representative for those 1,720 companies. But that is all the information that we have.

SHRI LALCHAND HIRACHAND DOSHI: But they are likely to mislead.

SHRI C. D. DESHMUKH: But that is the nature of the figures supplied to us. What else do we do? If we address the companies and if they do not send us any reply, we say that out of these companies, so many replies have been received and the total loans guaranteed is so much.

SHRI LALCHAND HIRACHAND DOSHI: Has not the Registrar got this information from the various statements with him?

SHRI C. D. DESHMUKH: Not about finances.

SHRI C. P. PARIKH: Loans from banks come to the extent of Rs. 58 crores. The Bombay Mill-Owners' Association in their statement contend that these loans from the banks are guaranteed by the managing agents and therefore their figures are different. In the statement of the Finance Minister, the loans come to the extent of Rs. 58.8 crores and more than half of it is loan guaranteed. So in this way the figures could be reconciled.

PROF. G. RANGA: But how can we be sure that these loans paid by the banks had been guaranteed by the managing agents?

SHRI SHRIYANS PRASAD JAIN: No bank gives any loan to a company unless it is guaranteed by the managing agent. That is the normal and usual practice. Therefore, it is clear that

whatever loan has been given to that particular industry or unit has necessarily been guaranteed by the managing agent.

SHRI C. P. PARIKH: That is the normal and usual practice and that position has been clarified by the Finance Minister also.

SHRI C. D. DESHMUKH: As I said elsewhere, even taking a very conservative figure, the total loans made and guaranteed might be of the order of Rs. 50 to 60 crores.

SHRI C. P. PARIKH: That is right.

SHRI SHRIYANS PRASAD JAIN: That is the correct position.

One hon. friend has said that he is not satisfied with the provision that one person should not hold more than 20 directorships; he suggests that one family should not have more than 20 directorships. Sir, I do not know how far this will be workable or feasible. Do we not attach value to the individual or person? If there are two or three good persons in the family, are we to deprive from adding their share into the business? Are we going back to the joint family system or do we not want to realise the importance of each individual? On the whole, I think there is no force in the argument.

Now, I come to the last point and that relates to charities and donations. One hon. friend from this side has also spoken on this point. I feel, Sir, that this clause dealing with charities and donations should not have found a place in this Bill. Whatever abuses and malpractices might have been indulged in by managing agents, nowhere has anyone said that their power in this respect has been misused by any managing agent. If you go through the memorandum of the Share-holders' Association or of the labour association or of the Registrar of Bombay or any other body, none of them you will find, has said anywhere that this power has ever been misused by any managing agent. According to me, therefore, this provision should not

[Shri Shriyans Prasad Jain.] have found a place in this Bill. As a matter of fact, the various companies are playing the part of the exchequer in all these charitable institutions. When the private charities are stopped, funds will have to be provided by the exchequer. Therefore, these companies are supplementing the duties that are assigned to the Government. I do not think there is any harm in this and there is no fear of any misuse. If there is any such impression, I want to clear it away. Whatever might have been their faults in other directions, the managing agents have not in this particular case in any way misused this power.

SHRI C. D. DESHMUKH: This clause refers to the directors and not to the managing agents.

SHRI SHRIYANS PRASAD JAIN: Even the directors have not misused it under the influence of the managing agents.

SHRI C. D. DESHMUKH: But that is part of nobody's case. It is a case between the directors and the joint meeting of the shareholders.

SHRI SHRIYANS PRASAD JAIN: My only submission is that the directors have not misused this power and they have very judiciously acted and they have given the charities to the deserving people and to deserving institutions.

BABU GOPINATH SINGH (Uttar Pradesh): But in many cases the charity which begins at home unfortunately ends there itself.

SHRI SHRIYANS PRASAD JAIN: Sir, this is the first time that I hear of such a thing and if my hon. friend would kindly quote me any instance I would be only too glad to answer his question.

Sir, I have nothing further to add on this matter. Sir, I support the Bill with these observations.

SHRI KISHEN CHAND: Sir, this is a very big and voluminous Bill and it is

very difficult to consider every clause of it or to criticise every clause in it. But before we consider the clauses, I think we should really have a picture, a clear picture, of the industrial system that we want to adopt in this country, because any legislation that we enact should really be aimed at that picture. An hon. Member pointed out that the Jaipur Congress passed a certain Resolution and recently also at Avadi the Congress passed the Resolution about the socialistic pattern of society. A company Law which is really going to govern the industrial development of the country should be so framed that it should aim at the realisation of the ideal set before the country. But so far as the debate is concerned, it has really centred round the subject of managing agents. It has already been pointed out and very forcefully pointed out that the managing agents have rendered good service to industry. The speaker who just now sat down tried to show that the entire progress of the country's industry has been due to the managing agents. Well, that is an assertion, but mere assertions will not prove anything. I would request my friend to carefully examine this point. If we assert that the industrial development of this country was due to these managing agents, do we forget the part played by the Swadeshi movement in the land? Do we forget the part played by the heavy tariff duties enforced in the country in order to develop our industries? But for this Swadeshi movement and but for the heavy import duties levied on foreign articles, industries in India would not have developed. Is it maintained that the wisdom of the managing agents helped in developing our industries? If so, we had in India abundant of raw materials and these men could easily have employed foreign experts for the technical know-how and developed our industries. But that is not what happened. These managing agents who consisted of small illiterate people who had somehow acquired some small amounts among them, with the help of inter-locking of associated companies, set up a few companies in

our country. You study the development explained in the note circulated today by the Finance Minister and also in the newspaper article dealing with the growth of industry since 1850. From that article, you will find that the contribution of the managing agents till 1930 was almost nil. These managing agents did not possess the technical knowledge and know-how of the entire industry. The total capital at present, as pointed out by the hon. Finance Minister, is only Rs. 950 crores. The number of companies is 30,000. The hon. Minister explained how he tried to get information about the prevalence of the managing agency system among these 30,000 companies. He said that a circular was sent to all the companies by the Registrar but that, out of 30,000 companies, only 1,720 replied. We do not know anything about the remaining 28,000 and odd companies. In a total figure of 30,000, could one derive any result from the replies given by 1,720 concerns? Amongst the 1,720 concerns, they were managed by 1,345 managing agents, a large part of the managing agents managing only one company. In mathematics, if you want to arrive at any statistical figure, if you want to make a sample survey, what should have been done was that you should have selected one tenth the number of concerns and the selection of these concerns should have been made on the "at random" basis. If we are to take the figures supplied by 1,720 concerns in a total of 30,000, it would not prove anything. Even if we take it for granted that it is representative of the whole figures, as pointed out by the hon. Finance Minister, only 12 per cent. of paid up capital is made available by the managing agents. On this basis, out of the total of Rs. 950 crores, barely Rs. 120 crores, is provided by the managing agents, the remaining Rs. 830 crores being provided by the general public. Similarly, in the matter of loans guaranteed by the managing agents, the figure is very insignificant.

PROF. G. RANGA: How? What is the figure that you give?

SHRI KISHEN CHAND: The total loan figure is about Rs. 50 or Rs. 60 crores in a total capital of Rs. 950 crores. This comes to 5 per cent. If 50 per cent. of the loans is guaranteed by the managing agents, it means only $2\frac{1}{2}$ per cent. of the total capital. This percentage is an insignificant one. That is why I said that the total is $12\frac{1}{2}$ per cent. of the share capital and the loan guaranteed is $2\frac{1}{2}$ per cent.

SHRI H. C. DASAPPA: It is 23.95 per cent.

SHRI KISHEN CHAND: If the hon. Member would kindly sit down, I will explain that point also. The hon. Member does not understand the point. The total loan advanced to the companies is about Rs. 76 crores. Out of that, if Rs. 19 or Rs. 18 crores are guaranteed by the managing agents, then it is 23 per cent. What I am talking about, however, is about the paid up capital. When we make comparisons, we must take one unit. It is easy that way. I take the unit as the paid up capital of the company. Rs. 950 crores is the paid up capital. If supposing, there is a loan of Rs. 100 crores, over and above this Rs. 950 crores, then that loan figure is only 11 per cent. of the Rs. 950 crores. Out of this 11 per cent. if 50 per cent. is guaranteed, this gives us a figure of 5 per cent. of the total loan advances.

SHRI H. C. DASAPPA: Let the hon. Member refer to page 25.

SHRI KISHEN CHAND: I have seen page 25.

SHRI H. C. DASAPPA: If the hon. Member has a little more patience, I will explain the figures. The total paid up capital of these 1,720 companies is Rs. 251.21 crores and the loans and advances made or guaranteed by the managing agents in respect of these 1,720 concerns is a little more than Rs. 18 crores in a total of Rs. 76.45 crores of all kinds of loans and advances.

SHRI B. C. GHOSE: That is what he is saying.

SHRI KISHEN CHAND: That is exactly what I am saying. The hon. Member has quoted only about the 1,720 companies but I am talking about the 30,000 joint stock companies in our country. These companies have a capital of Rs. 950 crores.

SHRI LALCHAND HIRACHAND DOSHI: Only 1,720 companies have reported; there may be many more who may not have reported. Those figures have also got to be taken into consideration.

SHRI B. C. GHOSE: Those with big managing agents will have reported; the others must be small.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KISHEN CHAND: Even on this basis, the hon. Finance Minister stated that the paid up capital provided by these managing agents is only 13 per cent. That is the capital provided for these 1,720 companies. Taking this to be the pattern, we will find that the share of the managing agents in respect of the other companies, companies other than the 1,720, will be 13 per cent. What I am trying to prove is that the contribution of the managing agents is only 12 to 13 per cent. of the share capital. This is not such a big figure to think that the development of the country is due to them

SHRI SHRIYANS PRASAD JAIN: Is that the idea of the hon. Member or has he some basis for this?

SHRI KISHEN CHAND: I asked the hon. Finance Minister a simple question. I wanted to know the number of companies managed by the managing agents. He said that Government wanted to get information in this regard for the Joint Select Committee. Registrars were asked to address all the 30,000 companies. All of them did not answer; replies were received only from 1,720 concerns. In a sense, it is a sample survey. His statement was that these 1,720 companies should be treated as a sample.

MR. DEPUTY CHAIRMAN: He has just now made it clear that it is not complete. It is an incomplete figure.

SHRI V. K. DHAGE: He is proceeding on some basis which is available and is drawing his conclusion.

SHRI KISHEN CHAND: The funds provided by the managing agents are insignificant.

The second question is: Have they provided the technical know-how? Is it the contention of the hon. Members on that side who support this viewpoint that the managing agents possess the technical know-how, that they have helped in the better organisation and establishment of industries? No statistics and no arguments have been placed before this House excepting the statement made. What has happened in other countries? As the managing agency did not prevail in other countries, a new type of service came into being. A new type of cadre, a cadre of industrial service, a cadre of business management, came into being. And this new cadre managed companies established and registered in foreign countries and the companies prospered. In our country the managing agents retarded the development of this type of cadre.

[THE VICE-CHAIRMAN (DR. P. SUBBARAYAN) in the Chair.]

They, in order to help themselves, in order to help their own families and in order to earn profit, did not allow the development of this industrial cadre in our country. The question will arise, Sir, that if you permit and allow the managing agency system to continue, they will put all sorts of hindrances in the way of the development of this cadre. It is a question of giving an opportunity to the other method. In the next two or three years, when we are changing from the managing agency system to the other method of management of joint stock companies, there will be some mistakes, but eventually that is the better method. Sometimes the change

will have to be made and though it may lead to a slight setback for a year or two, it is very essential for the full development of our industries.

Sir, an hon. Member referred to the vertical and horizontal development of companies. By the vertical and horizontal development, what I understand is this. Supposing a joint stock company is interested in one particular line, say, the textile industry. Then vertical development will mean that you go on multiplying textile factories all over the country, enlarging the textile companies which you are managing. There is a definite advantage in that. You acquire some technical know-how, you go on increasing the number of textile companies, you take advantage of your technical know-how and in the second company which you are floating you will probably introduce improved methods. But in the horizontal development where you have one particular line of textile industry, suppose you have spare capital, you suddenly think of floating a cement company. Now the people who are maintaining the textile company do not possess any technical know-how about this cement factory except that they possess some reserved fund. They have some capital and they utilise that capital for running the cement factory. I should like to know from hon. Members who are supporting that contention how their technical knowledge about the textile industry helps them in the management of the cement factory. There is absolutely no connection between the two. In foreign countries wherever development takes place, it is a vertical development. The I.C.I. will go on developing their chemical industry. They will find out all sorts of new chemicals and they will go on enlarging it, but the I.C.I. will not come into, say, 'tyre making'; they will not compete with Dunlop Company and start a tyre making company.

PROF. G. RANGA: What about Lever Brothers who produce soaps and own landed estates also?

SHRI KISHEN CHAND: The hon. Member has pointed out that they own some buildings. Owning buildings does not require technical know-how. He has to give examples of companies where on a large scale different lines of industries have been set up.

Then, Sir, I come to another point which is worth considering. As I pointed out, there are 30,000 companies with a paid-up capital of Rs. 950 crores. It means that the average paid-up capital of each company is about three lakhs of rupees. As against that there are 850 foreign companies, and these foreign companies have a paid-up capital of Rs. 1,250 crores. Of course all this paid-up capital is not owned by foreigners and a part of that paid-up capital or even 50 per cent. of that paid-up capital is owned by Indians. And yet it is a fact that 850 foreign companies have a share capital of Rs. 1,250 crores. That means, on an average, a foreign company has a capital of Rs. 1½ crores while on an average the capital of an Indian company is only Rs. 3 lakhs. Now I should like to know from the hon. the Finance Minister.....

SHRI C. P. PARIKH: Does the hon. Member understand that this foreign company means incorporated outside India and the capital is not rupee capital?

SHRI KISHEN CHAND: It is the paid-up capital.

THE VICE-CHAIRMAN (DR. P. SUBBARAYAN): I should like to point out that, if hon. Members want to interrupt a Member who is on his feet, then they must find an opportunity for it. No question can be asked if the hon. Member is still on his feet; you cannot interrupt him. That is my point.

SHRI KISHEN CHAND: Then, Sir, may I point out to the hon. Member that this figure of Rs. 1,250 crores is about the assets invested in India, the paid-up capital of the assets invested

[Shri Kishen Chand.]
in India, not the assets which are outside India.

DR. P. SUBBARAYAN: That hon. Member wants to know if they are registered in India.

SHRI KISHEN CHAND: They are not registered in India; they are registered outside, but their investment in India is to the extent of Rs. 1,250 crores and there are 850 such companies. That means that each company, on an average, has a capital of Rs. 1½ crores. I was trying to drive at the point that it is an unfair competition. The hon. Finance Minister, when he was drawing up this Companies Bill, should have taken good care that Indian companies do not suffer as against these foreign companies. The foreign companies with larger resources, with better technical know-how, and taking advantage of protective duty, established their concerns in our country. They compete with Indian companies which are floated with smaller capital, with lesser technical know-how, and the result is well known to hon. Members. In the soap industry one foreign concern has 60 per cent. of the total sales of soap in India and the entire 150 or 200 Indian soap manufacturers could secure only 40 per cent. of the requirements for soap in our country.

SHRI H. C. DASAPPA: What about matches?

SHRI KISHEN CHAND: And the same thing can be said about matches and so on about many other industries. So I should have thought that, when the hon. Finance Minister was preparing this Companies Bill, he should have thought about this matter and he should have kept certain clauses to so regulate the foreign companies in our country that there is no unfair competition. But I am sorry to find that the hon. Finance Minister has not devoted any attention to this point in his proposed Company Bill.

With this introduction I now come to this Bill, to certain points of the Bill.

First of all I take up voting rights. The hon. Finance Minister has pointed out that in this Companies Bill the voting rights have been altered in such a way that the deferred shares or other types of shares with lesser paid-up capital do not get the same right of voting as equity shares on which larger capital was paid. This has been removed.....

SHRI M. C. SHAH: There are two kinds of capital only now.

SHRI KISHEN CHAND: I am saying the same thing to the hon. Minister. I know this thing. I am trying to point out that he has done away with it. But that is not sufficient. It is not sufficient because I maintain that persons who own a large number of shares have a predominant voice in the management of a company. When we want a socialistic pattern of society and we want people to take interest in joint stock companies and we do not want concentration of wealth in a few hands, I would submit to the hon. Finance Minister that in equity capital, that means in ordinary shares, according to the new company law which we are discussing to-day, every person gets one vote for every share that he owns. The result is that if one person owns nearly 50 per cent. of the share capital, he is all in all. If he owns 50 per cent. of the share capital, he can appoint all the directors; he can control the entire policy of the company. The rest of the shareholders who may possess 49 per cent. of the share capital, have no voice. Therefore, Sir, I am going to send certain amendments to the effect that progressively as the persons hold larger number of shares.....

SHRI LALCHAND HIRACHAND DOSHI: Is it not equally true about the Government of the country also?

THE VICE-CHAIRMAN (DR. P. SUBBARAYAN): Mr. Kishen Chand, please resume your seat. Let him put the question.

SHRI LALCHAND HIRACHAND DOSHI: Is it not equally true with

regard to the Government of the country also?

SHRI KISHEN CHAND: I entirely agree with the hon. Member and I submit for his consideration that one person should have one vote, but here one person owning a hundred shares has got a hundred votes. I shall be quite happy if, as the hon. Member says, one man is to have one vote only; I will be quite satisfied; I will have nothing more to say. But the fact is, one man owning one thousand shares has got one thousand votes; he has not got one vote.

SHRI LALCHAND HIRACHAND DOSHI: There one share has one vote.

SHRI KISHEN CHAND: Well, he is shifting his ground. He got up and immediately pointed out to me that in the Government one man has got one vote. If he wanted to have it on the same principle here I would have been happy about it. But he changes his ground. My submission is that the first share will have one vote, but after that first share for every five shares there will be one vote. I can quote any number of co-operative societies where this principle is followed.

PROF. G. RANGA: Only one vote.

SHRI KISHEN CHAND: There are certain co-operative societies where after the first share, for the subsequent shares for five shares there is one vote. Then after 100 shares for every 10 shares there is one vote. After a thousand shares there is one vote for a hundred shares. If you adopt some such formula, then a person owning 51 per cent. of the shares will not be able to control the company entirely. Well, Sir, in our democracy if we really believe in democracy and we really believe that one man should have one vote, I think hon. Members should welcome my suggestion and the Government should welcome that suggestion because in that one way the shareholders can really control; they can remove the all in all control

of one person from a company and this 51 per cent. holding which is becoming common in our country and by which method people are controlling many companies will be removed at one stroke. So, this is my first suggestion.

My second suggestion is this. There is the method of proxies. They go on collecting proxies. When they have collected enough number of proxies—and you know one share has got one vote—the result is that even if you do not possess 51 per cent. shares, but you can collect sufficient number of proxies, you can control the entire company by your votes. So my second suggestion will be that there should be no method of proxies, and even if there is the method of proxies, the number of shares held by the proxies will be added to the shares owned by that person who secures proxies and then the number of votes will be calculated on the basis of above stated formulæ. That is my suggestion about shares.

The second thing I come to is about the directors. Well, hon. Members have said that one person can be director of 20 companies. It is not related to the size of the companies. If the 20 companies are such that each has a capital of Rs. 50,000 then the total outlay is Rs. 10 lakhs. Supposing he is the director of 20 companies each of which has a share capital of Rs. 1 crore, that will mean he is controlling Rs. 20 crores. We have got the example of Japan. Before the war in Japan a few families—nearly six families—owned 50 per cent. of the industries of Japan. They were controlling the entire industrial life. Similarly there are a few families in the U.S.A. who control a large number of industries. In our socialistic pattern of society we do not want that. If we do not want that, merely saying that we are restricting the number of companies of which a person can be director to twenty is not correct. It should be related to the paid-up capital of the companies of which he is director. I reluctantly agree that it may be restricted to 20. I would have preferred if it was restricted to

[Shri Kishen Chand.]

by 1,720 concerns in a total of 30,000, ten companies only. Even if you want to keep this figure of 20, there should be a qualifying clause that the sum total of the paid-up capital of the twenty companies of which a person is director should not exceed a crore of rupees. If it exceeds a crore, he will have to give up directorship of certain companies so as to remain within that figure; but he can be director of, say, two companies each of which has a paid-up capital of more than a crore of rupees. Some such provision ought to be there. I do not want to be definite about it. I want hon. Members to consider it on these lines and when I will be sending amendments I shall try to clarify this point very carefully. But let them think about it on these lines; let them examine whether it is right just to say that a person cannot be director of more than 20 companies or whether it will be more advisable to relate it to the paid-up capital of those companies because there is a big difference between a small company and a big company. In our socialistic pattern of society we want small and medium-sized companies; we do not want excessively big companies. Of course, in certain industries big companies will have to remain and they are essential. In a large number of cases, it will be medium-sized companies. I am sure that our wise and able industrialists will try to circumvent the law by going on increasing the capital of the company. They will naturally go on amalgamating the various companies and the result will be that a person may be director of only 20 companies as required under the law but those 20 companies will be equal to 200 companies. Some may say: what is the harm? They will go on amalgamating and once they amalgamate it becomes one company. The present ten companies may be amalgamated into one company and so on and, as I said, the twenty companies will become equivalent to 200 companies. If you want to avoid that, the only method is that we should restrict the total paid-up capital of the companies of which a person is director.

PROF. G. RANGA: We can keep a watch on amalgamations also.

SHRI KISHEN CHAND: There is no clause in the Bill which prevents amalgamation or which can control amalgamation. What is the good of your watching?

SHRI V. K. DHAGE: They can go on watching amalgamations.

SHRI KISHEN CHAND: Yes; they can go on watching amalgamations as long as they like.

Then there is the question of age of directors. It has been fixed at 65 years. I think we can be a little lenient here. I think it can go up to 70 years. When we have our Supreme Court Judges and Auditor-General going up to 65 years, I think in the case of directors we can raise it to 70.

There is the question of election of directors. As I pointed out, under the present law, if 51 per cent. of the votes are secured, they can go on appointing all the Directors. I will have to elucidate this point. According to Companies Act every year one-third of the directors retire. Supposing a company has got nine directors and three directors retire one year. In the case of election if 51 per cent. of all the shareholders present and voting make up their mind, then they elect A, B and C as directors and the remaining 49 per cent. of the shareholders who are present at that meeting have no voice at all. Therefore, I would suggest that like multiple seat constituencies, the election of directors should be on a sort of multiple seat basis and every shareholder should have transferable vote and that means proportional representation.

SHRI J. S. BISHT: That is provided

SHRI B. C. GHOSE: But it is optional.

SHRI KISHEN CHAND: It is optional; I want to make it compulsory so that those shareholders who are in a minority may also have some representation. About this also I want to send in some amendments.

Then I come to the difficult question of representation of labour. It is a very very difficult point but I am one of those who think that if representation is given to labour, it will be very helpful in the development of industry. What should be the quantum of representation is a matter on which opinion. Members can have different opinions. I submit, Sir, that at least 25 per cent. of the Board of Directors should consist of representatives of labour. If 25 per cent. is not really the exact multiple of the total number of directors, probably some rounding up can be done, say, two or three directors may be nominated or elected by the workers in that industry. We want cooperation between labour and capital. Capital manages but if in the management we get the cooperation of labour, there will be more harmony; there will be better relationship. I do not agree with Mr. Bhupesh Gupta who tried to point out that it will mean corrupting the labour.

SHRI V. K. DHAGE: He has not spoken so far.

SHRI KISHEN CHAND: He interrupted an hon. Member who was speaking and expressed the opinion of the Communist Party. I submit, Sir, that it is very essential that labour should be represented. An hon. Member pointed out that it will lead to disharmony and that it will be a short-sighted policy. Well, you are giving only representation up to the extent of 20 or 25 per cent. They cannot completely change the policy of management. They can be helpful, they can give guidance, they can give advice. And, therefore, I think it is very essential that we have representation of labour in companies.

— Then, I come to the question of remuneration. About remuneration there are various classes and I think I had better take this question when I deal with managing agents.

Now, I come to managing agents. Well, Sir, I started my speech by saying that I am dead against the managing agents. I think they have rendered

no service to the industry in our country.....

SHRI JASPAT ROY KAPOOR: Must be living.

SHRI KISHEN CHAND: Because they have rendered no service to the industry. They have retarded the progress of industries in our country. If they were not in between the industry and the country, the industries would have progressed at a much faster pace. A new cadre would have risen, a new service of experts in management and technical know-how and in accounting would have risen. This managing agency system of restricting the promotion and management inside a family, often of illiterates, often of persons who have no technical knowledge, has retarded industry and, therefore, it is high time that we did away with the managing agency system.....

PROF. G. RANGA: Conclusion is all right, but the argument is defective.

SHRI J. S. BISHT: Conclusion is also defective.

SHRI KISHEN CHAND: Well, I gave the figures of capital. I tried to point out that they are not contributing capital. If I name the managing agents and give hon. Members the figures, trying to prove that among such and such managing agents no person is a technical man, no person has got any technical knowledge, hon. Members will say: "You are giving the names of persons who are not present here and who cannot defend themselves." I can give some names if you permit me and ask hon. Members to assert whether any of those managing agents have got any qualification. But it will lead to invidious distinctions. I do not want to do that. Sir, I am ready to challenge and if any hon. Member on that side gives any names and tries to assert the fact that he can give names of persons who have got personal technical knowledge, how they have developed industries, how they were only spinners or ordinary workers in the factory and they have suddenly established textile mills.....

SHRI V. K. DHAGE: Spinning mills.

SHRI H. P. SAKSENA: Tatas, for instance.

THE VICE-CHAIRMAN (DR. P. SUBBARAYAN): Order, order.

SHRI KISHEN CHAND: Sir, one exception does not prove the rule. And even in the house of Tatas, their method is quite different. They are taking the best brains in our country as directors. They are introducing the best brains of our country in the management of their companies, and, therefore, they are very progressive. There are one or two managing agents who are progressive. I have no objection against them. It is quite possible that out of ten thousand or fifteen thousand managing agents, one or two or three may be good and progressive. But the bulk of them are unprogressive and it is the bulk who are retarding the progress of our country. Sir, the hon. Finance Minister tried to give a wrong impression by quoting and drawing certain conclusions from 1,720 companies. He had said that out of 1,345 managing agents, 1,250 managed only one company and then he had given four or five managing agents who manage ten companies to twenty companies. If he had really got information from all the thirty thousand companies, he would have found that there are several families who own hundreds of companies. This is not the right line of development. This is not the proper line of development of industry in our country. We do not want development of industry by families. We want the industry to be broad-based, to have a larger number of people taking part in its share capital; taking part in its management. And, therefore, I suggest that when we are restricting the managing agency—if we do away with managing agents; that will be the best and the ideal condition—but when we do not remove managing agents just now, well, there should be certain restrictions about the paid-up capital of the ten companies of which they are managing agents. As I said just now, amalgamations will go on.

The result will be that the number of companies will be only ten, but in effect they will control nearly 200 factories. One company can control ten factories if they go on amalgamating. And here also I would like to put down that they may be managing agents of ten companies, provided the paid-up capital of the ten companies does not exceed Rs. 2 crores. If it exceeds Rs. 2 crores, then the number of managing agents.....

SHRI SHRIYANS PRASAD JAIN: How will you divide the Directors in Tata Iron and Steel Company?

SHRI C. P. PARIKH: No director.

SHRI KISHEN CHAND: I am very glad that the hon. Member has raised the point, because you see he was not present when I was arguing the point in the case of directors. And the other hon. Member tried to just say something without trying to understand. I have pointed out that in the case of companies which have over one crore capital, their directors can be directors of two companies. In that case, the formula will have to change. You cannot apply one formula to all the companies. If there is a company with a capital of five crores and over, then the directors of that company cannot be directors of any other company. So, if hon. Members understand and follow the whole argument and catch the spirit, then it is all right. If it is only a question of trying for argument's sake to raise a point, then we will not arrive at any conclusion....

SHRI V. K. DHAGE: You are arguing against their interests!

SHRI KISHEN CHAND: Then, Sir, there is the question of associates of managing agents. (An hon. Member: Three Musketeers). This is a very simple thing for all. Now you are only managing ten companies, with your associates you can manage hundreds of companies. Therefore, in the matter of 'associates' also there should be a ceiling on the paid-up capital of the companies.

Well, Sir, as I said, big companies will not have any managing agents. Supposing a company is floated with a capital of Rs. 5 crores, I should like to know from the hon. Finance Minister what is the advantage of having any managing agents there? The company has got sufficient capital. If it has got sufficient capital, it can employ the best technical people, it can employ the best managers and it can have a strong board of directors. If it has got all the three facilities, what is the advantage of having any managing agent? Therefore, I will put it down as a clause that any company with a capital in excess of five crores will not have a managing agent...

SHRI R. G. AGARWALA: Who will float the company then?

SHRI KISHEN CHAND: Half a dozen people, any seven people can combine and float a company. It is not the managing agents who float the company. It is seven people who float the company. They may enter into any negotiations with the managing agent. The hon. Member may know it better, because he has floated companies that way. Ordinarily on paper any company is floated by seven people. They float a company, they register it. They are promoters. Into what agreement subsequently enter with the managing agents is a subse-

quent matter, but a company can be floated by promoters.

Then, Sir, I come to the question of.....

SHRI C. P. PARIKH: Does he mean also seven Members from this House?

SHRI B. C. GHOSE: Yes, why not?

SHRI KISHEN CHAND: Very good, Sir. There the hon. Member has tried to become personal. I certainly acknowledge that there are seven Members of this House who are already floating many companies and many managing agencies. I do not want to say that and so let it remain at that.

THE VICE-CHAIRMAN (DR. P. SUBBARAYAN): How long will you take?

SHRI KISHEN CHAND: I have only started, Sir.

THE VICE-CHAIRMAN (DR. P. SUBBARAYAN): Then, we will adjourn. We will meet tomorrow at 11 o'clock. You have already taken 45 minutes.

The House then adjourned at five of the clock till eleven of the clock on Tuesday, the 20th September 1955.