

RAJYA SABHA

Saturday, 24th September 1955

The House met at eleven of the clock,
MR. CHAIRMAN in the Chair.

THE COMPANIES BILL, 1955— *continued.*

THE MINISTER FOR REVENUE AND CIVIL EXPENDITURE (SHRI M. C. SHAH) : Yesterday I finished my arguments on the amendment moved by my friend, Mr. Ghose, and I had taken up the amendments of my friend, Mr. Bhupesh Gupta. I have already said that I cannot accept the amendments of Mr. Bhupesh Gupta. The main amendment of Mr. Bhupesh Gupta is to bring down the percentage of eleven to be given to a managerial organisation to six or eight per cent. He said, "I won't mind even if 8 per cent is accepted." But I am sorry I cannot oblige him, because as I said yesterday, we have to take a realistic view of the whole matter. I also explained that from nearly 25 per cent, that was drawn by the managing agents in the past, according to one set of figures and 14 per cent according to another set of figures, it has been brought down to ten per cent and eleven per cent—ten per cent for the managing agents, secretaries 7½ per cent, managing director 5 per cent, manager 5 per cent. Now, as I explained yesterday, the managing agents may adopt the methods of not only becoming managing agents themselves, but some of them may become managing directors or directors or "managers and they may get more remuneration under the clauses as proposed in the Bill. In order that this, may not be done, we thought that we should have a clause fixing an overall managerial remuneration. And, therefore, after the Joint Select Committee had passed almost all these clauses, we brought in this clause. The original clause was 197. 80 RSD—1

And the new clause, after certain amendments, was adopted in the Lok Sabha. That clause is now 198. It has been said that in the U.S.A. and U.K. the managerial cost is less. According to the figures we have got, that information is *not* correct. In certain cases it comes to ten per cent; in certain cases it comes to twelve per cent and so on and so forth. Therefore if we compare the figures of managerial cost in U.S.A. and U.K., when we have not all the statistics with us, we cannot get a correct picture. Only very high cost we have been able to find. At least the Opposition has not been able to establish any case from that. From the figures given by them in regard to U.S.A and U.K. we cannot get a correct picture. And, therefore, we say that this eleven per cent is according to the Joint Select Committee a reasonable figure. Suppose, in one company there are managing agents as well as paid directors or managing directors or managers. The managing agents, if they have to pay more to the managing director, director or manager, will get less than ten per cent. We have just said ten per cent for the managing agents, but when you go into all those figures it may be that it may come to 8 per cent. Now, clause 198 provides, as I said, an overall managerial administration cost and, therefore, this eleven per cent is not high. It may be that in certain cases that may be inadequate; but it is not on the high side. And, therefore, I am afraid we cannot accept the amendment of Mr. Bhupesh Gupta.

Now, by another amendment he wanted to delete sub-clause (3). Subclause (3) (a) reads: "to prohibit the payment of a monthly remuneration to directors in accordance with the provisions of section 309 or to a manager in accordance with the provisions of section 387." I am afraid he is under a misapprehension. If he reads clauses 309 and 387, he will find that those remunerations are subject to clause 198. There are two methods provided for there, one is monthly remuneration and the other is a com-

[Shri M. C. Shah.] mission. Therefore, we have said that so far as the monthly remuneration is concerned, this will not prohibit, but thereby it does not mean that, if they get monthly remuneration, that will not be counted in eleven per cent. Therefore, we have advisedly put that sub-clause (a).

Now, he also wants in sub-clause (3) (b) to delete clause 352. Clause 352 is for giving additional remuneration. In certain special circumstances it may be necessary that we may have to exceed ten per cent. It may be that 12½ per cent may have to be given in certain industries which are to be encouraged and for which there is very little enthusiasm among those industrialists or entrepreneurs. Therefore, we have taken those powers under clause 352. If the company passes a special resolution and the Government sanctions the additional remuneration and if it is found that the encouragement of that industry is in the public interest, then we must have some powers. Therefore, I cannot accept those two amendments. That is all so far as my friend Mr. Bhupesh Gupta's two amendments are concerned.

There is one amendment which seeks to substitute twenty-five thousand rupees in place of fifty thousand rupees as provided in the Bill now. It is not realistic at all. As a matter of fact, it may be that in small companies the manager may be getting less, but in big companies the manager may be getting more. The directors may be paid more. And, therefore, we have got this fifty thousand rupees. That is the maximum. In the articles of association, a company may include a certain sum to be paid to the managing agents or to the managing director or to the secretaries and treasurers, in case there are no losses or inadequate profits up to fifty thousand rupees. They cannot get more than Rs. 50,000. Government cannot sanction more than Rs. 50,000. Government will not agree to that unless

as provided for in clause 198 subclause (2), when fees are to be paid. Therefore, whenever the companies are small ones, then there will be a provision for ten thousand rupees, or fifteen thousand rupees or twenty thousand rupees according to the capacity of the company to make profits or according to the size of the business of the company. All these factors have been taken into consideration. So, we cannot reduce the figure from fifty thousand rupees to twenty-five thousand rupees. That is Mr. Bhupesh Gupta's amendment.

My friends, Mr. Kishen Chand and Mr. Dhage, just wanted to provide a sliding scale of managerial remuneration according to the paid-up capital of the company. That also is not practical, is not acceptable, because that might create so many difficulties. As a matter of fact this 11 per cent of net profits or in case there being loss or the profits being inadequate this fifty thousand limit is reasonable and as I said yesterday, we have to see that there is normal functioning of the industrial enterprises. We can not hamper or hinder the progress of industrialisation and no act of ours should be such as may, in practice, hinder or hamper the progress of industrialisation. Therefore, on mature consideration, the Joint Select Committee have come to the conclusion that these remuneration scales are quite reasonable and they cannot be reduced. And at the same time, as we have already got powers under certain clauses, whenever agreements are to be entered into, they have to take the sanction of the Government. At that time, Government will see whether this tapering remuneration system is necessary in a particular case or not. As a matter of fact, big companies like Tatas and some other companies take remuneration of about 5 per cent and therefore, whenever there are huge profits, naturally the managing agent or the managing director or the managing directors will consider twice before charging heavier remuneration or commission. Then, as I said, when all these agree-

ments come to the Government, they have got powers to impose conditions. Therefore, that cannot be accepted. This is all that I have to say with regard to the various amendments that have been moved by friends from the opposite side.

SHRI B. C. GHOSE (West Bengal): If I have understood the hon. Minister correctly, that means that the request will be made only at the beginning and it cannot be made after payments have been made. Therefore, it is the company which will have to approach at the very beginning before making payment, if they fear that there will be inadequate profits to raise the minimum to over fifty thousand rupees, and the company means, I believe, the Board of directors. If so, I was suggesting that not merely the Board of directors, but the shareholders should also have a say in the matter before any applications are made to the Government. I was suggesting that although this is not provided here, the Government may make *some* provision in the rules to that effect and the reason for my submission was that I thought that clause 352 which applies to managing agents has reference also to this clause 198 in relation to both its aspects, namely, commission and minimum remuneration. The hon. Minister for Revenue and Civil Expenditure has stated that clause 352 has no relation to the minimum remuneration in so far as the managing agent is concerned. I should like to know if that is the position, if the managing agents, under any circumstances, even under clause 352, are precluded from approaching the Government in case of no profits or inadequate profits for an increase in the minimum remuneration. If they are permitted, I believe, then a special resolution would be necessary. I suggested that, if a special resolution were necessary in the case of the managing agent, certainly the same condition should apply to managing directors. As there is no provision for a resolution either general or special in the proviso to clause 198, I had suggested that the

Government might agree that they would provide in the rules for such a resolution being necessary to be passed by the company before a request is made to the Government.

SHRI M. C. SHAH: Sir, I explained that yesterday rather in a very lengthy way. I just invite *my* hon. friend to read the proviso. There it is very clear—"Provided that where a monthly payment is being made or is proposed to be made to any managing or whole-time director or directors and the manager or to any one or more of them and the Central Government is satisfied that for the efficient conduct of the business of the company, the minimum remuneration of fifty thousand rupees per annum is or will be insufficient....." So, the scheme of this proviso is, as I explained yesterday also, that it does not apply to the remuneration of managing agent or secretaries and treasurers. Clause 352 is in regard to additional remuneration of managing agent or secretaries and treasurers. If a company is proposed to be floated where the remuneration of 10 per cent may not be adequate—yet that industry may be very vital in the interests of the country—in national interests, if the entrepreneur thinks that he can embark on this risk provided he is given 12½ per cent, then, if the Government are satisfied that under the circumstances, in the best interests of the country that industry ought to be developed, ought to be encouraged and therefore, if necessary, a higher remuneration than what is proposed in clause 348 should be paid, then the Government will agree to it under clause 352.

SHRI B. C. GHOSE: My difficulty is this. Clause 352 says: "Additional remuneration in excess of the limits specified in sections 198 and 348." Section 198 has two parts. One is overall maximum remuneration and the other is minimum remuneration. My question is a specific one. Is it the scheme of this Bill that the managing agent, so far as the minimum remuneration is concerned, can, under no conditions even if there is

[Shri B. C. Ghose.] a special resolution and approval by Government, be paid more than fifty thousand as minimum remuneration? If you say 'No', then that is all right.

SHRI M. C. SHAH: Managing agents cannot get more than fifty thousand rupees under any circumstances. If there are losses or inadequate profits, out of those fifty thousand rupees, also the salaries of director or directors, manager or managers, will have to be deducted. In case, after the deduction, there is not a single farthing left, the managing agent will not get a single farthing. That is very clear. Only this proviso of clause 198 relates to the salaries of the director or directors, whole-time, or manager or managers.

SHRI B. C. GHOSE: I am prepared to accept what the hon. Minister says because he must be in a much better position than I am. "Additional remuneration in excess of the limits specified in sections 198 and 348 may be paid to the managing agents" it says. In clause 198, there are two parts and both the parts should apply to the managing agent. That is how I interpreted the clause. But I am not a lawyer and probably I do not understand it well.

SHRI M. C. SHAH: Really speaking, in regard to overall maximum managerial remuneration, there are two parts. Notwithstanding that, the proviso has been inserted specifically. As I said yesterday, and I may repeat again, supposing a new very heavy capital industry has to be started. Now there is another proposal just to manufacture the machinery of the cement factories. Now, if there is going to be a company having a paid-up capital of two or three crores of rupees

SHRI B. C. GHOSE: I wanted a specific answer. It does not refer to the remuneration.

SHRI M. C. SHAH: Then what is your specific question? I have already explained that clause 352 applies to the managing agents' remuneration, and there in certain cases if it is

found that in public interest that company has to be encouraged

SHRI B. C. GHOSE: That I have understood.

SHRI M. C. SHAH: Then I do not follow what you do not understand.

SHRI B. C. GHOSE: What I say is that clause 352 has no reference to the minimum remuneration. If the question is whether the managing agents can be paid more than Rs. 50,000, the answer is, "under no condition can a managing agent be paid more than Rs. 50,000." The second question is that a board resolution is sufficient in the case of managing directors, whole-time directors and managers for approaching the Government for increase over the minimum. I suggest that shareholders should know, and there should be at least a general resolution. I want further to know whether this contemplates *ex post facto* sanction if the remuneration is more than Rs. 50,000, which has already been paid—I do not know how—and whether the company can come to the Government and ask for sanction to regularise that payment.

SHRI M. C. SHAH: There is no question of *ex post facto* sanction. The moment, as I said, the company has got salaried manager or managers, salaried wholetime director or directors, and if they are paid more than Rs. 50,000 in all for the whole year, then naturally they have to come just after the commencement of the Act for the sanction of the Government. In case there are no profits or there are losses and there are inadequate profits, they may be handicapped because of this clause.

SHRI B. C. GHOSE: My difficulty was, how is the company to know if there is a remuneration—monthly salary plus commission and the two may be more than Rs. 50,000 for a managing director? -It may be within 11 per cent of the profits, may be over Rs. 50,000. If it is more than Rs. 50,000 then the inadequacy of profits.....

SHRI M. C. SHAH: As a matter of fact, in case there are profits, they will be taken into consideration. Suppose there are two whole-time directors, at Rs. 4,000 each. That means Rs. 8,000. So, in case there are losses or inadequate profits at the end of the year then they will not be entitled to get it unless they got the sanction. Now they cannot wait till the resolution is passed, *i.e.*, till the end of the financial year. It may be the year may be a year of huge profits, or for the first six months there may be loss and during the next six months there may be profits. In that case this Rs. 8,000 will come out of 11 per cent, but in an eventuality of there being losses, or there being inadequate profits, the company—if the whole-time directors are paid more than Rs. 50,000 at the present moment—on the commencement of the Act, will certainly have to come to the Government for obtaining the sanction in advance, in case there are any future losses or inadequate profits.

SHRI B. C. GHOSE: Then, I think, I understand the hon. Minister for Revenue and Civil Expenditure to say that in a case where a company is paying more than Rs. 50,000, they were paying probably more than Rs. 50,000 on the understanding of the profits that have been earned in past years which would have permitted a higher salary than Rs. 50,000, because that would be within the scope of 11 per cent overall earnings. Now, the hon. Minister says that in any year, while asking to pay more than Rs. 50,000 a year, the company must at once come to the Government, because in case there is inadequacy of profits it will not be covered and they will have to have a sanction. That means in every case wherever more than Rs. 50,000 remuneration is paid to the whole-time director or managing director on the understanding that there would be profit—in case there may not be any profits—they will have to come up to the Government. Is that the position?

SHRI M. C. SHAH: Yes. As I said.—

MR. CHAIRMAN: Don't explain. Say 'yes'.

The question is:

39. "That at page 99, lines 32-33, for the words 'shall not exceed eleven per cent of the net profits of the company' the words 'shall not exceed eleven per cent, ten per cent and eight per cent of the net profits of the company whose paid up capital is below ten lakhs of rupees, below fifty lakhs of rupees and above fifty lakhs of rupees respectively with marginal adjustments' be substituted."

The motion was negatived.

Amendments Nos. 40 and 41, were by leave, withdrawn.

MR. CHAIRMAN: The question is:

105. "That at page 99, line 32, after the words 'its manager' the words 'and persons in effective management of the company' be inserted."

The motion was negatived.

MR. CHAIRMAN: The question is:

107. "That at page 99, line 32, for the words 'eleven per cent.' the words 'eight per cent.' be substituted."

The motion was negatived.

MR. CHAIRMAN: The question is:

110. "That at page 100, lines 1 to 3, for the words 'such sum not exceeding fifty thousand rupees per annum as it considers reasonable' the words 'such sum not exceeding fifty thousand rupees or one per cent, of the total paid up (equity and preference) capital, whichever is less, per annum as it considers reasonable' be substituted."

The motion was negatived.

MR. CHAIRMAN: The question is:

111. "That at page 100, line 2, for the words 'fifty thousand rupees'

X"For text of amendments, *vide* col. 4253 of debate dated 23rd September 1955.

the words 'twenty thousand rupees' be substituted."

The motion was negatived.

MR. CHAIRMAN: The question is:

112. "That at page 100, after line 3, the following proviso be inserted, namely: —

'Provided that the Central Government may authorise higher amount for reasons recorded in writing'."

The motion was negatived.

MR. CHAIRMAN: The question is:

113. "That at page 100, line 6, after the words 'or more of them' the words 'and the company passes a special resolution sanctioning payment in excess of fifty thousand rupees per annum' be inserted."

The motion was negatived.

MR. CHAIRMAN: The question is:

114. "That at page 100, line 8, after the words 'fifty thousand rupees' the words 'or one per cent of the total paid up capital (equity and preference), whichever is less,' be inserted."

The motion was negatived.

MR. CHAIRMAN: The question is:

184. "That at page 99, line 32, for the words 'eleven per cent.' the words 'six per cent.' be substituted."

The motion was negatived.

MR. CHAIRMAN: The question is:

185. "That at page 99, lines 40 to 43 be deleted."

The motion was negatived.

MR. CHAIRMAN: The question is:

186. "That at page 99, lines 44-45, for the words and figures 'sections 352, 353, 354, 356, 357, 358, 359 or 360' the words and figures 'sections S33, 354, 356, 357, 358 or 360' be substituted."

The motion was negatived.

MR. CHAIRMAN: The question is:

187. "That at page 100, line 2, for the words 'fifty thousand rupees' the words 'twenty-five thousand rupees' be substituted."

The motion was negatived.

MR. CHAIRMAN: The question is:

"That clause 198 stand part of the Bill."

The motion was adopted.

Clause 198 was added to the Bill.

Clause 199 (Calculation of commission etc., in certain cases)

SHRI BHUPESH GUPTA (West Bengal):
Sir, I beg to move:

115. "That at page 100, line 23, for the words 'two years', the words 'one year' be substituted."

MR. CHAIRMAN: The clause and the amendment are before us for discussion.

We have taken already about 11 hours and we have about 17 hours. We have 250 amendments, of which we have disposed of about 60. So be brief, clear, and to the point, so that he may understand you.

SHRI BHUPESH GUPTA: I take your advice. But you will realise, Sir, that yesterday Mr. Ghose asked a very simple question of the Minister. I found that he had taken 45 minutes to explain that point, and I retired to bed in great confusion, and this morning we are none the better.

Anyway, this particular amendment relates to the time limit. Now, subclause (2) of clause 199 says: —

"Any provision in force at the commencement of this Act for the" payment of any commission or other remuneration in any manner based on the net profits of a company, shall continue to be in force for a period of two years from such commencement....."

Now, as we have been told that this Act will come into force in the

beginning of next year, that is to say, for another two years from that time, the existing arrangements will remain. I hope this is the idea behind the whole thing. Now all that we say is that the period should be reduced to one year. I do not know why they are so generous when it comes to the question of providing profits, emoluments and remunerations to the big bosses of the companies. They take an entirely different course when it comes to the question of employees and workers. They do not even tolerate adjudication by a tribunal. They modify it. But here this Government is passing a certain measure with certain restrictions. And to what extent these restrictions will work to the advantage of the people, and if I may say so, to the disadvantage of the anti-social employers, remains to be seen. And here two years' period has been provided for so that they can reap a big harvest, and nothing in this clause will affect them until after a period of two years. This, I think, is entirely wrong, especially when we know that certain other provisions are being made with a view to bringing down certain wages, and all that. Now you will ask: What does it matter? Now within a period of two years, a capitalist, a multi-millionaire,—I am not talking about the smaller firms, but about the multi-millionaires—can earn enormous profits, and he shall see that whatever he is going to lose after a period of two years, is made up in anticipation, and made up considerably during this period. Therefore, Sir, I suggest that this period of two years should be reduced to one year. And this amendment should be acceptable to the hon. Minister. I see he is looking at the Finance Minister, and I do not know what is going on there, but if he will kindly listen to me, then he will certainly.....

SHRI M. C. SHAH: If you cut short your speech, I may accept your amendment.

SHRI BHUPESH GUPTA: Will you accept it? If you do so I will sit down.

SHRI M. C. SHAH: Yes, I accept that amendment.

MR. CHAIRMAN: The question is:

115. "That at page 100, line 23, for the words 'two years' the words 'one year' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is.

"That clause 199, as amended, stand part of the Bill."

The motion was adopted. Clause 199, as amended, was added to the Bill. *Clause 200 (Prohibition of tax-free payments)*

MR. CHAIRMAN: Now we come to clause 200. There are two amendments, No. 45 and No. 46.

SHRI BHUPESH GUPTA: Sir, I move:

45. "That at page 100 —

(i) in lines 27-28, after the words 'as such or otherwise' the words 'or to any share-holder' be inserted; and

(ii) in line 28, after the word 'remuneration' the words '—>r dividend' be inserted."

46. "That at page 100, lines 38 to 43, for the words 'such provision shall have effect during the residue of the term for which he is entitled to hold such office at such commencement, as if it provided instead for the payment of a gross sum subject to the tax in question, which, after deducting such tax, would yield the net sum actually specified in such provision' the words 'such provisions shall be void' be substituted."

MR. CHAIRMAN: The clause and the amendments are now open for discussion.

SHRI BHUPESH GUPTA: Sir, these amendments are of a very technical nature. Now we want to make the provision rigid in the interest of the public exchequer. That is our whole idea. You will realise that we are

[Shri Bhupesh Gupta.] not doing it for inflating the funds of any political organisation. I am moving these amendments in the interests of your exchequer. Now, Sir, I would not like to go into any details. It is a very minor thing, and I hope these amendments will be accepted, as the other one has been accepted. I do not want to make any speech on these amendments, because I have got a big speech reserved for amendment No. 205.

SHRI M. C. SHAH: I think, Sir, that there is some mis-conception in the mind of my friend, Mr. Bhupesh Gupta. No dividend is tax-free. As a matter of fact, the companies always deduct that tax out of the profits before the dividends are issued. Therefore, it will be seen that the tax is being recovered, and if we have just to charge more super-tax, we get more demands on those persons who are liable to super-tax. And those who are not liable to income-tax, will just get a refund. So, it is a mis-conceived notion that 'tax-free' means that the tax is allowed to go by. We just recover the tax in the beginning. He does not know the procedure. I do not know whether he has got any share.....

SHRI BHUPESH GUPTA: No, I have got no share, nor will I possess one.

SHRI M. C. SHAH: Therefore, Sir, I think these amendments are unnecessary.

SHRI BHUPESH GUPTA: Sir, I beg leave to withdraw my amendments.

•Amendments Nos. 45 and 46 were, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 200 stand part of the Bill."

The motion was adopted.

Clause 200 was added to the Bill.

*For text of amendments, *vide col. 4344 Supra.*

Clause 201 was added to the Bill.

MR. CHAIRMAN: Now there is amendment No. 47 for the insertion of a new clause as clause 201A.

SHRI BHUPESH GUPTA: Sir, I move:

47. "That, at page 101, after line 21, the following new clause be inserted namely:

'201 A. *Prohibition of management of company by tax-evaders.* — (1) No person who has been found guilty by any court or tribunal of evading any tax payable by him shall take any part in the promotion, formation or management of any firm, company, or other body corporate.

(2) Any person on being found guilty as aforesaid shall forthwith vacate any office that he may be holding which is concerned with the promotion, formation or management of any firm, company or other body corporate.

(3) In the case of a person who has been found guilty as aforesaid before the commencement of this Act, the provisions of sub-section (2) shall apply as if he had been found guilty as aforesaid at the date of the commencement of this Act.

(4) This section shall apply notwithstanding any want of jurisdiction in the court or tribunal on account of any technical defect in its constitution or composition."

MR. CHAIRMAN: The amendment is open for discussion.

SHRI BHUPESH GUPTA: Sir, clause 201 deals with avoidance of provisions relieving liability of officers and auditors of company. And I want that this new clause should be inserted after that clause, which would, according to me, be 201A. But that would change if my amendment is accepted. Now, Sir, sub-clause (J) of

the proposed new clause states as follows: —

"No person who has been found guilty by any court or tribunal of evading any tax payable by him shall take any part in the promotion, formation or management of any firm, company, or other body corporate."

To you, Sir, I think, it is very intelligible, and the reason is obvious.

MR. CHAIRMAN: But I am not interested in it.

SHRI BHUPESH GUPTA: But to the Finance Minister it may not be clear. All that I say is that the people who are found to be guilty of tax evasion should be put outside the pale of the company's affairs, because we feel that such people should not be given any quarter. If those people have got the courage to evade the taxes imposed by the mighty kingdom of Shri Chintaman Deshmukh, then you can just imagine how audacious they will be when it comes to the question of cheating the shareholders. Therefore, such people should not be allowed to start any company. They can go to Timbuctoo, if they like. But they should not be allowed to function in a joint stock company.

The sub-clause (2) states as follows: —

"Any person on being found guilty as aforesaid shall forthwith vacate any office that he may be holding which is concerned with the promotion, formation or management of any firm, company or other body corporate."

Now, Sir, we have all manner of disqualifications, and there are disqualifications laid down in the matter of election rules. If it is found that a Member had not submitted his election returns properly, he is liable to be disqualified, and if it is found that he had spent more money in respect of his election than what was sanctioned by the election rules, he

loses his parliamentary seat. Now here in the case of joint stock companies, if any people are found guilty of evading taxes, they should vacate their positions, and such places should be taken by others. The trouble is that the Government do not care to see such persons eliminated from the company, even after cases are brought to their notice. Now, I think that is entirely wrong. Quite apart from any other consideration, it demoralises public life. If we see that big concerns in our country are being run and managed by people against whom tax-evasion cases are pending, that completely demoralises public life, and creates a very bad example in our society. Yet we find that nothing is being done by the Government about them. Not only that, Sir, but as you know, if we take part in a trade union movement, or do anything of that sort, then the hon. Members are full of accusations against us, and they give names, places and other particulars about the incidents. But that is not so when it comes to the question of the gentlemen of the big money, and they commit a fraud on the public exchequer, and yet their names are not at all divulged before the people. We have every right to know the names of such people who have been evading taxes, and more so, we have every right to demand of the Government that such people should not be allowed to continue in their office in any joint stock company and enjoy any positions of authority and responsibility.

Then, Sir, sub-clause (3) reads as follows: —

"In the case of a person who has been found guilty as aforesaid before the commencement of this Act, the provision of sub-section 2 shall apply as if he had been found guilty as aforesaid at the date of the commencement of this Act."

We want to give it a retrospective effect, because a criminal is a criminal; it does not matter when the measure comes into force. A thief is a thief, even if the Act comes into force—

[Shri Bhupesh Gupta.] in 1980. So the people who are guilty of such evasion of tax even before the commencement of this Act should be covered by the amendment that I have suggested.

Now, Sir, with regard to sub-clause (4), I would like to say that the big capitalists have got so many ways of delaying matters under any law. They go to the Supreme Court, and the entire legal wisdom of this world is at their beck and call, because they have cash. They can employ very big lawyers who are paid very handsome amounts, and they know how to drag on a case in a court of law for any number of days. I can give you one simple example. Once I appeared in a case like this—a trade dispute against the Tatas in Jamshedpur—on the side, of course, of the workers, because I can never think of myself appearing on the side of the employer. There a Calcutta barrister went. I went of course without any charge and I was out of pocket for travel. The Calcutta barrister was drawing about Rs. 1100 a day plus Rs. 500 for consultations. He came and told me because, as you know, I am a bit of a bully in such matters and I started bullying these people. The case went I on. He came to my place and told me that he did not mind if I bullied him because everyday brought him about Rs. 1700 and that the case should be continued. I realized that he was making profits and then I changed my tactics and saw to it that the matter was brought to an end. He earned about Rs. 28,000 and I lost about a third class fare that I had to pay. Therefore I say that this clause should be operative irrespective of technical flaws in the cases, irrespective of what other provisions they can resort to for frustrating the operation of this law and I hope the hon. Finance Minister should be more concerned about the cash than about those people who are managing the companies and j having regard to the paramount consideration of public funds, public exchequer and all that and also keeping in view the interests of the share-

holders and the public and looking forward to the broader questions of social morality, he should see that such people are completely ostracised as far as company matters are concerned. They should be shown the door and they should not at all be allowed to enter our business houses and concerns and this is something which is not at all a violent suggestion or a shocking suggestion. This is a suggestion which will fit in with the economy and which will save the public exchequer and rid our companies of corrupt and degenerate elements.

SHRI B. C. GHOSE: Sir, I should like to say one word on this amendment because the content of this amendment is certainly a desirable one. I don't know whether technical considerations will permit of its acceptance. But I should expect the Government, when they are renewing the contract of managing agents, certainly to keep this consideration in mind whether a person who is acting as a managing agent has been evading taxation and whether that is a practice which he resorts to very often because such a person should not be, if it were possible, permitted to be associated with the managing agency of a concern.

SHRI S. N. MAZUMDAR (West Bengal): As I find no other Member is coming to oppose the amendment, I can take it that it has the support of the House and in that case.....

SHRI S. N. MAZUMDAR: Mr. Bisht is raising his dissentient voice. However, I don't know whether the hon. Finance Minister will accept it or not but I would like to point out in this connection for the consideration of the hon. Members that this is a suggestion which cannot be objected to by anyone and this is a suggestion which has been advanced not only by us but I find that in the evidence

tendered before the Joint Select Committee by the representative of the Labour Organisation which is in the good books of the Government, this question was raised by him. The representative of that organisation raised the question that this matter of evading tax and thereby earning illegal money and cheating the public exchequer has become a very great thing and he suggested there that a disqualification should be placed on such persons as evaded tax and engaged themselves in speculations or other illegal activities in cheating people and the public exchequer and they should be debarred from being managing agents of the concerns. In this connection the fact should be mentioned that the Income-tax Department does not make public the names of those persons who are guilty of evading income-tax. That practice should be abandoned in the interests of public morals, in the interests of the development of our economy. Those people who have evaded income-tax should be treated with the worst condemnation. Now it is strange that their names are hidden from the public and the amounts which are also evaded are not made public. The small reports of the Income-tax Investigation Commission which we get in the library are generally back-dated and even there we find many ingenious methods of evading income-tax. Now in the evidence to which I have referred, the representative of the said labour organisation also mentioned that once he was approached by the bosses of a big concern to agree to a measure which would stop production and thus defraud the consumers and defraud the workers. Such people should be treated as the worst enemies of the people. But I am very apprehensive about the fate of this amendment or suggestion. I don't know with what arguments the hon. Finance Minister will oppose this but while going through the copy of his speech which has been circulated to us, I found that he made a reference there that the attitude of the Government towards these people, the tax evaders and the men of

money, is that of economic non-violence. Now I find that this word 'non-violence' is a very convenient handle or weapon in the hands of the Government. Non-violence is a compound word. The prefix can be separated from the word to which it is prefixed and actually we find that the prefix 'non' is used as a detachable handle. When the Government has to act in reference to tax evaders, in reference to black-marketeers or speculators, in reference to foreign capitalists, in reference to Portuguese colonialists, the prefix 'non' is attached to it and it becomes non-violent but when it is a question of workers demanding wages or when it is a question of the students in Patna demonstrating their grievances against the Police 'Zulum', when it is a question of demonstrations in Bombay and other places raising their voices or when it is a question of the workers raising their demands.....

MR. CHAIRMAN: Come to the amendments.

SHRI S. N. MAZUMDAR:the prefix 'non' is taken away and it becomes simple 'violence'. I don't know whether the hon. Finance Minister will come forward here with that argument that from the consideration of economic non-violence, he cannot accept this amendment. But I think he should accept it.

THE MINISTER FOR FINANCE (SHRI C. D. DESHMUKH) : Mr. Chairman, with reference to the speech of the hon. Member who spoke last, I can only infer that he has not seen what I have said on this subject on pages 81 to 83 of this reprint of the speeches delivered by me elsewhere because what he has referred to—the phrase 'economic non-violence'—does not form part of any of the arguments that I put forward.

SHRI BHUPESH GUPTA: But it forms a part of your philosophy.

SHRI C. D. DESHMUKH: We are not concerned with philosophy as you pointed out to the hon. Member about violence and non-violence. We are

[Shri C. D. Deshmukh.] concerned with the argument and I have given a number of arguments which, it is obvious, none of the hon. Members who spoke, has seen. Well, all I can do is to refer to them and I am sure Members on this side who have not thought it necessary to speak, have read it. Therefore I can only refer these Members to that portion of this reprint of my speeches. I shall make my reply therefore a short one, *i.e.*, I don't want to repeat the arguments which I then offered. Reference has been made to Government's practice of not divulging the names of people who pay income-tax or who evade income-tax and the amounts involved. There is a very good reason for it and that is the existence of a section in the Income Tax Act—section 54 which.....

SHRI BHUPESH GUPTA: That must be amended.

SHRI C. D. DESHMUKH: That has not been amended.

MR. CHAIRMAN: It can be amended, he says.

SHRI C. D. DESHMUKH: Of course, everything can be amended, but as a rule I conceive it my duty to observe the law as it stands and not as it should be afterwards in the opinion of certain hon. Members.

(Interruptions)

The first statement that I am making is that so far as I know, the Income Tax Act prohibits the divulging of this information. Secondly.....

SHRI V. K. DHAGE (Hyderabad): Sir, if I may interrupt, I think there is a little misunderstanding, perhaps I have a little misunderstanding, regarding this section in the Income-tax Act. Suppose a specific case goes to the court and a person is found guilty by the court. In that case this section will not apply, it will not come into operation because the proceedings of the court are public.

SHRI C. D. DESHMUKH: I am coming to that. I am now referring to

the argument which was advanced by the hon. Member who spoke last. I say there is good reason why we cannot divulge the names of the people who pay taxes even, apart from those who evade taxes, because we think it would help us better to arrive at the truth and to gather more revenues for the fisc. Therefore this practice is observed, to my knowledge, in all countries, in the interest of better revenue collection.

Now, I come to the next point, that is to say, are we dealing only with a limited category of cases, not of cases of tax evasion to which I have referred in my speech here, which are recognised as tax evasion and detected in the course of departmental enquiry, but only to cases which go to court or to a tribunal? That seems to be the intention of, not perhaps the mover of the amendment, but the other hon. Member who spoke just now. In that case, it would be discriminatory. There are certain cases which may or may not go to court. And to my knowledge, not many cases have gone to court. Most of the cases in regard to income-tax are settled by the law bearing on settlement of cases. It is not a question of prosecution and then pronouncing a verdict. When we deal with a case departmentally, not only income-tax cases but cases relating to customs, excise, sales-tax, almost the whole field of taxation, it is not our custom to go to court. Therefore, a very large number of cases, even if we were to admit in theory that there is some justification for it, would be excluded and only perhaps a rare case that goes to court would be affected by this proposed amendment. There is also reference of cases to a tribunal. Now, the only tribunal that I know of is the Income-Tax Tribunal. That is not in the habit of.....

SHRI V. K. DHAGE: In those cases' the section in the Act will apply.

SHRI C. D. DESHMUKH: Exactly, to proceedings of the Tribunal as a rule. But to the extent to which a legal

point or a matter of fact is argued, that will be public property, but not the question of how much tax is be-in^: paid or whether there has been any tax evasion. After all, suppose the tribunal decides a certain question Do we take it as a case of tax evasion or of attempted tax evasion? We can only take it as a judgement of the tribunal with regard to that particular point. Suppose a case is decided by the High Court. If the High Court upholds the Central Board of Revenue, against a particular party, *do* we say the High Court has come to the conclusion that here was a case of tax evasion? The line is very very thin and it is very difficult to draw. It is quite true that we had reason to suspect that during the war period a large number of people made profits and hid them from the tax gatherer. And it was as a result of a cursory preliminary examination made that Government decided to establish the Income-Tax Investigation Commission. That Commission ■was neither a court nor a tribunal, although it did contain eminent judges. It was headed by an eminent judge and it had another judge as a member, the third member being an experienced departmental officer. I do not know whether hon. Members have had occasion to study the returns which we used to submit periodically or in the course of answers to questions, of the work done by that Commission. A large part of the work was carried out under the settlement section. In other •words the accounts were tallied and may be the conviction was arrived at that *on* the facts as established by the accounts, a particular tax should have been paid and it had not been paid. But unless one goes through every single case, one cannot come to the conclusion, even in theory, that here was a case of tax evasion involving moral turpitude, although I have no doubt that in a large number of cases, there was a deliberate attempt to evade taxes. But the point is, all these cases were settlement cases under the law. Now, as hon. Members are aware, on account of a ruling

of a High Court and subsequent consideration, the Income-Tax Investigation Commission has been abolished and whatever cases were on their files are being considered departmental^ . I have not got the facts here, but may be about a third of the number of cases are still to be dealt with, most of the other cases having been dealt with as settlement cases. This amendment will not apply to any of the cases which have still *to* be decided because in their case there is no reason to discriminate these cases from the cases which are decided every day by the departmental officers. So what are we dealing with? Are we dealing with a very few individuals, or are we dealing with tax evasion as a phenomenon? I say, if you want to deal with tax evasion as a phenomenon, then you are on very slippery and very comprehensive ground and I do not know how many people you might be excluding from the management of companies. If you are dealing with only a small number of people, then the point undoubtedly arises, what of those people who have either settled cases with the Commission or departmentally? Hardly any case has gone to the court or tribunal. Therefore, either this section is discriminatory, grossly discriminatory, or it will apply in a very unequal and uncertain kind of way and will not serve any useful purpose. That is my reason, interested though I am, in collection of revenue, for opposing this amendment and for not being able to accept it.

In the course of my speech I said particularly that when the question of renewal of managing agency or the granting of managing directorship and so forth comes, we shall have at the back of our minds information with regard to the general record of the managing agent. After all the particular sins may not be only of this kind. It may be that the man has defrauded creditors in many other ways apart from the question of tax evasion. In other words, we might have recovered the taxes from the man and yet he might

[Shri C. D. Deshmukh.] have cheated the shareholders. In that case also, we should feel justified in not agreeing to renew his managing agency. Therefore, although I am prepared to bear this general record of the man at the back of my mind, that is to say, of the mind of the Administration, in dealing with these issues, I do not think it would be practicable to have a provision like this inserted in the Bill.

SHRI KANHAIYALAL D. VAIDYA (Madhya Bharat): Sir, I would like to submit here what the hon. Finance Minister stated in the other House in his speech which is reprinted on page 82 here:

"Now, those which result in prosecution of individuals stand in a category by themselves. In respect of the persons therein concerned, it may be specifically said that they are guilty of moral turpitude, and are probably not worthy of holding a public office."

SHRI C. D. DESHMUKH: I am not denying it. I say there may be a few cases; but they are not typical or representative cases. After all, we are not pursuing only the exceptions; we want to have something which will serve as a general rule.

MR. CHAIRMAN: Do you want to press your amendment in spite of what the Finance Minister has said?

SHRI BHUPESH GUPTA: Yes, Sir. Generally we do not convince each other.

MR. CHAIRMAN: The question is:

47. "That at page 101, after line 21, the following new clause be inserted, namely:
—

'201 A. *Prohibition of management of company by tax-evaders.* — (1) No person who has been found guilty by any court or tribunal of evading any tax payable by him shall take any part in the

promotion, formation or management of any firm, company, or other body corporate.

(2) Any person on being found guilty as aforesaid shall forthwith vacate any office that he may be holding which is concerned with the promotion, formation or management of any firm, company or other body corporate.

(3) In the case of a person who has been found guilty as aforesaid before the commencement of this Act, the provisions of subsection (2) shall apply as if he had been found guilty as aforesaid at the date of the commencement of this Act.

(4) This section shall apply notwithstanding any want of jurisdiction in the court or tribunal on account of any technical defect in its constitution or composition."

The motion was negatived.

Clauses 202 and 203 were added to the Bill.

Clause 204 (Restriction on appointment of firm or body corporate to office or place of profit under a company)

SHRI C. P. PARIKH (Bombay): Sir, I beg to move:

48. "That at page 103, line 10, after the word 'employ' the words 'any individual or' be inserted."

49. "That at page 103, line 13, for the word 'five' the word 'three' be substituted."

50. "That at page 103, lines 14-15, after the words 'employment of the words 'an individual or' be inserted."

51. "That at page 103, line 16, after the word 'unless' the words 'the individual or' be inserted."

52. "That at page 103, line 28, after the word 'Any' the words 'individual or' be inserted."

53. "That at page 103, line 81, for the word 'five' the word 'three' be substituted."

54. "That at page 103, line 35, after the word 'any' the words 'individual or' be inserted."

55. "That at page 103, line 36, for the word 'five' the word 'three' be substituted."

56. "That at page 103, line 46, after the word 'apply' the words '(i) to an individual who is in the service of the company or (ii)' be inserted."

MR. CHAIRMAN: The clause and the amendments are open for discussion.

SHRI C. P. PARIKH: This clause, Sir, is very clear on the face of it but there is another clause which comes later on and that is clause 314 which deals with office or place of profit. All my amendments taken together point to the fact that the individuals should be included in these cases. When firms and bodies corporate are appointed for five years, I do not understand why the individuals should be appointed for a longer period. I shall come later on to the period, but the point is, when a five-year period is considered adequate for a firm or body corporate, I do not understand why, for individuals, this provision is not being made applicable. This period is limited to five years, although I would suggest three years. The reason is this: There are many individuals in the company, the workers, the technicians, the supervisory staff and others who are individuals; these people are also hit by this definition because the place of profit also happens to be the place of working for these people who are drawing salaries from the company. The Bill, before it went to the Joint Committee, contained the word "individuals" but this was removed at the Joint Committee stage because of these difficulties. These, however, are difficulties which can be solved by amending sub-clause (6) of clause 204 to the effect that the provisions will not apply to an individual who is in the

service of the company. Therefore, all those persons who are in the service of the company should not be brought within the scope of this provision. Why I am pressing this point is, the companies, whenever they have large profits, want to distribute them not only to the relatives of the people managing the companies but also to friends and others who are hanging around them. If one were to go to Bombay, Calcutta or the principal cities in India, one would find the houses of people in possession of power and patronage filled with a dozen persons always waiting irrespective of whether the persons were inside their own homes or outside. These persons desire favour; when favour is given, competency is at a discount. I quite understand that these appointments can only be made by the Board of Directors but the point is, the Directors change on the rotational system and certain Directors may be in the hands of the managing agents which will facilitate the approval of such appointments. There will be also certain other Directors who may question the exclusion of people with more competence but working at a low salary. Such circumstances are bound to be there; hence I think the individuals should be included.

There are many places of profit; for instance, there is brokerage commission for which very little work is to be done. The companies usually take the risk; the people arrange the sale and get a commission if anything is sold. Brokerage can be given to anyone and the percentage is also given according to the discretion of the managing agent or the secretaries and treasurers or whoever they are. Then there is the percentage commission on sales; these generally do not come up for review before the general meeting or before the Board of Directors. I suggest that my amendment regarding the individuals be accepted.

I now come to the quantum of the period. The time provided in the Bill is five years. That, I think, is too

rShri C. P. Parikh.] long for a revision of the place of profit which is given perhaps many times on favouritism or for some other considerations but not on account of competency. On that account, I want the period to be reduced to three years. Nothing would be lost by this. For these reasons, I suggest that my amendments may be accepted.

SHRI C. D. DESHMUKH: Sir, if you exclude the individuals in service and you also exclude the technicians or consultants, that leaves a very small circle of people whom the hon. Member wishes to exclude from the mischief of this clause. Now, all I can say is that experience has not shown—although the apprehension may be there—that whereas the period for managing agents, secretaries and treasurers and others had been restricted to five years, a similar profitable appointment has been reserved for people favoured by the managing agents or secretaries and treasurers for a longer term. Unless there is strong evidence of abuse, which has not come to the notice of Government, I do not think it is worthwhile placing such a restriction on the discretion which is vested today in the Board of Directors or in the companies. In other words, one may be content to leave the situation as it is till it grows very much worse, in other words again, this particular freedom is misused. As I said, so far as the individuals in service are concerned—this is a very large class—hon. Members would agree that a limit of five years would be meaningless. So far as the technicians or the consultants are concerned, it is also recognised that this will not be in the interests of the company. So far as the people who ought to be controlled are concerned, this clause itself provides and, therefore, it leaves, to my mind, a very small and undefined category of persons whose tenure is sought to be limited. In my opinion, such an amendment is not necessary, and there is still less justification for reducing this period from five to three years. In a matter like this, there

can be all kinds of opinions; some may consider two to be a reasonable period; some others may consider three to be reasonable while yet others may consider four to be a reasonable period. A large number of people, on many occasions, have considered this limit of five years and have not found anything unsatisfactory in it. Therefore, I cannot accept, as a reason for the amendment, the fact that certain hon. Members feel that it is a bit too long. My only answer can be that. I think five years is a reasonable period. I, therefore, oppose the amendments.

SHRI C. P. PARIKH: In view of the explanation of the hon. Minister, I beg leave to withdraw all my amendments.

Amendments Nos. 48 to 56 were, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 204 stand part of the Bill."

The motion was adopted.

Clause 204 was added to the Bill.

Clause 205 (*Dividend to be paid only out of profits*)

MR. CHAIRMAN: Amendment No. 116 in List No. 2,

SHRI BHUPESH GUPTA: I move:

116. "That at page 104, after line 6, the following provisos be inserted, namely.—

'Provided that no dividend shall be declared or paid if within three months preceding such declaration or proposed payment there has been an unfulfilled demand for bonus or wage-increase by the workers and employees:

Provided further that no company with equity capital equivalent to twenty-five per cent, of the paid up capital held severally or collectively by any foreigners

*For text of amendments, *vide* cols. 4358-59 *supra*.

other than Pakistanis, shall declare or pay any dividend unless it has (i) secured the sanction of the Central Government, and (ii) given an undertaking, in writing, that such dividends shall be paid in Indian currency."

Now, Sir, this is a very important amendment and I do not deny that the force of the amendment cannot be determined without going into the questions of policy. I hope the House will bear with me if I refer to certain aspects of the policy in so far as this particular amendment is concerned.

Sir, what do I say? Here you see any dividends can be paid only out of profits. This is the position. After that I want in this particular clause two provisos:

"Provided that no dividend shall be declared or paid if within three months preceding such declaration or proposed payment there has been an unfulfilled demand for bonus or wage-increase by the workers and employees"

This is proviso No. 1. The other proviso is:

"Provided further that no company with equity capital equivalent to twenty-five per cent, of the paid up capital held severally or collectively by any foreigners, other than Pakistanis, shall declare or pay any dividend unless it has (i) secured the sanction of the Central Government, and (ii) given an undertaking, in writing, that such dividends shall be paid in Indian currency."

The hon. the Finance Minister deals with the big policies of the Government and I have no doubt in my mind, from the mere reading of what I have stated in this amendment, you will gather the implications of his policy. I know the answer that is in store and that will soon come from him. Yet I venture to advance certain arguments for his consideration as well as for the consideration of other hon. Members in the House.

10 RSD—2

Sir, the very first thing that I want to make clear is this. I do not know how the Finance Minister looks at the companies, but we do not look at them as if they are gymkhana clubs, certain dens of the sons of the rich people, where they can do anything they like without being interfered with by the administration.

MR. CHAIRMAN: Not necessary for the argument.

SHRI BHUPESH GUPTA: I am coming, you see; of course certain things are necessary; you will see why it is necessary.

MR. CHAIRMAN: To add force to the argument?

SHRI BHUPESH GUPTA: I have to—I mentioned an august institution.

Now here the companies are institutions which have got some social significance. Their importance extends beyond the precincts and the premises of these companies, joint stock companies. Sir, the first thing you remember is that undoubtedly the companies to-day, as in this Bill, we see, are owned by certain private individuals. We are dealing here with private companies; we are not dealing with State enterprises and all that. A handful of people own the industries and other commercial undertakings in the country and we are making laws for such institutions, such concerns. Sir, we know that it is the capitalist class which to-day owns the means of production, distribution and exchange and at the same time we see before our eyes the production is social. It is not as if the capitalists themselves or some of their friends and associates are turning out the wealth that we get from those undertakings. It is the workers and the toilers, the employees and others who are really producing the wealth, the goods. Therefore, Sir, while the ownership is private, the production here is social. Therefore when we look at company matters, we should have a social approach to-day. For one thing you know that not less than

[Shri Bhupesh Gupta.] 5 to 6 million workers are engaged in production, distribution and exchange in these joint stock companies of our country—they are about 30,000, but these 30,000 companies employ no less than 5 to 6 million workers who go into production and other operations connected with its distribution and exchange. It is these people who run the wheels of our industry; it is these people who have made our land what it is to-day as far as we see production and all that. Sir, I cannot imagine the big plutocrats of the big money turning out bales of textiles, cotton or jute, or tons of tea in the tea gardens. Who are doing this thing? The common people who work with their hands or with their brain, it is they who produce such wealth, Sir. Therefore their question becomes vital when we take into account the questions relating to payment of dividends and profits. Now it is true that dividends are paid from the profits. This is obvious. For that we need not require a company law to tell this obvious truth. But where do the profits come from? That is the question. Profits come from the exploitation of the labour. This is what I want to say. But for this exploitation of the labour, the capitalist class would not have derived the profit. Out of the machines and raw materials they produce wealth, out of which part is given by them by way of wages to labour whom they require. This the capitalists give for somehow or other making it possible for the labour to come next morning and sell his labour power. At the same time a big part of the wealth produced by them is denied to them, which goes and makes profits and it is out of this money, that is to say, the money that has been gathered by denying the working class of the fruits of their labour, that the capitalists build up their mountains of profits. This is the genesis of the profit of which we hear so much and therefore it pains me when I hear one hon. Member, Shri Lalchand Hirachand Doshi, telling me that how the companies should settle their affairs is

none of our concern, that they have themselves the sole and sovereign right to settle their things, to decide their policies, etc. regardless of what happens to the working class and the people. I would tell the gentlemen of the big money that we are not going to accept this proposition. Had it not been so, even the hon. the Finance Minister would not have thought it wise to come with a comprehensive company measure and legislate with a view to regulating and controlling them. Therefore we reject this thesis; this thesis that we have no right to poke our nose into their affairs; it is a thesis which everybody has rejected including the Government. I can remind the capitalist gentlemen on that side of the House that it was in the 17th and 18th century that they came out with their charter of demands and fought for certain rights against the feudal elements so that they could make money attd expand capitalism in various countries. To-day they should remember that the turn has come to us. It is for us to-day to demand, press forward demands, while discussing such questions, not merely against the feudal elements which still remain to be eliminated from this country but also against the capitalist class and here to-day we like to advance the charter of demands of the workers. That we shall do later, but let us deal with it when we are thinking in terms of profits. Sir, this is something which these capitalist friends do not see. This is something which the hon. the Finance Minister, intelligent, shrewd, statesmanlike and also dogged in certain respects would not see even if we ram this point on him. Mr. Chairman, to-day we are dealing with the company measures in the Year of Grace, 1955. We are not dealing with it in the 17th century. Therefore we should ask ourselves, when we are arranging the company affairs and recasting them: Are we giving it an imprint of our modern outlook? Are we bringing here the questions that relate to the workers and the employees but for whom no company, no joint stock company, no private limited

company, whether in industry, trade or commerce, can ever run? It is this test that we must apply here and it is there we find this Bill is dismally wanting. I have suggested, Sir, that before you decide on the question of profits, you declare profits and all that, you have to go into certain vital questions regarding the workers, and here what do I say? "Provided no dividend shall be declared if there is a standing dispute between the workers with regard to wage and bonus." I tell you that I advance this amendment not merely because I have an ideological position to take for the working class for which no doubt I am proud and anybody should be proud in this country but I advance this demand also from the point of view of the bitter and sorrowful experiences through which the toiling people, the working class people, of our country are passing today. On the one hand we have seen that the profits are being distributed with both hands as dividend and on the other hand we see side by side that the workers are denied a living wage; they are denied bonuses. Whenever they come forward with such demands the heavy hand of the Government comes down upon them and they are suppressed. We want the matters to be so rearranged that such a thing cannot take place in the country. Sir, we have heard speeches here and as you know, during the past few years the companies have been making enormous profits. Here I will give you some idea. Between 1950 and 1955 the profits of the companies rose from Rs. 318 crores to Rs. 511 crores. This is an estimate made by the trade union organisations. I do not say that it is perfect; it may be wrong, but here is an indication. Even if I look into the official records I find that the profits are soaring high every year. I will give some instances of certain industries. Take the jute industry. It is an important industry. A survey of 58 companies embracing 59,762 looms show the following average dividend per cent, per annum actually distributed:

1948-49	8.7 per cent.
1949-50	9 per cent.
1950-51	16.3 per cent.
1951-52	13.5 per cent.
1952-53	10.1 per cent.
1953-54	11.5 per cent.

During this period the big profit-making was done during the Korean war boom. According to the Reserve Bank of India Bulletin of August 1954, during the two years of the Korean boom 47 of the bigger jute companies made a gross profit of Rs. 17" 98 crores and Rs. 9"5 crores as net profits.

MR. CHAIRMAN: Mr. Bhupesh Gupta, the general philosophy is all right. They have all listened to the particular proposition about the increase of profits etc. Now, let us come to the amendment.

SHRI BHUPESH GUPTA: But I have to advance reasons. I want to show how the wages are falling behind. You will kindly give me a little time.

MR. CHAIRMAN: Now, come to the amendment.

SHRI BHUPESH GUPTA: I see the point. You are quite right when you ask me to be on the amendment. We can reach the goal through different routes. May be I have taken a different route than what you have taken. I can quite understand that.

Now, out of that Rs. 4.47 crores is dividend on ordinary shares. That is most important. A large chunk of money is removed for distribution as profits on shares. Here again you will find that—I am generalizing because you would not allow me to speak—if 1939 is taken as the base year, then in 1951 jute profits rose to 679-1, cotton to 551-1, iron and steel to 155" 7, tea to 103" 9, sugar to 420-8, paper to 604-1, cement to 419-1 and all industries to 310-9. That was the rise in profits. Now during that period if you look at the wages what do you find? I can only say that the real wages, of the country remained more or less at the same level

SHRI C. P. PARIKH: Is it all relevant?

SHRI BHUPESH GUPTA: but nominal wages.....

SHRI S. N. MAZUMDAR: These are reasons in support of the amendment.

MR. CHAIRMAN: But let him talk about the amendment.

SHRI BHUPESH GUPTA: My amendment says that if there is any unfulfilled demand by the workers and employees, the company should not be in a position to declare dividend. Now, the hon. Minister will perhaps say that this will be the end of the joint stock company. He might say such a thing. Therefore I am taking the bull by the horns. So do not say such a thing because there has been a great rise in the profits. That is my point. Profits have been multiplying sometimes in geometrical progression. That is what I want to say here.

Now, I come to the question of wages. Naturally if anybody wants to be relevant and not irrelevant like some of the Ministers.....

MR. CHAIRMAN: Don't make comments on the Ministers also.

SHRI BHUPESH GUPTA: Let me deal with the wages. The divergence between the rise in wages and the rise in profits will justify my case. That is why I am advancing this argument and for once let the workers' point of view be heard about the company law. As I was telling, the real wages have remained more or less at the level of 1939 and this is admitted not merely by the All-India Trade Union Congress but also by the Indian National Trade Union Congress. Whatever may be the difference on other points, at least in regard to this matter there is unanimity of opinion as far as the working class movement is concerned. I concede that there has been certain increase in nominal wages; dearness

allowance, though inadequate, is being paid. But what is this thing? I will give you some idea. In jute the average wage is 20, in engineering it is 30; dockyard, I am not concerned with it here. The basic minimum wage in steel industry is between 12 annas and one rupee and six annas per day. In the cement industry—it is only for the information of Mr. Jain—it is Re. 1 per day and in the chemical industry the monthly basic wage is Rs. 27 to Rs. 35. In sugar industry it is Rs. 55 per month. Such are the low rates of wages that our companies give to the working class and we know that our production in the current period has gone up by no less than 38 per cent or so. But there has been no corresponding increase in wages. And because of that reason it has been possible for the capitalists to earn such profits. Now the production in the current year is 1.46 times that of the pre-war year but can we claim that the wage rise has been proportionate? Not at all. The cost of living has gone up by four times or more and we find that only small additions have been made to the wages by giving some dearness allowance. Whenever we demand that the dearness allowance should be integrated into the wages, the employers refuse to do that and the Government supports the employers. Then the workers naturally demand bonuses. When their profits are soaring so high, the bonus is denied to them. One can understand if they do that when the company is running at a loss for a successive number of years, but they go on declaring bonus shares and all that and refuse bonus to the workers. They raise their dividends but do not give bonus to the workers. Sir,, it has been demanded by the trade union organisations in the country that a small part should be set apart for depreciation of machinery and other things; and whatever is earned, out of that 50 per cent should be kept for meeting their demands.

MR. CHAIRMAN: What I say is, you have brought all the general

principles to bear on this particular amendment.

SHRI BHUPESH GUPTA: Sir, I left these observations to be made during this amendment. Only while speaking on the amendment, I support the working class and workers

MR. CHAIRMAN: Be relevant to the amendment.

SHRI BHUPESH GUPTA: My amendment is this. Before you fulfil the demands of bonus by workers, you cannot declare a dividend. I am giving my reasons. They may not be acceptable. These are my reasons. I do not know the rules of procedure which lay down the reasons for a speaker. Therefore, I am giving my reasons.

MR. CHAIRMAN: You have advanced them.

SHRI BHUPESH GUPTA: There are more reasons. I can speak for the whole day if you allow

MR. CHAIRMAN: I know.

SHRI BHUPESH GUPTA: Now, at least give some time, Sir.

MR. CHAIRMAN: I think you will take another five minutes.

SHRI BHUPESH GUPTA: I cannot finish in another five minutes. *I will* take another half an hour.

MR. CHAIRMAN: Not on this amendment. There is the third reading.

SHRI BHUPESH GUPTA: I shall save time during the third reading.

MR. CHAIRMAN: Five minutes more.

SHRI BHUPESH GUPTA: I cannot finish. Please give me fifteen minutes.

MR. CHAIRMAN: *No.* Another ten minutes.

SHRI BHUPESH GUPTA: Sir, you are the protector of the working class as far as the debate is concerned

MR. CHAIRMAN: You take up any proposition and the working class comes up.

SHRI BHUPESH GUPTA: Now, Sir, I say that they do not give bonus, but they are issuing bonus shares, let alone the question of increasing the wages of the workers. And naturally in such a case there would be trade disputes. Now, recently, as you know, the tea plantation labourers in Bengal demanded four months' bonus for each of the years 1953 and 1954. That demand was based on the fact that the companies were making or the plantations were making enormous profits. But the companies would not listen to them and that demand was rejected outright. And what is most regrettable was that the Government came in support of the employers and seven workers were killed, because they had the courage to stand for their vital rights, in defence of their vital interests. Now, there exactly you will find that in those areas the tea plantations were making enormous profits. Now, I can give you only one example again. In 1954 alone eight European tea gardens in Darjeeling made a profit of Rs. 19,94,976 over a total paid-up capital of Rs. 18,63,900. Such is the rate at which they make profit and yet they deny the bonus to the working class.

Now, Sir, if I give you the list of earnings of the workers, you will see that they do not get even a minimum wage for the barest living. The working class of the country and the employees have been and are condemned to live a life which is below the average standard, even if we compute it on the basis of the existing national income. A family would require a little over one thousand rupees to live a life on the basis of the existing national income, but most of the working class families in our country

[Shri Bhupesh Gupta.]

get much less than one thousand rupees a year. Therefore, even under the existing conditions, on the basis of the average national income, they are really made to live a life below that level. Naturally, therefore, the workers advance their demands for increase in wages and bonuses. Now, we do not accept the view that bonus is an *ex gratia* payment. We say that bonus is a part of the wages and it should be treated as such and the company should be compelled to treat bonus as part of the wages. We cannot leave our working people to wait on the pleasures and the mercies of the employing classes. We want them to be given a social deal, a fair deal. If the production goes up in the country, it stands to reason that out of the fruits of production their condition should also be advanced. Therefore, we say that in our country when the production is going up—we are justly proud of it—we should also at the same time say that the company managers do not deny the working class the fruits of their labour, because the full fruits they can never have under capitalism. Yet it is possible by amending the Company Law to ensure that these demands are fulfilled before the employers and the bosses could think of declaring bonus shares and dividends. And we have been told in this House by none other than Mr. Parikh—one of the three honourable Musketeers of the big Money—that some of the concerns were making profits to the tune of fifty per cent of their investment. I can ask him how much workers are getting. If the profits have been inflated in the concerns they are managing, it stands to reason that the conditions of the working class should also improve, their earnings should also go up side by side. You cannot have one-way traffic. After all, it is they who increase the production. Therefore, make it obligatory on the part of the companies, as I have suggested in my amendment, that they cannot declare dividends or profits until and unless they have settled the claims of their em-

ployees and workers. It is a question of social justice. They talk about harmony in industrial relations. They give lectures to the working class that they should behave well. I can tell them: please accept my suggestions and make it obligatory on the part of the employer to take into consideration the minimum demands of the working population. And only then will you move in the direction of promoting better relations between the workers and the employers. We know that as long as this system, remains, finality will not be reached; but nonetheless, matters could be improved. Sir, with that object in view I have given this amendment and bonus is a very vital factor in our country. Some of the concerns are making enormous profits. Therefore, bonus is a very important demand from the point of view of the workers. Now, remember, in 1952 when the Assam tea gardens were running, at a loss—and the ex-Advocate-General from Assam will bear me out—the tea plantations came with the preposterous suggestion that the losses, should be shared by the workers. But when there was boom in the tea industry in the succeeding years and the workers came forward to advance their demand for increased wages and dearness allowance, the employers—turned their back on them and said, "nothing doing". I say make the Company Law such as it would make such things impossible on their part—Sir, then, again, you have got this.

They are treating their workers.....
(Time bell rings.) I shall finish now. When they launched the State Health Insurance Scheme, even there we find that the workers are made to pay a contribution to their scheme, whereas the contribution should come from only the employers and the Government and not from the workers at all. The working class is demanding that their wages are appallingly low and for that reason they should be exempted from paying the contribution to this thing. (Looking at the Treasury Benches) Two of them are ex-

cited! Now, even if that is not accepted, I say, Sir, that this should be accepted. Make it obligatory on the part of these people that they cannot declare dividends or increase the dividends until and unless the pending disputes have been settled as far as the workers are concerned. It applies to all sections of workers, intellectual workers who live by the toil of their brain, journalists, everybody. It applies to all except some parasites.

Therefore, for their benefit, this amendment should be accepted

The other amendment is that you should not allow a company to declare any dividend until it has given you an undertaking that the money shall be paid in Indian currency. Sterling payment we do not want because that exhausts our reserves. That is » drain on our very meagre resources. Whatever payment is made, that should be made in Indian currency. We want the earnings of our country to remain in our land so that we can utilise them for the betterment of the conditions of the toiling people on the one hand and for the advancement of our economy. I am sorry I do not have time; otherwise, I would add more. Even the Finance Minister would find it difficult to advance any argument because the claim of the workers is for treatment on the same level and there is no Finance Minister on earth who can deny this claim of the working-class in the land.

SHRI SHRIYANS PRASAD JAIN (Bombay): I rise to oppose the amendment which has been moved by Mr. Bhupesh Gupta. We have had a long sermon from him about bonus, how bonus should be paid and what should be the relation between this and profits. I am not discussing all these things over here because if he reads his amendment, he will find that it only says that dividend should not be declared or paid unless the demand for bonus or wage increase has been fulfilled. Nowhere in the amendment do I find what should be

i the relation of the wages to the profits and how and in what manner the bonus should be.....

SHRI BHUPESH GUPTA: That should be settled with the trade unions on the basis of collective bargaining or by law.

SHRI SHRIYANS PRASAD JAIN: That thing can be argued somewhere, not under this clause. That would be here totally irrelevant. If you do not see the irrelevance, then I cannot help it.

I can understand the motive behind this amendment of Mr. Bhupesh Gupta. He wants that no dividend whatever shall be paid to the shareholders. If this amendment is accepted, the net result will be that no shareholder will get dividend for ever. And whenever a board meeting is likely to take place, a demand will come from the workers, whether imaginary or real, for wage increase, for the declaration of bonus. If this amendment is accepted, whatever may be the result of their demand, no dividend, can be declared and when no dividend is declared, no dividend will be paid and the result will be that, there will be no formation of companies in future because if no dividend is forthcoming, what is the use of making any investment? You are not going to get any dividend for that.

The idea behind this amendment is 'Finish all the joint stock companies, finish the formation of companies.' This is the real motive behind this amendment so that there should be chaos in the country and no expansion of industrialisation should take place. Therefore, with all my might, I oppose this amendment and would rather like to bring to the notice of all the implications of this. He knows better than me. This amendment should be totally opposed by all and should not be accepted.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Sir, I oppose this

[Shri Jaspat Roy Kapoor.] amendment which has been moved by my friend, Mr. Bhupesh Gupta. There are two parts of this amendment, one being more fantastic than the other. Sir, I admire the pertinacity of my friend, not only his pertinacity, but also his audacity because he has said today he is out to catch the bull by the horn. Undaunted by <Jie defeats and by the exposure of the hollowness of his arguments, he continues to repeat the same arguments day after day. There is, however, one thing which I find amusing to-day and that is that he has come round to the capitalistic way of drafting his amendment for I find that he has made a distinction now between workers and employees. His amendment says: "Provided that no dividend shall be declared or paid if within three months preceding such declaration or proposed payment there has been an unfulfilled demand for bonus or wage-increase by the workers and employees." It seems that he does not now believe in there being only one class in the society or a classless society.

SHRI S. N. MAZUMDAR: Wonderful discovery!

SHRI BHUPESH GUPTA: After Vasco da Gama.

SHRI JASPAT ROY KAPOOR: I am glad that my friend Mr. Mazumdar also can appreciate this discovery. I know, of course, that Mr. Bhupesh Gupta has not only today shown capitalistic tendency and come round to framing his amendment in a capitalistic way, but he has always love for capitalistic names. He himself has assumed a very big capitalistic name "Bhupesh"—the Lord of all the world.

What does this amendment mean? It simply means that the employees and workers should have a veto in the matter of the company, Whatever may be their number. There may be one worker; there may be one employee. No member is prescribed here. If one worker or one employee says, before the dividend is declared, that he wants so much by way of

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bonus, so much by way of increase in wages—there will be nothing doing thereafter and no dividend would thereafter be paid to any shareholder. What a fantastic thing it is!

He has waxed eloquent pleading for the interests of the workers. We on this side of the House on our part are no less enthusiastic in looking after the interests and the welfare of the workers. We earnestly and sincerely want their welfare and therefore, we suggest something definite always, some specific, concrete and definite suggestions to improve their lot. When we do that, my hon. friend opposes us. In the discussion on this Bill, we have been suggesting that the labourers should be represented on the Board of Directors. But Mr. Bhupesh Gupta is opposed to this suggestion. He said not only that he does not care for it, but says that if the suggestion is accepted, the employers will claim to themselves thereafter that labour interest is well represented in the Board of directors. So, he does not want that there should be an amicable settlement of all the disputes between the employee and the employer through the agency of the labour directors who might be there on the Board of directors. That is why he is opposed to it. It will be patent to everybody that the object is only to see that chaos and confusion should prevail and there should be no peace in the industry.

Now I come to the second portion of his amendment. This also has two aspects. Sir, the implication of the first aspect of the second proviso is that we must go on imposing impediments in the way of foreigners investing their capital here. Now, so far as this aspect is concerned, I will not say anything today because it has been amply discussed on previous occasions, and after the able exposition of my hon. friend, the Finance Minister, there is hardly need for anybody to say anything more on this subject. He has rightly said that our friends on this side of the House have

entirely a different objective, ^{a^a} therefore, no amount of reasoning would bring conviction to them. Therefore, it is no use wasting our breath in making a useless attempt to convince them.

Sir, I am more concerned with the second aspect of his amendment, namely, that in the matter of imposing disqualifications we should make exception in the case of Pakistan. Sir, this subject was also discussed yesterday. While I was discussing this subject and after I had discussed this point, my hon. friend, Mr. Mazumdar, had subsequently stood up and had accused me of being narrow-minded and even communalist. I was surprised to hear these things *idrom* him because ordinarily he speaks in a sober strain and gives, apparently, sound reasoning, though inside they may be hollow. But yesterday >he seemed to hav

e gone off his feet, I do not know why; probably he had .-. nothing substantial to say. Sir, I was reminded of a case, a weak case, in which a learned counsel was engaged. Finding that he had no case to plead, he did not attend the court but sent his junior telling him that the latter need only abuse his adversary. So yesterday, when I was discussing this question, rather than advancing any good reasons, he began abusing me

SHRI S. N. MAZUMDAR: I took a leaf from your book.

SHRI JASPAT ROY KAPOOR: By calling me a communalist and a narrow-minded person. Sir, what is it that I objected to? I objected to the imposition of any restriction on foreigners in the matter of investment of capital, and I do not want to make any exception in the case of any country. What they suggested is that we should not be so liberal; we should impose restrictions but that in the case of Pakistan we should make an exception. I suggested, Sir, that we should be generous to every other nation in the world, just as he wants to be generous to Pakistan. Sir, am I conservative in this respect or is he?

I What facilities he wants for one nation, one country, I want those facilities to be extended to every other ^nation. Am I to be accused of conservatism and narrow-mindedness or is he to ^{De} accused of that?

Then, ^{Sum} ^{ne} accused me of communalism, ^{2nd} ^{ne} might accuse me again today ^{Wi} ^{en} * ^{am} opposing this amendment. He* ^{did} ^{no} ^t give any reason why he thought Uke that of me.

SHRI BHUPESH GUPTA: Ail these accusations we have not appendea to the amendment.

SHRI JASPAT ROY KAPOOR: Of course, he has not yet advanced the same arguments today but I am anticipating his arguments.

Yesterday while Mr. Mazumdar was speaking, Mr. Bhupesh Gupta, who was the author of the amendment on which Mr. Mazumdar was speaking, and also while I was speaking, said that there were many Hindus in East Pakistan who have invested money in India. He wanted to safeguard their interests.

SHRI BHUPESH GUPTA: I did not say that. I am thoroughly misunderstood. I said Pakistani or a national of Pakistan. That is all I said. It is not a question of a Hindu or a Muslim. In Pakistan there are also Hindus. Irrespective of religion I want both Hindus and Muslims to be covered by my amendment.

SHRI JASPAT ROY KAPOOR: But what is the implication? There are many Pakistanis who have interests in this country and he wants to safeguard their interests. Who are they? Obviously the Hindus, not the Muslims there. There is hardly any East Pakistani Muslim who has interest in property here. He has the interest of such Pakistanis in East Pakistan as are no other than the Hindus. He wanted to safeguard their interest out of all the nations in the world.

I want to safeguard the interest of everybody in this world, be he in

[Shri Jaspat Roy Kapoor.] East Pakistan or anywhere. He may be a Hindu or a Muslim, a U.S.A. man or U.S.S.R. man. I beg of you to consider whether my point of view is communalistic or my hon. Friend, Mr. Bhupesh Gupta's point of view is a communalistic one when he wants only Pakistani nationals to be safeguarded in this country.

SHRI BHUPESH GUPTA: I want to protect them from both Jagat Seths and Mir Jaffars!

SHRI JASPAT ROY KAPOOR: Let my hon. friend sometimes observe the rules of debate. He ought to realise that when a Member is on his legs, he should not interrupt. I am sorry even ordinary courtesy and correct representation is not the way of the communists, and I am tempted to explain "discourtesy and misrepresentation, thy common name is 'communism'."

Sir, Why do they want that? I could understand if my hon. friend had suggested in the amendment that we should make concession in the case of friendly nations, be it Pakistan, be it Ceylon, be it Nepal or any other Asiatic or foreign country. I could understand if he had suggested that we should make discrimination in favour of Asiatic countries—those who had attended the Bandung Conference, but he suggested nothing like that. Instead, he only wants one particular nation, which is not friendly to us, to enjoy that concession, and that concession should be denied to all the rest of the nations, even the Nepalese. Let us not forget that quite a lot of money has been invested in this country in our industries by the Nepalese. Even the King of Nepal has invested lots of money in industry here. He would not like to give them the same facilities as he likes to give to an unfriendly country like Pakistan.

SHRI BHUPESH GUPTA: I would consider that.

Sr. JASPAT ROY KAPOOR: We very much like that our relations with Pakistan should be as cordial as possible but it requires attempt on the part of both to bring about cordial relations.

MR. CHAIRMAN: There should not be any reference to Pakistan or some such thing.

SHRI JASPAT ROY KAPOOR: I will not dwell on this point any further. My only submission is that what he wants to give to Pakistan in the matter of concession should be extended to every other national in this country.

I would ask: Does my friend really believe that Pakistanis are going to invest any money here? Foreign nationals who really would be investing money here should be stopped from doing so. That is what he wants but he wants to give concession to a country from which we can hardly expect any investment whatsoever. He wants to show generosity to it. What

does this all mean? It only means that no money—from the U.S.A. or U.K. or any other country who are in a position to invest in our industry—should come to our country. For these reasons I oppose both parts of his amendment and hope that they will be summarily rejected.

SHRI V. K. DHAGE: With your permission, I make a submission that we should adjourn today for lunch, at least for half-an-hour, till 1-30 P.M. We have been sitting from 11 A.M. to 6 P.M. during this whole week. It is very tiring that we should sit for seven hours continuously. I, therefore, beg to move that the House do adjourn for lunch till 1:30 P.M. or 1-45 P.M.

SHRI C. D. DESHMUKH: Whatever ~ be the decision in regard to this matter, I would like to give my reply.

SHRI S. N. MAZUMDAR: Sir.....

MR. CHAIRMAN: I will allow only five minutes each to two or three speakers, and there is no use discussing our relations with Pakistaa and

other countries, etc. You will have five minutes.

SHRI C. P. PARIKH: I will speak for less than five minutes.

SHRI S. N. MAZUMDAR: Sir, you know, I do not take much time.

i P.M.

SHRI BHUPESH GUPTA: They can afford to be generous.

SHRI V. K. DHAGE: Is it agreed that after the reply of the Finance Minister, we shall adjourn for lunch?

MR. CHAIRMAN: We shall see at 1-30.

SHRI S. N. MAZUMDAR: Sir, it would be better if I speak after Mr. Parikh and Mr. Dasappa.

MR. CHAIRMAN: No, no. You have had two speakers, Mr. Jain and Mr. Kapoor, and you can give them answer.

SHRI S. N. MAZUMDAR: Mr. Chairman, now I shall not deal with our relations with Pakistan, but I shall say certain other things.

Sir, Mr. Kapoor very conveniently forgets that yesterday he said that evacuees were betrayers of this country. To a gentleman, Sir, who thinks that all evacuees are betrayers, what epithet can we give? That remark would be befitting, Sir, from a gentleman belonging to Hindu Mahasabha or Jan Sangh. Such remarks strengthen the hands of communal reactionaries both in India and in Pakistan. Sir, a gentleman who remarks that the nation of Pakistan is not friendly to us.....

SHRI H. C. DASAPPA: He is again referring to Pakistan.

SHRI S. N. MAZUMDAR: Sir, I am not discussing our relations with Pakistan.

MR. CHAIRMAN: As far as possible avoid any discussion on Pakistan.

SHRI S. N. MAZUMDAR: Yes, Sir. When a gentleman who cannot dis-

tinguish between the ruling class and the people of a country, and thinks that the people of a particular country are our enemies, what epithet does he deserve excepting "communal-minded person"? *{Interruption}*. Sir, who wanted the partition of the country? Who agreed to the partition of the country? Those things can easily be discussed here. I accept your challenge. Sir, I do not know whether he will advance the argument that Nepal was a part of India. I know Nepal very well. I am connected with the Nepali-speaking people. I know that the people of Nepal have got very small investments here. The King of Nepal may have. It is the other way round.

SHRI JASPAT ROY KAPOOR: But the question is whether you want to give them the same facility as is given to Pakistanis.

SHRI S. N. MAZUMDAR: Yes, the same facility.

SHRI JASPAT ROY KAPOOR: But the amendment prohibits it.

MR. CHAIRMAN: I think we can get off that track.

SHRI S. N. MAZUMDAR: Sir, it has been mentioned that in Mr. Bhupesh Gupta's amendment a distinction has been made between workers and employees, and that is a capitalistic way of distinction. Sir, we are living under a regime which is capitalistic. And these distinctions are made even in the matter of legislation. Sir, Mr. Kapoor was a Member of the Provisional Parliament where labour legislation was drafted, and the drafting was such that there were disputes with regard to the definition of workmen, and the working journalists were being denied the benefits due to workmen because of some peculiar technical interpretations.

SHRI JASPAT ROY KAPOOR: Did my hon. friend say that I was a Member of the State Legislature?

MR. CHAIRMAN: No, a Member of the Provisional Parliament.

SHRI BHUPESH GUPTA: That is the whole trouble.

SHRI S. N. MAZUMDAR: Now, Sir, I am coming to the main point. It has been said that we are opposed to the representation of workers on the Board of Directors. Much has been sought to be made of it. But what we really want is that the workers' participation should not be used as an eye-wash. We want that the workers' representatives should have the right to inspect the books of the companies. Is that allowed?

SHRI B. C. GHOSE: A director has all the rights.

SHRI S. N. MAZUMDAR: But without being directors they should have such rights. We want the workers' control to be substantial. We are not much in love with a particular form.

Then, Sir, Mr. Jain said that if this amendment is accepted, no shareholder will get dividends, every time demands will be made by the workers, and that the idea is to do away with the joint stock companies and hamper industrial expansion. Sir, this is a very important point and needs to be answered. Now, Sir, why have we raised this demand? It may be said that a new departure has been made. Sir, the demands for bonus and for wage increase are not new demands. Here it has been said that if the demand for bonus has not been fulfilled for the last three months or if the demand for wage increase has not been fulfilled, then no dividend will be declared. Why? What is the necessity of this demand? Sir, Mr. Bhupesh Gupta was trying to say—in anticipation of the argument that there has been a wage increase—that there was no real wage increase. Now in the 1st Five Year Plan the Government's policy was to freeze all wages. If, according to the Government, there has been a wage increase,

this has been in spite of the Government due to Working class action. The workers have only got back—and that also not in all the industries—what they were getting in 1939, whereas you find, Sir, that productivity has gone up by 38 per cent. That means that the workers have got back what they were getting as real wages in 1939, at the cost of their health and safety as a result of increased workload, and as a result of rationalisation. The share of wages has fallen and the share of profits has risen gradually. Now the share of the workers' wages and salaries was 42 in 1950, and it has come down to 33 in 1954, while the share of the profits which was 58 in 1950 has risen to 67 in 1954. And there have been abnormal profits in many cases. The managing agents have earned double the amount of total paid-up capital.

Now I will point out as to why we have suggested this amendment in this particular manner. Mr. Jain has said that if this amendment is accepted, it will mean a veto exercisable by the workers on dividends. But that is not the case. Let him not forget the realities. Firstly, there are certain formulae about bonus laid down by the Labour Appellate Tribunal. There are formulae about profit-sharing. Although they have not been accepted by the Government, still they are there in the documents of the committees which were set up by the Government themselves. Now the employers have got various ways of cheating the workers of their wages and of their rightful demand for bonus. The formula laid down by the Labour Appellate Tribunal relates to the question of bonus to a fair return on capital. But there is a controversy as to what is going to be a fair return on capital. There are various ways, as I have said, for the capitalists to inflate the total amount of capital artificially, and thereby reduce the rate of return on capital, and thereby cheat the workers of their demand for bonus. Then they have got vari-

ous methods of issuing bonus shares, which were justified by Shri Parikh the other day. They have the method of secret reserves, and I will mention in this connection that one of the representatives of the industrialists who appeared before the Joint Select Committee justified the procedure of secret reserves. And recently we found that there was some reference in the Gajendragadkar Commission's Award that when that Commission asked for returns from the banks, the banks at first refused to give all the necessary facts, and refused to disclose their secret reserves.

But then, after insistent enquiry from the Commission, they supplied the facts but as confidential facts. The public has no access to these facts. The workers have no access to these facts. These are the ways by which the workers are being cheated of their right which has been laid down even by an authority like the Labour Appellate Tribunal. Bonus has been accepted as a right of workers. It is no longer treated as *ex gratia* payment. So the only way left to the capitalists is to show that there has been no profit, that there can be no fair return on capital if bonus is paid. They want to show that they are not in a position to pay fair return to capital this year and so bonus cannot be paid. Take the question of reserves. There is a lot of difference of opinion between those gentlemen and the labour movement as a whole in the country, on the question of the reserves. They want to inflate the reserves or over-capitalise it whereas it was the demand of the labour movement that the entire reserve cannot be counted while counting a return on capital. We have been accused that we stand for chaos or that we stand against industrialisation. I shall refer that gentleman and the hon. Finance Minister to a comment made by, his present colleague in the Cabinet—Mr. Khandu-bhai in his Minute of Dissent to the Report on Profit Sharing. I shall quote a portion:

"The labour organisations contend that the reserves built up out-of the profits really belong to both capital and labour and therefore in giving the additional remuneration to labour in the form of profit share any calculation as return on reserve which is a joint product is unfair; and absurd. As a matter of compromise, they agreed to allow only⁷ half of the accumulated joint reserve for the purpose of calculating the return."

Now this has been demanded. Not only that. While calculating from the reserves, for profit sharing he also has remarked that:

"In future reserves that will be compulsorily taken out according to profit-sharing schemes, this reserve should not form part of the reserves for the purpose of computing the employed capital."

Because if it is done, then—

"The obvious result will be that additional reserves from year to year will require increasing return to the capital and the share of the workers will proportionately go down decreasing, ultimately reaching probably zero."

It comes from a gentleman who now adorns the Cabinet in the Government of India.

So it cannot be said in any way that Mr. Khandubhai Desai or the organisation which he represents stands for de-industrialisation or for chaos or for obstructing industrial progress. The Labour Appellate Tribunal, when it formulated its judgment, said that while calculating return on capital, only 2 per cent, of the reserves should be calculated because all the reserves do not function in a risk-bearing capacity which is the main element of working capital. So these are the various methods which are resorted to by the capitalists to cheat the workers of the demand for bonus and for their demand for wage increases. So we have said that when it will be found that a con-

[Shri S. N. Mazumdar.] cern is going to declare dividends, we should see that the dividend does not go up to a great extent. For example the tea companies have declared in 1950 dividends upto 80 per cent, and even 120 per cent. While the question of the payment of bonus is being shelved and shelved. So what we have demanded in this amendment is that if it is found that the demand for wage increase of the workers has not been fulfilled in a particular concern, then dividends will not be paid. It has been the contention of the labour organisations that fair wages must be the first charge on the industry and now the gentlemen who are waxing eloquent about their condescending to give workers' participation in the Board of Directors, should come to the realities of the question. Instead of giving them a hypothetical benefit, they should show their solicitude to the workers by coming to the real questions which face them. Fair wages must be the first charge on the industry. That is the unanimous demand of the labour movement—all sections of the labour movement. We hear so much nowadays, particularly after the declaration by the ruling party, of the objectives of a socialistic pattern of society but socialism is a different thing. But even with the demand that the workers should be given a fair share in the industry, they should be made to feel that they are really partners in the joint venture, this demand for fair wages, for living wages should be considered. Regarding the question of bonus, Mr. Jain is very apprehensive that if it is accepted, it will be a veto by the workers but the workers' demand for bonus is not an extravagant demand. It is not a demand which has not been analysed by any authoritative committee. It is not a demand about which you 'have no precedents or no formula laid down by any authoritative committee or Tribunal. We have the judgment of the Labour Appellate Tribunal which recognizes that after allowing for a fair return on capital— 6 per cent, on working capital and 2 per cent, on reserves, the rest will be

considered for allotment of bonus. We don't think that that formula is satisfactory. We must go beyond that. We demand that the government, if it is really sincere about its professions regarding workers, should come forward with a scheme which will guarantee bonus to workers as a matter of course every year. There may be a pool, there may be some arrangements in which in a year of boom the workers will get the maximum and in a year when there is no profit, they will get a minimum. That arrangement can be made—that we can understand. But an arrangement should be made. This has not been made. However, if the workers raise a demand that they want so much bonus, there is a formula. If the workers demand 'we want a wage increase' there are awards by the different Tribunals and the Government is there and what is there to be so much, apprehensive about that if this amendment is accepted, then the workers will exercise a veto? Moreover when the hon. gentlemen advance these arguments that the workers will exercise the veto, they forget that after all these capitalists are also giving lectures to workers that they are partners in the industry, that there should be industrial harmony, that there should be bipartite agreements etc. We want bipartite agreements. We have made bipartite agreements. We on this side of the labour movement want that the industries should run, that the industrial development of the country should forge ahead. The labour movement and the representatives of labour are realists. They don't make unreasonable demands. Even on the question of.....

MR. CHAIRMAN: That will do. Mr. Parikh.

SHEI C. P. PARIKH: Sir, I oppose this amendment and I will be very brief in my remarks. Firstly, the bonus norms are decided by the Labour Appellate Tribunal and there have been changes from year to year and still the formula is not final. The Planning Commission has been asked

to go into this question and evolve a formula for each industry in order that there may be no disputes.

With regard to the method of wage increase, this can only be done by a -court of law or by arbitration. All these demands have to go either to arbitration or to the court. My hon. friend seems to have forgotten that fact. He also speaks of "awards" being implemented. Well, if they are awards, they will be implemented.

My hon. friend also seems to have forgotten that labour's remuneration and their claim have a prior claim over the creditors up to the extent of two months. That also he has conveniently forgotten.

As regards dividends or bonus, he has put in a demand in favour of prior payment of bonus. And as hon. Members know, dividends are declared from year to year. Suppose there is a dispute to be settled by arbitration or a court, that naturally will take "time. Are we to wait till a decision is reached? And moreover, as soon as one dispute is settled, another is raised. It will be a sort of continuous chain. Therefore, in the manner the amendment has been drafted by the hon. Member, dividends will never get paid for years and years, because "the bonus question will not get settled.

SHRI BHUPESH GUPTA: Settle it -with the workers.

SHRI C. P. PARIKH: As regards wage increases also, there are various -wages in the various departments of the same industry, or in the same "unit. And in some industrial units "the departments number over twenty. A dispute may be lodged every month and it may not get settled for fifteen months. And what is more, these ■disputes are continuous and so the decision cannot be given in a short time. They may be given in six or three months time, the earliest being one month.

Therefore, as my hon. friend Mr. Jain has pointed out, if we accept the amendment as drafted, it will only dislocate the whole industrial structure and no dividend will be paid and no bonus could be declared. I do not want to go into arguments. But by this amendment, my hon. friend permanently debars payment of dividends to shareholders as long as there is a dispute remains to be settled, and there are disputes in every industrial concern. And they can also raise a dispute in a moment.

As regards the other points that he has raised by his second proviso, I feel that there also he seems to have forgotten the difference between a company and a body corporate. A company will have rupee capital whereas a body corporate will include foreign concerns also. He says that the dividends should be paid only in Indian currency. If it is a company, it will certainly be paid in Indian currency, because it has rupee capi-tal. So the question does not arise. As regards getting the sanction of the Government, that goes without saying that the sanction will be given because even where the shareholders are foreigners, the Industrial Policy of 1948 lays it down clearly that they will draw dividends. But the Industrial Policy is not to be discussed now. I would only submit that the Industrial Policy of 1948 stands. Therefore, the sanction of the Government will never be withheld. So the dividends will be paid in Indian currency and foreigners will be allowed to make remittances also. That is part of that Industrial Policy.

And as for foreign companies, there the capital is in sterling and the dividends are declared in the foreign country and not in India. We cannot have any control over what the foreign companies are doing in their land* with foreign capital, when they meet, whether they are declaring dividends and how they do it and all that.

SHRI BHUPESH GUPTA: But when the company is functioning in our

[Shri Bhupesh Gupta.] country, what happens? Look at the Calcutta Tramways.

SHRI C. P. PARIKH: The Calcutta Tramways is a concern with sterling capital and its dividends are declared in London, not here.

As regards sterling capitals, they are held more or less by foreigners to a much greater percentage than 25 per cent. Only a very few—I do not know how many—Indians have any capital in foreign concerns, not even one per cent, I should think, while foreigners have over 75 per cent. So the question of foreign companies paying dividends to Indians also does not arise here. I do not know how the remarks of my hon. friend are relevant to the discussion here or to the amendment he has moved,

With these words, Sir, I oppose his amendment,

SHRI H. C. DASAPPA (Mysore): Sir, the way in which my hon. friends Mr. Gupta and Mr. Mazumdar have spoken would give anyone the idea that it is only they who are the protagonists of labour and not anyone on this side of the House. I may assure him and all his friends that all of us are very keen that labour should not only have a minimum wage, but even a fair and a living wage. But that I am afraid is a matter which cannot be germane to this clause which concerns only the declaring of dividends and making arrangements for their payment.

Secondly, the statute lays down certain obligatory conditions with regard to the convening of these general body meetings. I think they say it should be within nine months after the close of the business year. So if the proposed amendment were to be accepted, it would mean the indefinite postponement of the meetings of the general body and under the law they cannot be postponed either. They may have to convene a series of general body meetings in order to decide these questions. The

amendment does not give any indication whatever as to how long after the close of the year should a meeting be held. He has given no-time-limit whatever. That is another-point against the amendment.

Thirdly, let us see who actually" comes to grief if the amendment is-accepted. It may be that labour has-a very legitimate claim. But there-are a large body of shareholders who" have got their previous commitments.-Are the entire body of shareholders' to suffer merely because labour has put forward some claims which may perhaps be doubtful?

SHRI SHRIYANS PRASAD JAIN;
You mean frivolous claims?

SHRI H. C. DASAPPA: Yes, they be frivolous. But I do not make the thing dependent on the claims being frivolous. Because there are such, claims, is that a reason to hold up the-payment to the shareholders for an indefinite time? All these shareholders are not capitalists, there are many poor men among them who have their-previous commitments. All that I would say is that even granting that labour has very legitimate claims for bonus and for higher wages, the company cannot be absolved from their liability to the shareholders. If labour gets a finding from a court or a tribunal, then it is only a question of a certain time for payment to the workers and employees. So I say by not accepting the amendment, the workers will not have to suffer in any sense whatsoever. If their claims are just, they will get what is their due. It is just a question of not impeding: the smooth working of the company. But if the amendment is to be accepted, then as some hon. Members have-said here, it will break up the companies and we may as well wind up-all the companies.

SHRI C. D. DESHMUKH: Sir, I oppose these amendments. In my opinion both are misconceived. The first one is either purposeless or unreasonable, and the second is likely to be-prejudicial to the best interests of the

country in so far as foreign investment is concerned.

In regard to the second, I have not got very much to add to what Mr. Parikh has said, for the situation is very clear. So far as the declaring of dividends is concerned, if the intention is that the approval of Government should be taken before the dividend is declared, then obviously, you are discriminating against a certain Class of shareholders—the foreign shareholders.

We are bound by our pronouncements not to make any discrimination against the foreign investors. So far as payment in Indian currency is concerned, that is the currency in which payments are first made, but every non-resident is entitled to have his rupees transferred into his own currency, especially if it is sterling. So far as dollars are concerned also, we have placed no bar on the remission of dividends or the transfer of rupee payments to the appropriate currency. So far as sterling is concerned, we are bound by our Sterling Balances Agreement. In any case, all this is a matter of foreign exchange regulation and not of Company Law.

As regards the first, I am wondering whether we are discussing Company Law or whether we are discussing the Industrial Disputes Act or some kind of labour relations enactment. Whatever hon. Members have said—they are entitled to hold their view—would be good relative to any discussion of the Industrial Disputes Act. They might have methods to suggest by which summary decisions could be obtained wherever there is a dispute in regard to bonus or wage increases. This amendment means that no dividend is to be declared when there is a dispute. Now, since we have a proper and appropriate machinery for resolving disputes, it can only mean that if a company concerned is anxious to pay dividend then it must not reject the claims of the workers wherever they might be urged, either by adjudication or through a court of enquiry or through a tribunal but must accept the 80 RSD—3

claims so that it may be free to pay the dividend. If the company shows any intransigence in this respect, then all that labour has to do is to raise a fresh dispute; and, lo and behold, no dividend can be paid. Therefore, I agree with the hon. speakers who have spoken on this side that this would really mean a perpetual injunction, so to speak, on the payment of dividends. Then, who knows who is going to benefit except, as I said, this being used as an undue influence? If hon. Members are interested in securing methods of resolving these disputes, there are other devices to which they must address their arguments and they must secure a scheme of things in which proper decisions will be secured so far as labour is concerned. There is only one point which such an amendment should have mentioned and which has not been mentioned by any of the speakers who have spoken in favour of it and that is, that the assets may be dissipated by the company so that, whenever the appropriate court or authority has given a decision, it may be that the company has not got the wherewithal to satisfy that decree. In regard to that, although there is no direct provision in the Industrial Disputes Act for any interlocutory orders, a court or a tribunal is not prohibited from passing any interlocutory orders that property shall not be alienated or payments including dividend, shall not be made if it apprehends that attempts may be made to escape the liability. That is a power which is inherent in all courts and that is all that the situation demands. I might add that any sum awarded to a workman by a tribunal is recoverable as arrears of land revenue under section 25 of the Industrial Disputes Act. Therefore, there is sufficient provision to safeguard the interests of workers in every case and nothing is going to be gained by introducing such a provision here in the Companies Act.

MR. CHAIRMAN: The question is:

116. "That at page 104, after line 6, the following provisos be inserted, namely: —

[Mr. Chairman]

'Provided that no dividend shall be declared or paid if within three months preceding such declaration or proposed payment there has been an unfulfilled demand for bonus or wage-increase by the workers and employees:

Provided further that no company with equity capital equivalent to twenty-five per cent, of the paid up capital held severally or collectively by any foreigners, other than Pakistanis, shall declare or pay any dividend unless it has (i) secured the sanction of the Central Government, and (ii) given an undertaking, in writing, that such dividends shall be paid in Indian currency'."

The motion was negatived.

MR. CHAIRMAN: The question is:

"That clause 205 stand part of the Bill."

The motion was adopted.

Clause 205 was added to the Bill.

Clause 206 (*Dividend not to be paid except to registered shareholders or to their bankers*)

SHRI BHUPESH GUPTA: Sir, I beg to move:

117. "That at page 104, line 13 after the word 'bankers' the words 'other than foreign banks' be inserted."

MR. CHAIRMAN: The clause and the amendment are open for discussion.

SHRI V. K. DHAGE: I had moved earlier that we should adjourn for half-an-hour so that we shall be able to continue till about 6 O'clock.

SHRI BHUPESH GUPTA: I am agreeable to that, Sir.

MR. CHAIRMAN: You are agreeable to make a long speech later? You made a very, what shall I say, general speech on the policy which the Gov-

ernment should adopt. It had nothing to do with the amendment.

Well, we adjourn now till 2.15 P.M. The House then adjourned at thirty-five minutes past one of the clock till a quarter past two of the clock.

The House reassembled after lunch at fifteen minutes past two of the clock MR. DEPUTY CHAIRMAN in the Chair.

MR. DEPUTY CHAIRMAN: Clause 206.

There is one amendment, No. 117 in List No. 2.

SHRI BHUPESH GUPTA: That has already been moved by me. Now, Sir, clause 206 relates to payment of dividend. "Dividend not to be paid except to registered shareholders or to their order or to their bankers" is the title of it. Now my amendment relates to line 13 "to the registered holder of such share or to his order or to his bankers". This is a very simple amendment, but again it will raise a big controversy, I know, to insert the words "other than foreign banks" after the word "bankers". Now the amendment itself is quite suggestive of what I wish to convey by this amendment.

Now, Sir, in our country we know that in many cases these things, dividends, are paid directly in cash. But there are banks, and a kind of bank transfer takes place. Many often it happens that the shareholders, especially the big ones who have got accounts in various banks, leave standing orders with the companies to transfer whatever is due from them to the accounts standing in different banks in their names and accordingly the transfer is made. That is the existing arrangement to-day. Now, as far as the small shareholders are concerned, they generally take the money in cash or cheque and then they cash it and that is how things happen. It is understandable in their case for the simple reason that whatever they earn

by way of dividends or profits go into their day to day expenditure for meeting the daily needs of their families; that is to say, a teacher or a professor or some other people of the middle-class would spend whatever he earns from his shares just for the upkeep of his family. This is not true of the other categories of shareholders at the top. They actually live on what we call ■"clipping coupons". In England the expression is "coupon clippers" who have got huge investments and thousands of shares in their names and year after year dividends are paid *on* those shares and the money is transferred to bank account. Those accounts go on swelling every year. That is what happens in England; that is what is happening in our country. Here I want to exclude the foreign banks. I take it that in some cases payments have to be made through banks and probably there will not be any transfer at all. the money will be credited to certain other accounts and they will go on accumulating there. I accept that position for the present, but I want in this connection to exclude the foreign banks. Now you will ask why I exclude the foreign bank and if Shri Jaspat Roy Kapoor has his usual chance, probably he will make another of the wonderful discoveries which he is making since he started speaking on this Bill. Now I tell you it is not a question of discrimination. In our country the scheduled banks, the so-called scheduled banks, are Indian banks, I stand for those banks; let the money go to those banks. But then there are some 7 or 8 foreign banks operating in this country. These banks —some of them are incorporated in foreign countries—they have, so to say, their offices here and they transact business on the moneys that are collected here in India and, of course, the moneys that are collected by way of dividends to shareholders and all that, whose accounts they have got, constitute a sizeable portion of the total deposits of the bank. Whether these are demand deposits or time deposits does not matter, and this is the position. Now from the Reserve Bank

accounts that are published from time to time, it appears that about a dozen or so (*Interruption*) I will wait till the hon. Member resumes his seat because he knows the subject well; you see, Sir, by now we have come to know some of the things of the capitalists—now will I be right if I say that the dozen or so foreign exchange banks or foreign banks in our country gather between them nearly 50 per cent of the total profits made by scheduled banks in India? This is a big sum, a handful of banks practically grabbing the greater part or nearly a half of the total earnings of all the scheduled banks put together and we find that every year I think about two crores of rupees are also remitted abroad by such banks by way of their profits and all that—it is an important factor. Now we want them to be excluded for the following reasons. Firstly we want Indian banking to be helped, i do not have in mind all the big Dunks only; I have also in mind the smaller banks, not" the giants at the top but those concerns which are at the bottom, which require assistance and nourishment from the indigenous business. Naturally, if I were to go in for that sort of thing, I should be interested in seeing that all those people who want to get their payments made through banks open accounts with such smaller banks and close their accounts with the foreign banks in the country. Therefore there will be a great distribution of the funds available among the Indian banks. Unless I make this provision and exclude the foreign banks, a large number of people at the top who take most of their earnings through banks would not be inclined to open accounts with the Indian banks. I know that there are industrial magnates in the country who have got their own banks and also patronise certain big banks. At the same time we have in our country also another set of people, sometimes including some of them, who patronise the foreign banks in the country. This kind of arrangement is one of the ways of patronising the foreign banks and I want to put a stop to it. Now, it is not that I am speaking on this subject

[Shri Bhupesh Gupta.] merely from a prejudice against the British. I can tell you I hate British capital; I would have nothing to do with it. Let there be no mistake about it. On this point I am not speaking from that angle. I want the Indian banks to flourish against the fierce and unequal competition on the part of certain foreign banks. As you know, Sir, our banking in foreign trade is almost entirely in the hands of certain exchange banks operating in our country and it is most regrettable that they are being backed up by a section of people at the top. We want to put a stop to such a thing. I gave some idea of the moneys that the managing agents get. For instance, the Tatas get—I do not know where they keep their money; they have not told me that I am only giving an instance—about Rs. 30 or Rs. 33 lakhs as managing agents' fee. Naturally all this money is not taken in cash and spent the next day. I contest the statement that 90 per cent of it is spent on charity. I would like that statement to be substantiated on the floor of the House. I am not prepared to accept such propaganda. Sir, these moneys are accumulated in certain bank accounts every year. A portion at least, shall we say, Rs. 15 lakhs, goes to a bank account. If the Indian bank gets it, it is one thing, but if the money goes to a foreign bank, it is another thing. We have some concerns, particularly the British, who never patronise Indian banks. There are Andrew Yule and other concerns in this country. They have their accounts with the Lloyds Bank and other foreign banks but not with Indian banks, not even with the United Commercial Bank or Bank of Baroda. They particularly patronise the foreign banks and whatever money they earn from their plantations from their jute mills from their engineering concerns the whole of it is deposited to the accounts of the respective shareholders in the foreign banks. Once it is deposited there, naturally the money goes outside our reach to a great extent. I know the regulations that exist in the country

for remittance and all that. Even so a large chunk is remitted abroad and these banks utilise these¹ funds for helping the British interests or the British business. This is the main thing. These foreign banks do not support or patronise the Indian concerns. On the other hand, they go out of their way to help, support and back up the foreign concerns. How do they do so? Because they have been in a position to inflate their working capital, inflate their reserves and deposits by collecting funds on behalf of a large number of shareholders. Now, that is how they operate in our country. Here is a question—it is not an ideological question at all—of my choosing between Indian and foreign banks.

SHRI SHRIYANS PRASAD JAIN: This clause only deals with how the dividend is to be paid. I do not see how all this is relevant so far as this clause is concerned.

MR. DEPUTY CHAIRMAN: He does not want even the dividend to be deposited in a foreign bank.

SHRI SHRIYANS PRASAD JAIN: It is not a question of deposi# here but.....

SHRI BHUPESH GUPTA: Sir, you have made my point very clear.

MR. DEPUTY CHAIRMAN: Please be brief. If you go on at such length on these unimportant amendments, then the other amendments will have to be guillotined at the end. Therefore please be brief.

SHRI BHUPESH GUPTA: Sir, as you know, I have been drafting amendments overnight.

SHRI SHRIYANS PRASAD JAIN: It would be much better if you advocate this philosophy on some other clause

SHRI BHUPESH GUPTA: The hon. Mr. Jain is a fascinating personality, especially when he speaks on a point of relevance. He will kindly note that

there is a provision here that no dividend shall be paid by a company in respect of any share therein, except to the registered holder of such share or to his order or to his bankers. I want to qualify that and say 'other than foreign banks'.

SHRI JASPAT ROY KAPOOR: You do not qualify it. Where do you qualify it?

SHRI BHUPESH GUPTA: For the life of me I cannot make sense to him, and the House will forgive me if I cannot make any sense to him. Certainly, I can talk to businessmen. Now, take for instance Andrew Yule which earns Rs. 50 lakhs. The moment the dividend is declared, the shareholders do not ask for their money next day. It is not like that. They have got accounts with the Lloyds Bank and other banks. They give standing orders to the companies that whatever dividend is declared, it should be credited to their accounts in the Bank say, the Lloyds Bank Netaji Subash Bose Road, Calcutta. That is how this money flows there. I want to choke that. I want to prevent that money from going there. You will get foreign capitalists here in this country at least compel them to open accounts with Indian banks so that the Indian banks may have that money. I think I have made my point very clear. I am amazed that the capitalists here cannot even look after their own interests, their own self-interest. We have got a bunch of capitalists in India who know how to make money by speculation and black-marketing but who do not know how to protect their own interests.

MR. DEPUTY CHAIRMAN: You should be very brief, Mr. Gupta otherwise you lose time for other amendments.

SHRI BHUPESH GUPTA: Sir, there are two reasons for my amendment...

MR. DEPUTY CHAIRMAN: The amendment is perfectly clear; crystal clear.

SHRI BHUPESH GUPTA: It is clear to you, Sir, but it has to be made clear to them. The trouble is that you are so enlightened, but others are not.

SHRI JASPAT ROY KAPOOR: You want to cloud it with so many other issues?

SHRI BHUPESH GUPTA: If gems drop from that quarter, then I will be in the soup.

MR. DEPUTY CHAIRMAN: Order, order. Finish your speech.

SHRI BHUPESH GUPTA: Now, Sir, these profits—the hon. Member had better listen now—should be in such places where we can have control over them and the Indian banks are much more amenable to the control of this Government than foreign banks. I hope that point will be conceded. Now, this money should remain with our banks. These banks are not only under the more direct control of the Government, but also it is likely that they would be interested in utilising those funds for the development of Indian industries. That is the main point. These earnings should not be placed in the hands of those who are not interested in the development of India's economy. They have got some love and affection for foreign capital. They believe that foreign capital comes to India to give us a millennium. We do not believe in such things. These are fantastic things because 200 years of our experience go to show that foreign capital, British capital particularly, does not operate here with a view to helping our economy. Had it been so, we would not have had the freedom movement and all that. Therefore, when I say that the money should go to Indian banks I also keep in view the fact that the Indian banks would be more interested in utilising these funds for the industrial advancement of the country in conformity with the broad interests of our people, including of course the capitalist class. This will not be true.

[Shri Bhupesh Gupta.] of the foreign banks. I want this to be accepted because I know that a large chunk of money is blocked as profits and it is lying idle somewhere or it is being utilised in a particular manner. We want to have better control over this money and we want it to be utilised in such a way that it really helps our economy. The hon. Minister has accepted one of my small amendments, but you see the trouble with the hon. Minister is that

MR. DEPUTY CHAIRMAN: Please wind up.

SHRI BHUPESH GUPTA: he only sees the small things but the great things he is unable to understand. I would like him to be a little more conversant with the subject and go deeper into the problem

MR. DEPUTY CHAIRMAN: That will do.

SHRI BHUPESH GUPTA: Not only the twelve banks should be debarred but the other banks should be patronised. With these words, I move this amendment, this patriotic amendment, amendment for all sections of the House, and submit that it should be supported. And I hope that the capitalists would not get up again to oppose this amendment, because I am speaking here in order to protect the interests even of the general run of capitalists, when some of them, because of narrow interests, are selling out their self-interest to the foreigners.

SHRI M. C. SHAH: Sir, whenever there is reason behind it, we consider the amendment, and if we are convinced about the reason, then we are open-minded and we may accept it. Now, here I am amazed at the amendment. Surely as long as the foreign banks are allowed to work in the country, it is no use having this discrimination so far as the dividends are concerned. It is a very simple matter. It could be understood by people with some intelligence. When

we agree that the foreigners can be shareholders, when we agree that their profits can be remitted under the foreign exchange regulations, it goes without saying that they should be allowed to have their dividends also paid to their bankers, whosoever they may be. They may be Indian bank(s) or foreign banks. There cannot be any discrimination. That does not require much commonsense. So, a man with commonsense will immediately understand that such an amendment can never be accepted by Government. Government always takes a realistic view in all matters and if it is in the interests of the nation, then the Government will accept any amendment that is suggested. But here there is nothing of that kind.

MR. DEPUTY CHAIRMAN: He is not prepared to accept your amendment. I will put it to the House.

The question is:

117. "That at page 104, line 13, after the word 'bankers' the words 'other than foreign banks' be inserted."

The motion WAS negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 206 stand part of the Bill."

The motion was adopted.

Clause 206 was added to the Bill.

Clauses 207 and 208 were added to the Bill.

Clause 209 (Books to be kept by company and penalty for not keeping proper books)

MR. DEPUTY CHAIRMAN: Now, we shall take up clause 209. There is one amendment

SHRI BHUPESH GUPTA: Sir, move:

57. "That at page 106, line 5, after the words 'summarised returns' the words 'from competent officers of the branch office' be inserted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion.

SHRI BHUPESH GUPTA: This is a very simple amendment. If you refer to page 106, line 5, you will see that it relates to books to be kept by a company and penalty for not keeping proper books. Gentlemen who are not accustomed to keeping proper books will kindly listen. Here there are certain penal provisions; penalty is prescribed. Sub-clause (2) of clause 209 reads:

"Where a company has a branch office whether in or outside India, the company shall be deemed to have complied with the provisions of sub-section (1), if proper books of account relating to transactions effected at the branch office are kept at that office and proper summarised returns....."

After that I would like to add the words "from competent officers of the branch office," that is, "summarised returns from competent officers of the branch office". "Summarised returns" they submit, but from whom it is not clear. Now, why do I say this thing? As you know, in our system of company Law—by now I am familiar with the Company Law to some extent—we have not adopted the system of auditing the branch offices. The whole thing is done more or less at the head office and the branch offices are immune from auditing. The result is that there is a lot of malpractice going on on account of this. I can give you an instance of a well-known paper—I would not name it, because like ladies, papers are also respectable and they are not to be named. It has got its head office in Calcutta. Now, it has got a branch office here. There it makes enormous profits in Calcutta, here it runs at a loss. Now, what happens? You see the profits there are debited on account of losses run here and thereby they not only deceive the shareholders, not only deceive the employees and workers but also deceive to some extent—to some

extent I say—the exchequer. That is how it happened, because a sort of overall accounting is prepared. We want this system to go, we want branch auditing to take place where there are two units of the same industry, belonging to the same person. We want that auditing should take place and the summarised returns should be from the competent officers of the branch office. Now, it applies to every one. It applies to Indians, it applies to the British. Here, I am making no discrimination. Why I say this is important is this: I advance my reason. Take for instance the Calcutta Tramways Company. Well, its head office is in London and the hon. Finance Minister has been good enough to recognize this fact from his slip of paper

MR. DEPUTY CHAIRMAN: But this Company Law does not apply to it. So, you take some other occasion.

SHRI BHUPESH GUPTA: No, I give you an instance.

MR. DEPUTY CHAIRMAN: This law does not apply to it.

SHRI BHUPESH GUPTA: The auditing of accounts is not done here

MR. DEPUTY CHAIRMAN: I may tell you that you have chosen a very bad example.

SHRI BHUPESH GUPTA: If you can give a good example, I can take it.

MR. DEPUTY CHAIRMAN: No, it is for you to give.

SHRI BHUPESH GUPTA: I am very thankful to you, Sir. Not only that foreigners also come in here. I say that the accounting is made at the head office and the branch offices do not come. No certificate is taken from them. The result is that malpractices take place. Now subject to elucidation on this point, when I am citing the example, I had in mind a particular proposition. Here, the whole

[Shri Bhupesh Gupta.] thing is done abroad. Even if it is a sterling company, the company is in India. My point is that the trams of Calcutta Tramways, as Mrs. Menon will bear me out, do not run in the streets of London; they are running in the streets of Calcutta. Therefore, the whole thing should be concentrated there. Accounting and everything must relate to what is happening here. For instance, it may have a big office there. The overhead expenditure of all these things is to be adjusted before a balance-sheet is produced. We are not for this sort of things. In India also, there are certain concerns and they have their branches, but the accounting and the summarised returns do not emanate from the branch offices. I say that this amendment should be accepted, because the existing arrangement has led to a lot of malpractices which injures the interests of the small shareholders. In the case of public utility concerns it has also in some cases resulted in cheating and fraud as far as the Exchequer is concerned. With these arguments, I submit that this amendment should be accepted by the Government.

SHRI M. C. SHAH: I am afraid my friend, Mr. Bhupesh.....

MR. DEPUTY CHAIRMAN: Is there anything in reply?

SHRI M. C. SHAH: No, only two minutes. Even if he takes thirty minutes, I will take only two minutes. I believe in talking briefly. His question is about accounts. I am afraid perhaps my friend Mr. Gupta has no knowledge of accounts. He has no shares, no property except what he gets here, and no accounts are to be kept. If he just looks at sub-clause (6) he will find it is mentioned there who will be responsible for these accounts and therefore, this amendment is misconceived. It is not necessary that summarised returns are sent from competent officers of the branch offices. Here are persons who are responsible to keep proper accounts. If he reads sub-clause (6) of Clause 209, he

will find that there is that provision and it is not necessary to have any provision whatsoever here. It is rather misconceived.

MR. DEPUTY CHAIRMAN: The question is:

57. "That at page 106, line 5, after the words 'summarised returns' the words 'from competent officers of the branch office' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 209 stand part of the Bill."

The motion was adopted.

Clause 209 was added to the Bill.

Clause 210 (Annual accounts and balance sheet)

MR. DEPUTY CHAIRMAN: There is one amendment by Mr. C. P. Parikh.

SHRI C. P. PARIKH: Sir, I move:

58. "That at page 107, at the end of line 12, after the word 'relate' the words 'to a period and date which may be notified by the Central Government and' be inserted."

MR. DEPUTY CHAIRMAN: The amendment and the clause are open for discussion.

SHRI C. P. PARIKH: Sir, this amendment, although it looks simple is very important. In this way I am asking the Finance Minister to prescribe one date for the year-ending of balance-sheet of separate industries. This is, according to the Banking Companies Act also, 31st December. Also we know the balance-sheet of all insurance companies is on 31st December. As regards co-operative banks also, the same procedure follows. Therefore, I say there are a few industries in the country which can be easily classified and for each industry,

a prescribed date should be adopted in order that the balance of each industry a

nd for all the units of the same industry will be of the same date. This is necessary in order to compile statistical data in which, I think, this country is woefully lacking. You will see that this has been possible in the case of banks, insurance companies and especially co-operative banks, which are 600 to 700. Such compilation is made for the assets and liabilities and various heads—plant and machinery, stock-in-process etc. Further, the Reserve Bank also have in July, 1955, issued a statement of various balance-sheets of 746 companies in which the assets, liabilities and all the particulars of the profit and loss balance-sheet are given. In this way, you will see that if for each industry such date is fixed, then the compilation of statistics will be easy. It will be seen from the Reserve Bank Bulletin, July 1955 how they found difficulty in compilation of particulars for these 746 companies. There, some have the year-ending February, some March, some June, some September, some December and so on. In the 746 companies, there, are 12 different year-ending dates and therefore the compilation is not to the satisfaction that we desire because when we compare data we must do it for a particular date. This is all the more important because interlocking of funds by various companies in various industries will also be detected therein because now according to the profit and loss account or balance-sheet prescribed in the schedule, all investments are given as trading and non-trading investments. Therefore, the shareholders the public and Government will also be able to know what is the position of large companies as regards profits etc. and without a successful data, it is not possible for the Finance Minister to collect the data of 720 companies. When it was circulated, the information was not coming in a way in which he also desired. All these particulars are lacking. It is good in the Profit and Loss Account and Balance-sheet, various particulars are now prescrib-

ed, which the hon. Members know. In the Schedule, the particulars are given. The balance sheets which are at present given are in a very abridged form and most of the essential details will now be given and in addition to the shareholders it will be open to the public as well. This is all the more important because now the balance-sheets of private limited companies have also to be filed. Therefore, we shall have the comparison of the statistical data of all these companies. No industry has more than 400 companies. No single industry has more than 400 companies.

SHRI M. C. SHAH: What about composite units?

SHRI C. P. PARIKH: I am coming to that. That is in the separate amendment. When the units in an industry are 400, it is very easy to compile statistics.

AN HON. MEMBERS: What are the important units in the country?

SHRI C. P. PARIKH: The important units in the country are cotton textiles. We must have a comparative balance-sheet compelled by Government officially in order that we may know the position of those companies. Even as regards banks and insurance companies, engineering, sugar, chemicals, vegetable oil, tea plantations, coal, electricity and shipping, all these are principal industries. In the case of manufacturing industries, it is all the more important. Arguments may be brought forward that even if the date is differing for each industry, for various units, it will be effective. Each unit has a certain date till now. I think if the Government can make adjustments in the Income-tax rules and laws in a way that for the first year the departure may be allowed and in the next year, the balance sheet of all the companies will be of a particular date, because we have to set a particular date in some manner in some way in which we can have a comparative statement. If we have one balance-sheet dated March 31 and one dated December 31, it will not be good. Conditions in the industry differ

[Shri C. P. Parikh.] very much during the period. A correct picture of the figures will not be available. Therefore, it is necessary that we adopt a particular date. Arguments may be brought forward that for all industries one date should be there. But that is not possible because each industry must have a separate date. With these words, I commend this amendment for acceptance.

श्री कन्हैयालाल दाँ० बैद्य : उपाध्यक्ष महोदय, मैं बहुत ही संक्षेप में बोलूंगा। श्री पारिख ने जो संशोधन रखा है और जो कुछ उन्होंने कहा है मैं उसका समर्थन करता हूँ, जब से इस सदन में हम कम्पनी बिल पर वादविवाद कर रहे हैं, हमारे उधर के मित्रों की तरफ से मजदूरों का सवाल रखा गया है और हमारे उधर के मित्रों की ओर से मालिकों का सवाल रखा गया है।

श्री उपसभापति : इसमें मजदूरों का सवाल कुछ भी नहीं है।

SHRI KANHAIYALAL D. VAIDYA: Sir, I am speaking on behalf of the consumer who is nowhere in the picture. Mr. Parikh has already moved an amendment.

MR. DEPUTY CHAIRMAN: This concerns the accounting year; there is no mazdoor, there is no consumer here.

SHRI KANHAIYALAL D. VAIDYA: I am speaking on the Clause which deals with the balance-sheet.

MR. DEPUTY CHAIRMAN: You should speak on the amendment, not on the Clause.

SHRI KANHAIYALAL D. VAIDYA: I have already sent a chit to you, Sir, for speaking on this.

MR. DEPUTY CHAIRMAN: Please be very brief.

श्री कन्हैयालाल दाँ० बैद्य : जहाँ तक कि श्री पारिख के संशोधन का सम्बन्ध है, मैं उसे इस

लिये आवश्यक समझता हूँ कि बैलेंस शीट में मालूम होना चाहिये कि किसी भी कारखाने या उद्योग धन्य की स्थिति क्या है ताकि जनता जो कंज्युमर है उसको उस स्थिति का पता लगे। जैसा कि उन्होंने बताया कि इस में टैक्सटाइल, शुगर, सीमेंट आदि जितनी भी इंडस्ट्रीज हैं उन सब का सम्बन्ध जनता से है। हम विधान से और गवर्नमेंट की पालिसी से इस दृश में एक सोशलिस्ट पैटर्न का राज्य कायम करने के लिये बिल्कुल बंधे हुए हैं। किन्तु मैं नहीं समझता कि इस सार कागून के अन्दर कहीं उसका उल्लेख होता है। मैं बैलेंस शीट को लेकर इस लिये बोल रहा हूँ कि कम्पनियों का जो हिसाब किताब होता है, जो सारी व्यवस्था होती है, उसका बैलेंस शीट एक अंतिम रूप होता है। धारा २०६, जिसको हमने अभी पास किया है, उसमें हिसाब की पद्धति पर जोर दिया गया है कि कम्पनियां किस प्रकार अपना हिसाब रखेंगी। मैं यह निवेदन करना चाहता हूँ कि बैलेंस शीट में जिस प्रकार के प्रॉफिट के आंकड़े दिये जाते हैं और जिस प्रकार कैपिटल संग्रह किया जाता है वह दृश की जनता को लूट करके किया जाता है, जनता के हितों के विरुद्ध किया जाता है। जहाँ तक कंज्युमर गुड्स का सम्बन्ध है, उनके हिसाब किताब की पद्धति ऐसी होनी चाहिये कि उसमें किसी प्रकार का फ्राड न हो सके। धारा २०६ में सज़ा की यह व्याख्या की गई है कि यदि कोई हिसाब किताब नहीं रखेगा तो उस पर एक हजार रुपये जुर्माना होगा। मैं इसे देख कर हैरान हो गया। आज जब कि काटन के भाव बीस तीस पर सेंट कम हो गये हैं तब भी कपड़े के भाव में वृद्धि करके जनता को लूटा जा रहा है। मैं अर्थ मंत्री महोदय से निवेदन करूंगा कि जो कम्पनी वाले फ्राड करते हैं उनको यदि पकड़ा नहीं जायगा तो जनता के साथ अन्याय होगा। यहाँ मैं यह देख रहा हूँ कि कंज्युमर कहीं पिक्चर में नहीं हैं। यहाँ इस लड़ाई में कंज्युमर को कोई पृष्ठता नहीं है, जैसा श्री दाँषी ने कहा, मैं उनकी बात को बहुत पसन्द करता हूँ। उन्होंने खुल्लम खुल्ला चैलेंज करके कहा

कि गवर्नमेंट को या लीजस्लेचर को हमारे मामले में देखल देने का कोई राइट नहीं है। कल जब उस तरफ से शेयर होल्डर्स के राइट्स के सम्बन्ध में एक अमेंडमेंट आया था कि जिनके हाथ में ज्यादा शेयर्स हैं उनके शेयर का प्रतिनिधित्व मत कम हो, तो उस पर माननीय अर्थ मंत्री ने यह कह दिया कि ऐसा करने से इस देश में कम्पनियों का विकास रुक जायगा। इस प्रकार जहाँ शेयर होल्डर्स का प्रश्न है, जहाँ जनता के हित का प्रश्न है, वहाँ कम्पनियों का विकास रुक जाता है, और जहाँ यह प्रश्न आता है कि कानून के द्वारा कम्पनियों का विकास करें वहाँ यह कहा जाता है कि लीजस्लेचर को हस्तक्षेप करने का क्या राइट है ? मैं चेंलेंज के साथ कहता हूँ कि यदि आप कमीशन बिठलायें तो आप को पता लगेगा कि आज देश में कपड़े के उद्योग धन्धे में कितनी बड़बानी चल रही है। आज बहुत सी कम्पनियाँ में बी० ए०, एल० एल० बी० और बी० काम० मुकर्रर किये जाते हैं, कम्पनियों का डबल हिसाब किताब रखा जाता है और डबल रिसीट रक्खी जाती है। हमारे माननीय मित्र, जो पीछे बैठे हैं, वे शायद इस पर आश्चर्य करेंगे, लेकिन मैं आपसे कह दूँ कि उनमें सब तरह के लोग हैं, उनमें काले भी लोग हैं और सफेद भी लोग हैं।

श्री लालचन्द हिराचन्द दोषी (बम्बई) : अच्छा भी हैं।

श्री कन्हैयालाल दाँ० बँद्य : अच्छा भी लोग हैं और अच्छे लोगों का देश स्वागत करेगा। लेकिन अच्छे लोग कभी इस तरह से देश की जनता को नहीं लुटेंगे। तो मेरा यह सुझाव है कि सोशलिस्टिक पैटर्न आफ सांसाइटी के सारे सिद्धांतों को सामने रख कर यदि हम कम्पनी बिल में कंज्यूमर के प्रोटेक्शन की व्यवस्था नहीं करेंगे तो देश का भविष्य बड़ा अंधकारमय रहेगा। आज जो देश में अर्थ नीति चल रही है उसके कारण जनता बड़ी दुखी और त्राहिमान है। केवल कानून बना कर सरकार अपनी जिम्मेदारी से बरी नहीं हो जाती है। इस लिये मैं फिर यह निवेदन करूंगा कि एक कमीशन

बिठलाया जाय जो यह जांच करे कि जब काटन का भाव कम हो गया है तब भी कपड़ा क्यों मंहगा है और इतना प्रॉफिट क्यों लिया जा रहा है। मैं समझता हूँ कि ऐसा करने से देश का कल्याण होगा और यदि हमें देश में सोशलिस्टिक पैटर्न आफ सांसाइटी कायम करनी है तो यह आवश्यक है कि आप इन सुझावों पर अमल करें।

SHRI B. C. GHOSE: Sir, I am in agreement with the objective of the amendment moved by Mr. Parikh, but there may be one difficulty. If we have separate year-endings for different companies and if there is a composite company which has different industries under its control, there will be difficulty of preparing balance-sheet. I would urge the hon. Minister to consider whether he cannot fix the same date for all companies as has been done in the case of banking companies or insurance companies with the object of making the collection of statistical material convenient. The hon. Minister would know that a student who wants to study these matters is faced with the difficulty of not getting comparable figures. Therefore it will be of great advantage if the Government could fix one particular date on which the year would end and all information about the company would be given on that date so that statistics might be prepared which might be compared from year to year.

SHRI KISHKN CHAND: Sir, I support the amendment with the addition of "calendar year like that for the banking companies". It is advantageous from another point of view. The income-tax assessment year commences from April and, therefore, it gives a gap of three months in which the accounts can be prepared and submitted. Therefore, it will be an advantage if all joint stock companies are expected to keep their accounts according to the calendar year.

SHRI LALCHAND HIRACHAND DOSHI: Sir, there will be some difficulty with regard to one date. If all

[Shri Lalchand Hirachand Doshi.] •the companies are to close on one •date, neither the auditors will be available nor the Income-Tax Department will be able to do the job.

SHRI B. C. GHOSE: *If* you so divide the work they can be available.

SHRI M. C. SHAH: I am sorry, Sir, I cannot accept the amendment of Mr. Parikh. Mr. Parikh had suggested this amendment some time back and he wanted to have this amendment accepted. We had examined that amendment, and though we sympathise with the objective underlying the amendment, for administrative and other technical difficulties, it is not possible for us to accept it at present. We propose to give some discretion to the board of directors to have the year ending convenient to them. We will examine the suggestion made by Mr. Ghose and later on if we find some possibility we will just find a way out to implement this suggestion.

SHRI C. P. PARIKH: Sir, I beg leave to withdraw my amendment.

Amendment No. 58 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:
Ub.

"That clause 210 stand part of the Bill."

The motion was adopted. Clause 210 was added to the Bill.

Clause 211 (*Form and contents of balance-sheet and profit and loss account.*)

SHRI BHUPESH GUPTA: Sir, I move:

59. "That at page 108, lines 21 to 24 be deleted."

60. "That at page 108, line 25, the words 'either unconditionally or' be deleted."

61. "That at page 108, after line 26, the following proviso be inserted namely: —

*For text of amendment, *vide* col 4410 *supra*.

'Provided that the reasons for the exemption are recorded in writing'."

62. "That at page 108, after line 32, the following proviso be inserted namely: —

'Provided that the reasons for the modifications are recorded in writing'."

118. "That at page 108, line 5, after the word 'company' the words 'including such material facts concerning emoluments of the various categories of the workers and employees as required by the Government from time to time be inserted."

MR. DEPUTY CHAIRMAN: Be brief.

SHRI BHUPESH GUPTA: Yes, Sir. I will start with amendment No. 118. That is most important. Clause 211 relates to certain facts regarding companies' books accounts, balance-sheet and profit and loss account. Now, Sir, we have got some idea of what we call the traditional balance sheet and the profit and loss account, which are prepared with a view to stating merely the financial position of the company by way of profits, receipts and expenditure—broadly speaking. Then, of course, certain other items, especially of expenditure, are shown in the balance sheet.

3 P.M.

Now what do I want? This is the only document that we get from year to year from the company whereby we can judge how the companies are being run in the country. Now my amendment; is this, I want that at page 108, line 5, after the word 'company' the words 'including such material facts concerning emoluments of the various categories of the workers and employees as required by the Government from time to time' be inserted. Now we find it stated in clause 211 that "Every balance-sheet of a company shall give a true and fair view of the state of affairs of the

company ____". Now, Sir what are my arguments? I know that my arguments for this amendment, like my other arguments, will not find acceptance in the quarters opposite.

First of all, Sir, laymen cannot make out from the balance-sheet as to how the company is running its affairs. We find it extremely difficult, Sir, to gauge the affairs of the company or how the company is going on, from the balance-sheet that is given to us, or that is published by the company. Now, Sir, there is a lot of things which are concealed. And since there is no positive provision in the law, they are on the right side of the law because there is nothing to make it compulsory for them to state certain facts. Yet some of the material facts that should go into the balance-sheet are not stated, and that creates all manner of difficulty, and more especially when an industrial dispute takes place. I can give one example.

Sir, we appeared in 1947 before a Tribunal. A sort of adjudication was ordered by the Government in a particular case. I along with my colleagues appeared on behalf of the Calcutta Tramway Workers' Union. We demanded for them bonus, wage increase and all that. The Company produced a balance-sheet and certain statements of accounts and pleaded that it was not in a position to meet all those demands that had been made by the workers. I relied on the balance-sheet which made out that the company had no capacity to pay. Now this is a formula with which we are very familiar. Naturally from a cursory glance at that balance-sheet it is very difficult for laymen to find out the exact position. Probably, if Mr. Dhage looks at it, he will go deeper into the matter and will cull out the substance from what appears to be the statement of account, but for us it is rather difficult to do so. Naturally there are Chartered Accountants who are friendly to the working class. We went to them and said: "Here is the balance-sheet on the basis of which the company denies

every single demand of the workera and asks the Tribunal or the adjudicator to give a verdict in the company's favour." Then one of the Chartered Accountants pointed out the fallacies and the loopholes in the balance-sheet and he made it clear that it was quite possible for the company under the then existing law to have circumvented certain things and produced a balance-sheet of that sort. Of course, there was one good thing about the Tribunal. There was no time limit and no rules of procedure as they are here. And we went on conducting the case. The Chairman was there. And the case went on for about a month or so. We fought it doggedly. And do you know what happened? As instructed and helped by our friends, the Chartered Accountants, we proceeded with the case, and lots of facts came to light, which ought to have been in the balance-sheet or in the statement of accounts and all that. Now the demand was for wage increase and bonus, and the company had refused to accede to anything. The workers resorted to strike and the strike went on for 85 days. We also put in another demand and said that the strike was a legal strike and therefore the strike pay should also be given. So now there were three things altogether. But you can leave out the item about the strike pay, because that was not concerned with the balance-sheet; we got 45 days' strike pay, which is a substantial amount, because there were 8,000 workers.

MR. DEPUTY CHAIRMAN: Mr. Gupta, please come to your amendment. We are not concerned with what happened in that case.

SHRI M. C. SHAH: Mr. Gupta listens to me, he will not raise this argument.

SHRI BHUPESH GUPTA: Now, Sir, the categories are not given there. The categories are not given as to who are the workers and who are the executive employees. And naturally, Sir it does not give a correct idea as to what the workers are getting. And then, Sir, we pressed that point, and ultimately it was accepted by the court. And it

[Shri Bhupesh Gupta.] *was* decided that the minimum wage should be raised from Rs. 17/8 to Rs. 37/8. And similarly, Sir, we got two months' bonus also. And that is how we got all the demands met from the same balance-sheet, because we had certain expert advice given to us, and we also got certain other materials presented. Ultimately, Sir, we found that they had the capacity to pay, and they very easily paid it. But in the beginning they said that they could not pay because they had not got the financial resources to meet such demands.

Therefore, Sir in order to avoid such malpractices on the part of the honourable gentlemen of the big money, the lords of the financial world, who manipulate their accounts and prepare a balance-sheet according to their own interests, we want this provision to be included—material facts concerning the emoluments of the various categories of the workers and employees as required by the Government from time to time. We should have the various grades of workers and the pay-scales within which their categories fall, and how much is spent for each category of workers. The managing personnel at the top should not be confused with the lower employees. A distinct line should be drawn and separate particulars for separate categories should be given. This is how these things should be mentioned in the balance-sheet so that we know how the majority of the workers are faring in a company when the balance-sheet comes into our hands.

You will hear, Sir, some of the very fine things from me about the company matters, because I am bringing to your notice the other side of the story. There is something about the coal mines. Here I have got a memorandum submitted to the Tribunal by the coal-mine workers' union. There are a number of unions including the INTUC. They have said that so much money has been spent—they have

given the balance-sheet—for the amenities of the workers. What amenities? They have not defined them ?

MR. DEPUTY CHAIRMAN: Do you want all those things to be shown in the balance-sheet?

SHRI BHUPESH GUPTA: No. no. Not all. I will tell you what I want to be mentioned therein.

MR. DEPUTY CHAIRMAN: If what you say is to be conceded, it will not be a balance-sheet, but it will be _____

SHRI BHUPESH GUPTA: Sir I am not quarrelling with the size of the balance-sheet. I do not want it to be an encyclopaedia.

MR. DEPUTY CHAIRMAN: But that is what you are suggesting.

SHRI BHUPESH GUPTA: I am coming to the point, Sir. I know it is very difficult for me in this august House to make the working class point of view understood. I know that. But still I would be failing in my duty if I do not bring up such things. I am very sorry for my failure in this matter and I don't blame anybody for that.....

MR. DEPUTY CHAIRMAN: How can it find a place in the balance-sheet?

SHRI BHUPESH GUPTA: What amenities you have

MR. DEPUTY CHAIRMAN: We are not concerned with amenities here.

SHRI BHUPESH GUPTA: You indicate in broad outline how much you have spent on housing, how much you have spent on health services. You take the major items. I am not concerned with hundred items.

SHRI M. C. SHAH: That will come in Schedule VI. If you sneak on that, then it is all right. Otherwise you have not seen the section. If you study Schedule VI, then you will find it there. That is the difficulty.

SHRI BHUPESH GUPTA: I will come to Schedule VI. Schedule VI is

here. I don't say that everything should be catalogued. There are certain major items that you are supposed to pay

SHRI C. P. PARIKH: What are they?

SHRI BHUPESH GUPTA: They say that they have spent for working class amenities, say Rs. 2 lakhs. It is shown in the balance sheet, which is prepared in Calcutta and placed before the auditor. The auditor does not certainly go to the factories or the coal-mines or the plantations to verify the statements and generally he accepts them and signs them. What happens is that when we examine it, we find that nothing has been done.

SHRI SHRIYANS PRASAD JAIN: Do you mean to say that the auditor certifies it without going into the account?

SHRI BHUPESH GUPTA: It is a very great thing he has said. Don't I know, my dear hon. Members, how the auditor signs your accounts? I know how the auditor signs that account when you show them. You can fool some people for some time but not all for all time. When the auditor goes, he goes to Andrew Yule and Company. He goes to Netaji Subhash Road and books are placed before him. He exercises his judgment and it is physically impossible for him to ascertain as to how much money and under what item has been spent for the working class benefits which are shown in the balance sheet unless and until he goes there. That is something which you should know as to how these things are handled. Naturally, in good faith sometimes, he signs it. I am not holding any brief against him or for him, because things are so prepared that it is not possible for the auditor to go deeper into this because 'you don't get, under the existing law, all the facts that are necessary to be given. We feel that much of the money that is shown as having been spent for working-class benefits,

working-class housing, working class amenities etc. is a fictitious amount and that is done with a view to evading incometax and all that and I don't know how that money is spent. That is why I say that the conditions about working class which is a major expenditure with regard to working class amenities, should be properly stated not in detail but in broad outlines so that anyone desirous of looking into them can go into them and study them. A balance-sheet should not be a balance-sheet of profit and loss only in the sense that you tell the shareholders how much money you have made. You are honour-bound to tell the shareholders how you are treating your workers. You are answerable to the public and the shareholders and most certainly to the working classes as to how the funds are being disbursed as far as working class and employees are concerned. We know the kind of malpractice that is going on. Therefore I suggest that this amendment should be accepted.

SHRI M. C. SHAH: Which one?

SHRI BHUPESH GUPTA: You should be a little patient.

SHRI M. C. SHAH: I have more than enough patience. I am afraid about your health when you are speaking in that voice.

SHRI BHUPESH GUPTA: I know that. I am very sorry if I am torturing the Minister; working class cause always tortures them. Now then, the other amendments are also important in this particular connection. He referred to the Schedule VI. It says:

MR. DEPUTY CHAIRMAN: You need not go into that now.

SHRI BHUPESH GUPTA: There is an amendment there.

MR. DEPUTY CHAIRMAN: Not here. We are on clause 211.

SHRI S. N. MAZUMDAR: There is a provision that Government may exempt certain cases.....

MR. DEPUTY CHAIRMAN: We are concerned with clause 211 and not the schedule.....

SHRI BHUPESH GUPTA: Then I cannot move any amendments. I tell you that it is there that under this clause the Government can exempt certain companies from fulfilling certain obligations in the balance-sheet under Schedule VI.....

MR. DEPUTY CHAIRMAN: It will be relevant if you move those amendments to Schedule VI.

SHRI BHUPESH GUPTA: I have moved. I will tell you where it becomes relevant. At page 108 you will see that it says like this and I have moved an amendment that lines 21 to 24 be deleted. What is that line 21, it says:

"The Central Government may, by notification in the Official Gazette, exempt any class of companies from compliance with any of the requirements in Schedule VI if, in its opinion, it is necessary to grant the exemption in the national interest."

That is to say that the Government is enabled here in certain cases to exempt certain companies from complying with the provisions under Schedule VI. Naturally, I am not going into that. It says what should be stated in the balance-sheet. That list is not small either. You will find that matters connected with (The working classes are missing; otherwise financial matters are there. We are not prepared to give Government this power and we want this Schedule to be observed and no exemption should be made. The Minister is nodding his head.

SHRI M. C. SHAH: I just nodded at your argument.

SHRI BHUPESH GUPTA: According to us, this is not satisfactory. If I were to write a Schedule, I would write it differently but when you have got it, don't again take powers to exempt any class of companies from the operation of it. I think it is clear now. What I fear is that certain concerns will try to get exempted under this, especially foreign concerns. I have in mind certain important concerns like the S. V. O. C. They don't like our Companies Law. They think that they should function here with certain extra-territorial rights as far as company matters are concerned. It is no accident that the Companies Law had to be amended because the S. V. O. C. demanded it and in 1952 we had to amend the Companies Law to suit the tycoons of the S.V.O.C; so that these people could be obliged Government retained the power of exempting from obligations under Schedule VI in certain cases. You have not in your speech or otherwise made it clear as to why you are retaining this power of exemption in your hands. We are opposed to it because this will be utilized to serve the interests of the big people.

Next I say that at page 108, the words "either unconditionally or" may be deleted from line 25. The clause states:

"Any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification."

That means they have both the powers. They can give exemption without any conditions, quite unconditionally. Or if they want, they can impose certain conditions. Does that mean they have not made up their minds? If it were a question of indecision, I would pardon the Government. But actually here they get both the powers. If we say "Conditions may not be imposed" they will come forward and say, "We have obtained the power to impose conditions." L' the Standard Vacuum Oil Company

•ays, "We cannot come to deal with you, because you have powers to in.pose conditions," then these gentlemen will go and say, "We can do it unconditionally also." Sir, I say, they cannot please both the masters. It is time that they choose whether to serve the people or to serve the company bosses at the top. Therefore, I say these words "either conditionally or" should be deleted.

We do not actually like these powers of discretion to be given to Government. We do not want the thing to be put like that. But if they still insist on retaining sub-clause (3) I have another suggestion and that is in my other amendment which says that after line 26, proviso may be added to the effect that the reasons for the exemption should be recorded in writing. You can see, Sir, how reasonable we have been. In the first place, we are not prepared to give any discretionary power to Government. But if Government must have the power, then we say, "Please do not make it unconditional" and if you exempt, make it conditional, impose some conditions. If they decide to give exemption, then they should state the conditions under which, the reasons for which, the exemption is given. There is logic in it. We want them to state the conditions in writing, because, you see, we do not like such decisions to be taken in the backstairs of the Secretariat. If they at all decide to give exemption, for whatever reasons they may decide to exempt a particular company from the provisions of Schedule VI, they should put it in writing so that Parliament, the country, the people, the shareholders, the workers and everybody concerned may know the reasons they had for making the exemption. Therefore, I insist that these amendments of mine should be accepted.

The hon. Finance Minister will get up and in replying to me, I hope, he will give satisfaction to me by answering the points that I have raised.

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He should not say it is only a procedural matter. Sir, it has vital bearings on the administration of the affairs of companies, especially on Government's relations with certain company matters. The Government is assuming so many powers. It is asking for so many powers. We are interested in giving power to the Government, provided that such powers are utilised in the interest of the people, in the interest of our economy and in the interest of the country and not in the interest of big business and of the multi-millionaires. That is the reason why I have moved these amendments. Every single amendment is of vital importance and I know the hon. Members of the Congress Party in their heart of hearts will be at one with me in the matter of these amendments. I know all the arguments that I have advanced in this connection—though not my language—would be as acceptable to them as they are to me. It is not in any partisan spirit that I have advanced them. I have advanced them in the broader interests of all companies our industries and the economic progress of our country.

I hope my amendments will be accepted by the House.

SHRI M. C. SHAH: Mr. Deputy Chairman

SHRI S. N. MAZUMDAR: Sir, the.....

MR. DEPUTY CHAIRMAN: Yes, Mr. Mazumdar.

SHRI S. N. MAZUMDAR: Sir, I do not know why the Finance Minister is in such a hurry.

SHRI M. C. SHAH: No. I am not in any hurry. I am prepared to hear my hon. friend.

SHRI S. N. MAZUMDAR: That »8 very kind of the hon. Minister. Sir, I shall speak with particular reference to the amendment that suggests that the balance sheet should clearly express the items coming under workers' amenities. Sir, this is a very

[Shri S. N. Mazumdar.] important matter and my amendment must not be brushed aside with the remark that their inclusion would only turn the balance sheet into an encyclopaedia. Actually, there is no question of the balance sheet being turned into an encyclopaedia, it would only amount to doing justice to the workers.

Sir, some remarks were made to the effect that as we were not in favour of inclusion of workers' representatives in the Board of directors, so we were not in favour of the workers. I submit that instead of providing for a sort of an eye-wash, it is much more necessary and more vital to provide for these items of expenditure on workers' amenities being included in the balance sheet. Why are balance sheets published? They are published not only for the information of the shareholders, but also for the information of the public. The public will then get an idea of the income and expenditure of that particular concern whose balance sheet is being published. That principle was enunciated and accepted at the time the trade unions were in their infancy and when the present questions and considerations which have now come into view were not there, or were not much heard of. But now we have found obstacles and we have come against very serious difficulties in connection with adjudications before tribunals where companies tried to avoid giving relevant facts even before tribunals, not to speak of giving them in their balance sheets, when those facts were likely to be helpful in deciding the question of bonus or wage increase for the workers. On the other hand many fictitious items were entered in their accounts. They state that so much money was spent on amenities for workers. That is a very vague thing. It was asked whether the auditors do not go into all these things. Sir, the auditors go into the papers, they do not enquire into all these details. Actually what happens? On paper

certain things are shown in a very general manner, but in actual practice very little of what is shown on paper is done. That is our complaint particularly in connection with these tea concerns. In these concerns, the strength of the labour force is shown in a very inflated manner at the office of the concern at their headquarters, that is at Calcutta, and the auditors do their work at Calcutta. They do not go to the garden centres. Therefore they have no access to these details. The accounts show such and such sums having been spent on labour welfare, but actually what happens is different. For instance in the tea garden some times a cock fight is arranged and the workers are invited to it, to witness it and that is passed on as "labour welfare". That forms an item under labour welfare expenditure. Therefore, my concrete suggestion is that in the balance sheet those actual items of expenditure, those sums which were spent on actual welfare work should be shown.

Similarly about the housing of the labour force. Expenditure on that item should be shown. These things may result in adding some three more pages to the balance sheet, it may be a booklet, but it will not become an encyclopaedia. That is why we very much insist that this should be done. Unless this is done, no amount of high-sounding talk about workers' participation in the management and administration will appeal to the workers or do them any good.

SHRI M. C. SHAH: Sir, both my friends opposite have really missed the point. The first amendment was for deleting the words which gave the power to Government to exempt certain companies.

SHRI S. N. MAZUMDAR: I have spoken on the earlier amendment, mainly.

SHRI M. C. SHAH: He has several amendments. First is that no discretionary power should be given to Government in the matter of exertions.

Nexi that the word "unconditional" should be dropped. Thirdly he says that the reasons for giving the exemption should be given in writing. But actually, I may tell my hon. friends, my Communist friends, that this sub-clause was framed on the very principle that was being advocated by those Communist friends. In the Joint Select Committee those Communist friends supported it.

In the Lok Sabha the Communist friends supported it, but here my hon. friends, without studying as to what it means, have asked, "Why is it not here? It ought to be here". Here, the Central Government is taking powers to exempt certain companies in regard to publication of certain things in the national interest. We want to protect certain industries. We do not want them to come out with all the information so that the foreign competitors may not take undue advantage of the information supplied. There are certain industries which require a certain amount of protection; they will not be asked or forced to come out with all the information which can be taken advantage of by companies outside India. Therefore it is that we have taken this power to give exemption to certain companies. We do not want our concerns to be exposed to the competition from outside which will be the result if these companies publish their full details. There may be some secret funds which should not be shown; there may be certain rebates which are not to be shown. This provision is not against the working class; there is no reference to the workers at all.

SHRI S. N. MAZUMDAR: My hon. Member has confused the issues.

SHRI M. C. SHAH: The case is to be governed only by the national interest. If, in the national interest, Government comes to the conclusion that certain industries should be exempted, this clause provides the necessary powers. As a matter of fact, this clause is on the lines advocated by Mr. Bhupesh Gupta and at times supported by Mr. Mazumdar.

SHRI S. N. MAZUMDAR: Why "at times"?

SHRI M. C. SHAH: That is the real objective behind this.

SHRI S. N. MAZUMDAR: You allow foreigners to come over here.

SHRI M. C. SHAH: I think, therefore, this amendment is mis-conceived.

As regards the other amendment about "unconditionally" or "on such conditions", power rests with Government. Government will look into every case and see whether, on certain conditions, concerns can be exempted or not. This will apply to things which can be taken advantage of by competitors outside India. This will not be in the national interest.

There is another amendment asking for reasons to be recorded in writing. Whenever Government considers any request, the reasons are before it in writing. It is not as if Government takes action on a verbal request. There is an application and a file on such an application. Therefore, it is not necessary to have this amendment at all. That is all that I have to say.

MR. DEPUTY CHAIRMAN: The question is:

59. "That at page 108, lines 21 to 24 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

60. "That at page 108, line 25, the words 'either unconditionally or' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

61. "That at page 108, after line 26, the following proviso be inserted, namely: —

•Provided that the reasons for the exemption are recorded in writing."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

62. "That at page 108, after line 32. the following proviso be inserted, namely:—

'Provided that the reasons for the modifications are recorded in writing.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

118. "That at page 108, line 5, after the word 'company' the words including such material facts concerning emoluments of the various categories of the workers and employees as required by the Government from time to time' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 211 stand part of the Bill."

The motion was adopted.

Clause 211 was added to the Bill.

Clause 212 (Balance sheet of holding company to include certain particulars as to its subsidiaries.)

MR. DEPUTY CHAIRMAN: We shall now take up clause 212.

SHRI C. P. PARIKH: Sir, I beg to move;

63. "That at page 109, at the end of line 43. after the word 'account' the words 'annexing therewith a separate profit and loss account of Important diversified activities' be inserted."

SHRI S. V. MAZUMDAR: Sir, I beg to move:

188. "That at Page 111. after line 44, the following proviso be inserted, namely:—

'Provided that the reasons for the exemption shall be recorded in writing.'"

(The amendment also stood in the name of Shri Bhupesh Gupta).

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI C. P. PARIKH: Sir, this amendment is a very important one. This relates to concerns which have more than one activity about which hon. Members in both Houses have spoken. There might be one concern carrying on activities in respect of textiles, jute, cement, paper and so on. Whenever a company brings out its balance sheet, it always shows also the balance sheet of the subsidiary company or companies; the assets and liabilities and the profit and loss account of the subsidiary company or companies are shown. We know of cases where one concern might be carrying on different activities of a different nature but within one concern. In such cases, it is all the more necessary for us to know the assets and liabilities as well as the profit and loss account of each separate activity separately. What happens at present is that the whole thing is grouped under one item although the figures may relate to four or five activities. Similar is the case in respect of the receipts; they are grouped under one head although there are many activities. Schedule VI (Part II) deals with the profit and loss account. There are about 100 items to which the companies will have to give an answer, both on the income and expenditure side. By this arrangement, I feel that anyone sitting in his own chamber will be able to know how a particular industry is running. There are so many items included in this Schedule. This is a very important provision that has been made. Perhaps

Mr. Bhupesh Gupta has forgotten that this Schedule includes expenditure on workers' amenities, the bonus, the provident fund, etc. All these items are to be shown separately. I do not want to go into the details of each case, but what I mean to say is that we will have a complete picture of how each industry is running. There might be loss in some activities and profit in others and we are entitled to know which activity is prospering and which is working at a discount. This kind of a statement is all the more necessary because we will have a comparative view of all the units in the country; we will be able to find out which are working efficiently and which are not; we will also be able to find out the causes both for the efficient working of certain concerns and for the inefficient working of others,

MR. DEPUTY CHAIRMAN: Does not Clause 212(2)(b) cover your point?

SHRI C. P. PARIKH: No, Sir.

MR. DEPUTY CHAIRMAN: The profit and loss account of the subsidiary concern has also to be furnished.

SHRI C. P. PARIKH: I am not talking about the subsidiary concerns but about the subsidiary activities of one concern. One company may have different activities without having subsidiary concerns and the public is entitled to know, both as regards the public and private limited companies, how each activity is being carried on. This will enable Government to have a comparative view of the whole picture. This will give a comparative picture and an auditor or an economist or a technical man will be able to point out why a particular concern is running well while another is not. The reasons may be technical, financial or administrative, but this is the only way to improve efficiency in the country, I say, Sir the Finance Minister may have his company law department, but that department will not be able to function with as great efficiency as it should be done and expected of them according to the Industrial Policy of 1948. and the Industrial Policy of

1948 is that the private sector will be under regulation and control and superintendence and that it will be done in the national interests. I ask, Sir, without having statistical data in your hands how will you be able to know it. I think, Sir, we have groped in the dark for the last five years and it is time that we must know exactly what is happening in each unit and in each activity and therefore these particulars are important. I say, Sir, as regards this, when some date is to be taken into account, what will happen to the various activities in

the same industry- For that, Sir, the principal activity which is run in one company that activity forms the date of the balance-sheet and the other activities may be shown separately under the same year-ending under same date for other activities in order that the compilation may be easy and we may be able to point our finger at what is going on and what is going right, if some things are happening in one concern, why the same things could not happen by greater supervision, greater control greater financial and technical assistance in other concerns. Therefore these are very important things. Now in Schedule VI on pages 354 to 367, on fourteen pages, so many particulars which are required to be shown in the balance-sheet and profit and loss account are given and I think, Sir, if we have those particulars, then we shall be able to control and regulate the industry in the larger interests of the country. Otherwise the same chaos which has continued for so many years will be continued and we will again remain in the dark. On that account I am asking the Finance Minister to accept this amendment and even if he does not want to do it in the Schedule he has so many ways of supervising the industry on the lines which I have mentioned. He may not agree with what I have mentioned in that. He must devise methods in order that he may be able to present a picture to the country by which every economist, every administrator, every technician will be satisfied with the profit and

[Shri C. P. Parikh.] loss account given. At present figures are not available. There are no statistical data known to the Finance Minister and the Minister for Commerce and Industry; I say they have no statistical data of what is happening in the country. In order to have proper statistical data it is necessary that the Finance Minister should closely look into this amendment and the various amendments for which he has said that he would look into the matter. He has powers to amend the Schedule if he likes, but I think, Sir, the earliest we put that into action, it will be in the interests of the country and of the Government.

SHRI S. N. MAZUMDAR: About this amendment I shall be very brief. This amendment wants that the reasons for the exemption shall be recorded in writing. I think the Finance Minister objects to recording his reasons in writing, but in the earlier one he cited a national interest

MR. DEPUTY CHAIRMAN: In the earlier one he said it will be recorded in writing, there will be a file.

SHRI S. N. MAZUMDAR: Then I do not know why he opposed that amendment. However, in this case, also, I want that the reasons should be recorded in writing and if he assures me that this is obvious, that this will be recorded in writing, then I have not much to say.

SHRI H. P. SAKSENA (Uttar Pradesh): Sir, I support the amendment moved by my friend Mr. Parikh. If any amendment up till now has been moved in the national interest, in my estimation this is one of them. The statistical condition of our companies is hopelessly unsatisfactory and this amendment, if accepted, will improve very considerably the future accounting, the keeping of accounts of the companies. As the mover has pointed out, the whole thing is in a state of jumble. We do not know, especially when there are more than one activity being carried on by a company nothing is clear as to which part of the business has

resulted in profit, which has resulted in loss. Whether the business is running on the border line and all that sort of thing is not clear. So this will bring about a considerable improvement and Government should have no hesitation if, as is obvious, they have got national interests uppermost in their heart. They should have no hesitation in accepting this amendment which I wholeheartedly support.

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Deputy Chairman, there is a good deal of substance in what Mr. Parikh says in collecting statistical data about the company and for which he has suggested that the accounts of the company should be closed on one fixed date in the different industries. But I do not agree when he says that for one composite company, a company which is carrying on different kinds of business, one should be regarded as the principal unit and the others should be regarded as subsidiary units. It is very difficult to decide. Now supposing there is a concern which is managing chemical industry and cotton industry and sugar and *Vanaspati*; the investment probably in each of these units may be, comparatively speaking, the same; it is very difficult for the Government administratively to decide as to which would be the principal unit in that composite concern. Therefore I think, Sir, that that will not be feasible and he should accept and also press the Government to accept the suggestion of my hon. friend Mr. Ghose that there should be uniform date for all the companies to make up their accounts. Of course Mr. Doshi suggested

MR. DEPUTY CHAIRMAN: We are not concerned with the date.

SHRI RAJENDRA PRATAP SINHA: That is the amendment of Mr. Parikh.

MR. DEPUTY CHAIRMAN: It is not that.

SHRI V. K. DHAGE: A separate profit and loss account of important diversified activities.

SHRI RAJENDRA PRATAP SINHA: They should be all compiled on one date; that is the point.

MR. DEPUTY CHAIRMAN: No, no. It is the account of the different activities, profit and loss of different activities; the date has nothing to do with it.

SHRI RAJENDRA PRATAP SINHA: What I say is that even for the different activities accounting should be done on the same date and all the companies together should be one unit

SHRI M. C. SHAH: I am afraid I cannot accept either of the amendments. One amendment of Mr. Bhupesh Gupta moved by Mr. Mazumdar.....

SHRI S. N. MAZUMDAR: It is my amendment also.

SHRI M. C. SHAH: It is Mr. Bhupesh Gupta and Mr. Mazumdar, both, I am sorry. There, as I had said earlier, in practice the reasons for granting the company the exemption would be recorded on the papers dealing with the applications for such exemptions and therefore the proviso is not necessary, as I said earlier also, because there will not be verbal orders. There will be writing on the file and the reasons will be recorded on that and this proviso is unnecessary and therefore I do not accept it.

Now with regard to my friend Mr. Parikh's amendment, the amendment requires that a separate profit and loss account of important diversified activities be annexed to the profit and loss account of a subsidiary company. Now that is vague. As regards these diversified activities, it may be left to the management to find out what is important and what is not important and therefore I think it will rather create confusion. Suppose it is there, then it will be confusing to the shareholders. As a matter of fact, suppose a company has diversified activities—it has got cotton and it has others also—then the entire profit and loss account will be there. Whether there is loss or profit, it will be there and

the shareholders will be entitled to ask all these questions and the management will have to give answers about those things. Therefore I do not think that it is necessary that we should accept this amendment.

With regard to statistics, we have already decided that in the new department we will have a special branch for statistical research and that branch will try to have all the up-to-date statistics as far as the company law is concerned and it is going to be manned with very intelligent and studious people knowing that business. It is going to be on a rather big scale. We also want to have statistics so far as company law is concerned. Therefore I just accept the underlying objective of my friend, Mr. Parikh, that we must have statistics on which we can rely. I can assure him and the House that we are keen to compile up-to-date statistics and for that we have already taken the necessary measures. Therefore I am sorry I cannot accept the amendment.

MR. DEPUTY CHAIRMAN: What about your amendment, Mr. Parikh?'

SHRI C. P. PARIKH: Sir, I would like to withdraw.

•Amendment No. 63 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

188. "That at page 111, after line 44, the following proviso be inserted, namely:—

"Provided that the reasons for the exemption shall be recorded in writing'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 212 stand part of the Bill."

*For text of amendment, *vide* col. 4433 *supra*.

The motion was adopted.

Clause 212 was added to the Bill.

Clauses 213 to 216 were added to the Bill.

Clause 217 (Board's Report)

MR. DEPUTY CHAIRMAN: There is one amendment.

SHRI S. N. MAZUMDAR: Sir, I move:

189. "That at page 114, after line 9, the following proviso be inserted, namely: —

'Provided that the dissenting note or report, if any, shall be published along with it.'"

(The amendment also stood in the name of Shri Bhupesh Gupta.)

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion.

SHRI S. N. MAZUMDAR: In this amendment all that I have asked for is that while the report of the board of directors is to be published, if there is any dissenting note or report by any minority of the directors, that should also be published along with it. This is a very simple proposition. One of the principles on which the company law is being amended now is that the minority of shareholders represented by the minority of directors will also be freed from some of the disadvantages from which they were suffering earlier. Various suggestions have been made to that effect. There is also another suggestion which will come up later and that is about proportional representation. Here, it is very likely that in the board of directors there will be difference of opinion on various matters. This also should be placed before the shareholders and the public as well.

Secondly, I do not know whether the Government has yet decided any-

thing about workers' representation on the board of directors. So far as I understand they have not yet decided upon it.

MR. DEPUTY CHAIRMAN: But you have opposed it.

SHRI S. N. MAZUMDAR: Suppose the Government accepts the suggestion; in this matter other labour representatives may think differently from us and if they go on the board, they may have something to say in a minute of dissent. We have opposed it because we think that no purpose will be served but others may say that they must go. In that case if those representatives on the board have something to say, we shall like to know and the country will like to know. That is why we have asked for this that if there is any dissenting note or report from the minority directors, that also should be published.

SHRI M. C. SHAH: Sir, no useful purpose will be served by appending such a document which will only create confusion and disorder. It is not necessary that a dissenting minute of a member of the board of directors should be appended here and I am not prepared to accept that amendment.

MR. DEPUTY CHAIRMAN: The question is:

189. "That at page 114, after line 9, the following proviso be inserted, namely: —

'Provided that the dissenting note or report, if any shall be published along with it.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 217 stand part of the Bill."

The motion was adopted.

Clause 217 was added to the Bill.

Clause 218 (Penalty for improper issue, circulation or publication of balance sheet or profit and loss account)

MR. DEPUTY CHAIRMAN: There is one amendment.

KAZI KARIMUDDIN: Sir, I move:

84. "That at page 114, line 43, for the words 'the company' the words 'all those who are charged with the duty of calling a meeting of the company' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the 'amendment are open for discussion.

KAZI KARIMUDDIN: Sir, clause 218 relates to penalty for improper issue, circulation or publication of balance sheet or profit and loss account. Under this clause the company is also made liable. The definition of 'company' is given in clause 2. It says that " 'company' means company formed and registered under this Act or an existing company as defined in clause (ii)." In case prosecution is to be launched, how can the company be prosecuted? Those who are charged with the duty of issue circulation or publication of balance sheet or profit and loss account should be prosecuted. Since a body corporate cannot be prosecuted, there is an improper use of the word 'company* here.

Now, in the amendment there is a slight mistake. A similar amendment was given by me under clause 168. Instead of the words "all those who are charged with the duty of calling a meeting of the company" it should be "all those who are charged with the duty of issue, circulation or publication of balance sheet or profit and loss account of the company", because the former wording relates to clause 168. With this slight change I move.

SHRI M. C. SHAH: Sir, I am sorry I cannot accept the amendment because it seeks to make all officers charged with the duty of calling a meeting of the company liable and we have not

defined 'officers charged with the duty of calling a meeting*.

KAZI KARIMUDDIN: My point is that a company cannot be prosecuted. It is a corporate body.

SHRI M. C. SHAH: In any case, all officers of the company in default are punishable under this clause. Under the existing Act also the company is liable

MR. DEPUTY CHAIRMAN: Even here the company and every officer of the company who is on the board shall be punishable. It is there.

KA-51 KARIMUDDIN: The company is a corporate body and how can it be prosecuted?

MR. DEPUTY CHAIRMAN: Why not? As a corporate body it has to do certain things and if it fails

KAZI KARIMUDDIN: The whole company will be prosecuted?

SHRI M. C. SHAH: The company is represented by its manager.

MR. DEPUTY CHAIRMAN: Do you press your amendment?

KAZI KARIMUDDIN: No, Sir.

•Amendment No. 64 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 218 stand part of the Bill."

The motion was adopted.

Clause 218 was added to the Bill.

Clause 219 was added to the Bill.

Clause 220 (Three copies of balance sheet, etc. to be filed with Registrar.)

MR. DEPUTY CHAIRMAN: There are two amendments.

SHRI LALCHAND HIRACHAND DOSHI: Sir, I move:

♦For text of amendment, vide col. 4443 *supra*.

[Shri Lalchand Hirachand Dosni.]

119. "That at page 116, lines 29 to 32 be deleted."

120. "That at page 116, line 33, the words 'or private' be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI LALCHAND HIRACHAND DOSHI: These relate to copies of balance sheet etc. to be filed with the Registrar. The only point that I want to make is this that after all with a private company's affairs hardly anybody is concerned. The majority of private companies will have nothing to do with the public. Therefore I suggest, as it happens in many of the foreign countries, the private companies should be exempted from filing such balance sheets etc. here also. And the second amendment 4 P.IWL is almost consequential to the first. That is in sub-clause (2), the words "or private" are desired to be omitted so that the amendments will be effective and not apply to the private companies, i see ■ »o reason why the Finance Minister should have any objection to accepting uGhtaamendments.

SHRI M. C. SHAH: The Finance Minister has very strong objection, because the Company Law Committee have recommended it. As a matter of fact, Mr. Chandulal Parikh the other day wanted to have a proxy to speak in the case of private limited company. When these balance sheets are duly audited and are certified oopies of them, what is the objection, I do not understand. Are there any things which are to be hidden? Are there any things which are not to be shown to the public? I do not understand. If there are fifty members, perhaps all of them may not be relativrf*there may be outsiders also. And in order to have some check on the activities of the private companes, it is absolutely necessary that these audited and certifier! copies should be filed with the Registrar.

MR. DEPUTY CHAIRMAN: Do you press pour amendments?

SHRI LALCHAND HIRACHAND DOSHI: Yes, Sir.

MR. DEPUTY CHAIRMAN: The question is:

119. "That at page 116, lines 29 to 32 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Amendment No. 120 being consequential is barred.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 220 stand part of the Bill."

The motion was adopted.

Clause 220 was added to the Bill.

Clauses 221 to 223 were added to the Bill..

Clause 224 (Appointment and remuneration of auditors)

MR. DEPUTY CHAIRMAN: Now, we go to clause 224. There is one amendment.

SHRI JASPAT ROY KAPOOR: Sir, I move my amendment.....

SHRI KISHEN CHAND: Sir, the additional clauses 224A, 224B, 224C and 224D suggested can be better discussed along with clause 224 and If Mr. Dhage also moves his amendment, I think, they can all be considered at on_e and the same time. That will be better, I think.

MR. DEPUTY CHAIRMAN: No. That can come only after clause 224.

SHRI JASPAT ROY KAPOOR: Sir, I move my amendment after correcting it slightly, the correction being that in line 4 of my amendment for the words "a director" the words "*an auditor*" be substituted. I meant an auditor and not a director. A mistake has crept in, I do not know whether ! it is a slip of mine or somebody else's.

MR. DEPUTY CHAIRMAN. Has he the leave of the House to change the wording?

(No hon. Member dissented.)

SHRI JASPAT ROY KAPOOR: Sir, I move:

121. "That at page 119, after line 20, the following be inserted, namely:—

'(9) Notwithstanding anything contained in this section, the Central Government may, after consulting the Advisory Commission, appoint an auditor for any company for such period and on such remuneration as it may consider proper.'"

I believe this innocent and necessary amendment of mine, which is in the nature of a preventive amendment, would be acceptable to the Finance Minister. Clause 224 deals with the appointment of auditors. So far as this clause as it stands goes, it is all right. I have no objection to it. I only want that a new sub-clause be added to it in the form in which I have tabled my amendment. It gives to the Central Government the right and authority of appointing an auditor on its own initiative subject, of course, to the advice which it may receive from the Advisory Commission, the appointment of which this Bill provides in clause 410. The House will remember that it is proposed to appoint an Advisory Commission under clause 410 to advise the Government on various matters referred to in that clause. Under that clause, in addition to the various matters referred, it will be open to the Central Government to refer any other matter to the Advisory Commission for its opinion. I want that if at any stage the Central Government considers it necessary that for the better management and proper checking of the accounts of any big company it is necessary to appoint a more independent and respectable auditor, it should be open to it to refer the question to the Advisory Commission for its advice on the subject and after

receiving the advice of the Advisory Commission, it may, if it considers necessary and desirable, appoint an auditor for the company. Sir, this is only an enabling clause. It imposes no obligation on the Central Government, neither it straightway puts any company under the burden of paying for any new auditor, I should think, the Central Government would be well advised to obtain the power under this amendment of appointing an auditor straightway. The object that I have in view is that in the case of very big and important companies, the capital of which is a very huge amount, and particularly if the company is engaged in producing essential articles like iron and steel, cement, or some such thing, then, the Central Government should keep a watchful eye on the affairs of this company. And the most modest and innocent way of keeping an eye is to appoint a respectable auditor, an independent auditor. Things as they are today, auditors are appointed by the shareholders, which in actual practice virtually means the managing agent or the managing director. Now, the managing agent and the managing director are the very persons or the very body whose affairs are to be properly looked into by the auditors and the appointment of auditors virtually being entirely under their thumb—human nature being what it is—we should not expect such auditors to audit the accounts of the company in an impartial and independent manner and submit an independent and duly critical report of the accounts of the company to the shareholders. Therefore, it is necessary and desirable that in suitable cases, under certain circumstances, the Central Government should come in and appoint an auditor. I am not unmindful of the fact that there is a provision in the Bill—which we will come to discuss later on—clause 235, under which it is open to the Government to appoint an inspector to investigate into the affairs of a company. But that stage comes when the affairs of the company have already gone wrong. What I want is that the affairs of the company should be prevented from

[Shri Jaspal Roy Kapoor.] going wrong and the Central Government should not wait until the affairs of the company have already gone wrong and then investigate its affairs. I have, therefore, said that my amendment is of a preventive nature. Prevention, as they say, is better than cure. So, before things go very wrong, let the Government appoint an auditor. It is all for the advantage of the company and for the shareholders and in the larger interests of the country, because I have in view especially the very big companies which are engaged in producing essential commodities. I hope this amendment of mine will be accepted. I do not know where Mr. Bhupesh Gupta has gone. He had something to say against auditors this morning. I hope it will be supported by his party also and on all sides.

SHRI M. C. SHAH: I am afraid I cannot accept this amendment of my friend, Mr. Jaspal Roy Kapoor. He says it is harmless. I do not understand. He says 'notwithstanding anything contained in this section, the Central Government may, after consulting the Advisory Commission, appoint an auditor for any company for such period and on such remuneration as it may consider proper.' Now, under clause 224, auditors are generally to be appointed by the annual general meeting, leaving to the shareholders to appoint their own auditors. There is one sub-clause (3) which says 'Where at an annual general meeting no auditors are appointed or reappointed, the Central Government may appoint a person to fill the vacancy.'

SHRI JASPAT ROY KAPOOR: What has it got to do with my point?

SHRI M. C. SHAH: Please hear me. The ex-Finance Minister should be patient to hear the arguments. The position is this, in the amendment, it has been mentioned 'the Central Government may appoint an auditor.' Now, how are the Government to know that the appointment of an auditor by the Government is neces-

sary In a certain company. That can only come in Clauses 234 or 235. If the Registrar gets complaints that there is something wrong in the working of the company, then an inspector who investigates the affairs is to be appointed. Ordinarily, an inspector is an auditor. Now, if we accept this amendment, I do not understand how the Government are going to act. He says that the Government 'may' do it. Government must have some information. Under certain circumstances the Government may appoint an auditor. They may consult the Advisory Commission. They will have to pick and choose. There are big companies. Therefore, if the auditors appointed by the general body meeting are not working well, we have to ask them to act well. Therefore, the Government should exercise the powers under this Clause. I think it is unworkable, unpractical and, what shall I say? Therefore.....

SHRI JASPAT ROY KAPOOR: You may say anything.

SHRI M. C. SHAH: Now, my Friend, the ex-Finance Minister might have understood the position.

MR. DEPUTY CHAIRMAN: Will you withdraw the amendment? SHRI JASPAT ROY KAPOOR: No.

MR. DEPUTY CHAIRMAN: You don't? The question is:

V21. "That at page 119, after line 20, the following be inserted namely: —

'(9) Notwithstanding anything contained in this section, the Central Government may, after consulting the Advisory Commission, appoint an auditor for any company for such period and on such remuneration as it may consider proper*."

SHRI JASPAT ROY KAPOOR: I am advised to withdraw.

MR. DEPUTY CHAIRMAN: I have put it to the House.

The motion was negatived

MR. DEPUTY CHAIRMAN: New Clauses 224A, 224B, 224C and 224D Mr. Dhage.

SHRI B. C. GHOSE: The original clause has not been put.

MR. DEPUTY CHAIRMAN: I am sorry. The question is:

"That clause 224 stand part of the Bill."

The motion was adopted.

Clause 224 was adopted to the Bill.

MR. DEPUTY CHAIRMAN: We will now take up proposed Clauses 224A to 224D (Amendment No. 122).

SHRI V. K. DHAGE: Sir, before I move this amendment I should like to draw attention to a typing mistake on page 6. Clause 224D last word. It ought to be 'twenty'. That is just in consequence of what has been stated above. It should be twenty.

MR. DEPUTY CHAIRMAN: Is it the pleasure of the House to permit him to make that change?

(No hon. Member dissented.)

SHRI V. K. DHAGE: I also say that the amendment to clause 226 has arisen out of the amendments that I have given notice of and I wish to speak on them. I shall not take a long time when I move and speak on the amendments to clause 228.

MR. DEPUTY CHAIRMAN: That is consequential. Is it?

SHRI M. C. SHAH: So far as these new clauses are concerned, proposed Clauses 224A to 224D and Clause 226 may be taken together.

MR. DEPUTY CHAIRMAN: Shall we put it? You have no objection? The time of the House may be saved in this regard. No amendment to Clause 225? You can go on. I will put it separately.

SHRI B. C. GHOSE: He will address his arguments on both.

MR. DEPUTY CHAIRMAN: Clause 225 has nothing to do with them. There is no amendment.

The question is:

"That Clause 225 stand part of the Bill."

The motion was adopted.

Clause 225 was added to the Bill.

SHRI V. K. DHAGE: Sir, I move amendment No. 122:

122. "That at page 119, after line 20, the following new clauses 224A, 224B, 224C and 224D be inserted, namely:—

224A. (1) After the commencement of this Act, no person shall hereafter act as an auditor at the same time of more than twenty companies.

(2) Any person acting as an auditor in more than, twenty companies, immediately before the commencement of this Act, shall within one month from such commencement:—

(a) choose not more than twenty of those companies in which he wishes to continue to act as an auditor;

(b) resign as an auditor in the other companies;

(c) intimate the choice made by him under clause (a) to each of the companies for which he was acting as an auditor before such commencement to the Registrar having jurisdiction in respect of each such company.

(3) Any resignation made in pursuance of clause (b) of subsection (1) shall become effective immediately on such despatch thereof to the company concerned.

(4) No auditor shall act as an auditor—

(«) in more than twenty companies after the expiry of one month from the commencement of this Act, or

[Shri V. K. Dhage.]

(b) in any company after despatching his resignation as an auditor thereof in pursuance of clause (b) of sub-section (1).

224B. (1) Where a person already acting as an auditor in twenty companies is appointed after the commencement of this Act as an auditor of any other company, the appointment—

(a) shall not take effect unless such person, within seven days thereof, effectively resigns as an auditor in any of the companies in which he was already acting as an auditor, and

(b) shall become void immediately on the expiry of seven days if he has not before such expiry effectively resigned as an auditor in any of the companies aforesaid.

(2) Where a person already acting as an auditor in nineteen companies or less is appointed after the commencement of this Act as an auditor of other companies making the total number of companies in which he is acting as an auditor more than twenty, he shall choose the companies in which he wishes to continue to hold or to accept so however that the total number of such companies held or accepted by him shall not exceed twenty.

(3) None of the new appointments shall take effect unless such choice is made, and the new appointment will be void if such appointment is not made within seven days.

224C. In calculating, for the purpose of sections 224A and 224B, the number of companies in which a person may act as an auditor, the following companies shall be excluded:—

(a) an unlimited company, and

(b) association not carrying on business for profit.

224D. Any person who acts as an auditor in more than twenty companies in contravention of the foregoing provisions shall be punishable with fine to the extent of five thousand rupees in respect of each of these companies after the first twenty."

Clause 226 (Qualifications and dis-qualifications of auditors)

MR. DEPUTY CHAIRMAN: Shri Dhage may move his amendments Nos. 123 and 124.

SHRI V. K. DHAGE: Sir, I move:

123. "That at page 120, lines 16 to 19 be deleted."

124. "That at page 120, at the end of line 36, after the word 'company' the words 'or a partnership firm or association of persons' be inserted."

MR. DEPUTY CHAIRMAN: Amendment No. 122 (new Clauses 224A, to 224D) and Clause 226 and amendments Nos. 123 and 124 thereto are before the House.

SHRI V. K. DHAGE: Mr. Deputy Chairman, I should like to assure the hon. the Finance Minister that in the notices of amendments that I have given with regard to this Clause, he should not say that I am trying to draw a red herring across. My approach in regard to these amendments has been in the same spirit as has been pervading the Company Law Bill. And I may tell the hon. the Finance Minister that while in the Select Committee proceedings there has not been sufficient discussion on these clauses for some reason or other, I had expected that I shall have an opportunity now when I shall be patiently heard. As I have said, the amendments I have given notice of are in keeping with the spirit of the Company Law Bill that is being passed by the House. (*Seeing Shri M. C. Shah leaving the Chamber*) Sir, as I said, in the Select

Committee I had not the chance of being heard; I may be meeting the same fate even now.

Sir, the thing pervading the Company Law has been that certain abuses have been discovered in the working of the managing agency. As such, the idea of the whole Bill is to prevent any such abuses from taking place and to put restrictions in certain manner upon the working of the managing agents. Apart from that, Sir, it has been the declared policy of the Finance Minister that in the Second Five Year Plan they have to find 12 million jobs—probably 12 million is coming to 10 million or even less, I am not concerned with that. The fact remains that jobs will have to be provided for a number of people. That seems to be in keeping with the objective of the social welfare State which they have been proclaiming every time in the House as well as outside the House.

It appeared to me that when the Finance Minister started replying in the other House to the charges that the resolution of the Indian National Congress with regard to the socialist pattern of society, is not being given effect to, he replied in the debate there that it is not possible to have socialism at one stroke and that they will promote that objective in slow degrees. It seems to me that a person who is wedded, if I may draw this analogy, to whisky and soda will, even when he has to take vodka, dilute it with water. But that, Sir, will be completely killing the effect of vodka itself. Yet, however much of this virtue may he diluted. I would like

SHRI H. C. DASAPPA: I did not know. Sir. Mr. Dhage has these virtues also.

SHRI V. K. DHAGE: I don't think it is a vice either. If the hon. Member wants to digress in a different way, I should like to have a word with him.

SHRI Mr. C. SHAH: That is why he is calling it a virtue.

SHRI H. C. DASAPPA: I said I did not know that my hon. friend possessed this virtue.

SHRI V. K. DHAGE: Please take information.

SHRI H. C. DASAPPA: Your neighbours will take it.

SHRI V. K. DHAGE: We have got over there a good amount of multiple B complex vitamin available in a very compact form which is also given for nourishment.

SHRI M. GOVINDA REDDY: Both are dry.

SHRI V. K. DHAGE: You are also used to that? Therefore, my approach in giving notice of these amendments is to be able to provide more jobs and, at the* same time, to be able to put such restrictions upon vices which are said to be prevalent. I will, draw your attention to Clause 144 of the existing Act. Clause 144 of the existing Act laid down that an auditor shall be appointed at the end of a particular year. But if a retiring auditor has to be changed, a notice was required to be given to the company with regard to the change of the auditor. This provision, as was stated by the Bhabha Committee was not quite sufficient, 'and they found that sufficient number of abuses had crept in. Therefore, they recommended that in order to keep the independence of the auditors as well as to rehabilitate them—please mark the word rehabilitate them—a change in the wording of the clause was made. That wording is as follows : —

"Clause 224.—Every company shall, at each Annual General Meeting, appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next Annual General meeting.

Sub-clause (2).—At any Annual General Meeting a retiring auditor

[Shri V. K. Dhage.]
by whatsoever, authority appointed
shall be re-appointed."

That an auditor has to be reappointed unless a notice is given in the prescribed manner, is laid down here. Otherwise in the ordinary course the appointment shall take place. It is not the case in the existing Act. In the existing Act the difference is an auditor could be chanced. There is no question of an automatic reappointment taking place as is now the case in the Bill. This led and will lead more now the work of audit of the companies to be concentrated in a few hands. This further developed a sort of "hereditary" interest in the profession itself. I would like to point out how this is taking place and what actually is the position now.

I may tell you, Sir, that the members of the Society of Chartered Accountants of Bombay gave me this information. I shall not like to give the names of the firms. The number of firms here is about 18 who have most of the work, I shall be able to give some statistics later. Just now my object is to let you know their number:

(*Shri C. D. Deshmukh enters the Chamber.*)

I am very happy that the hon. the Finance Minister is arriving now, because this was the point which I could not place before him in the Select Committee. I will give you their number:

1. Brothers;
2. Father, son and daughter-in-law;
3. Father and son;
4. Brothers;
5. Grandfather, son and grandson;
6. Father, son.

And like that there are about 18. I might say here that there is not only a father-in-law and son-in-law and a son and brothers, etc. but also a daughter-in-law. They have formed themselves into a partnership. Since

these firms are appointed from time to time; and now the provision of reappointment has been made, this tendency is bound to develop much more, am only pointing out these 18 firms ^{are to one} Particular region confined to Bombay. I want that just as the provisions restrict the managing agency firms from becoming hereditary, similar restrictions should be placed on auditors' firms from developing into a similar category.

I quite grant that there is a minimum qualification which is required, namely that a person should be a chartered accountant. I concede that. Without that a person cannot practise as a chartered accountant. According to law, he must qualify as a chartered accountant. Having been qualified as chartered accountant, what has been developed? As I have pointed out that families are coming to hold these firms, the reappointment of the auditors will mean that the tendency to form such partnerships etc. will get the more accentuated.

Now, Sir, I have said that the audits are getting concentrated in a few of these chartered accountant firms. Here is a pamphlet which has been published by practising Chartered Accountants in Bombay. I would like to draw your attention to one statement in it which is based on Investors' Encyclopaedia, 1952, published by Kothari & Sons, Madras, containing information about 1,320 companies. It reveals the following figures:

1. No. of companies audited—153. But before that I should explain, Sir, that the number of audits that is given here is not complete. This is only with regard to the companies which are quoted on the stock exchange, and the companies which are not quoted on the stock exchange, and such of the other works with regard to the private companies or firms, partnership firms etc., are not included in this unit, I will be able to show how far the work is concentrated,

according to the information gathered, which I will say is an estimate and is not a correct figure. But these certainly are the correct figures. They are as follows:

Number of Auditors	Number of Companies audited
1	153
1	110
1	73
1	47
7	43
1	39
1	193
14	209
14	106
42	973

Now, Sir, out of 1,320 companies 373 companies i.e., about three-fourths of the work is carried out by 42 auditors' firms. Besides the above audits, these auditors also carry out the work of a host of other private and public limited companies. So the figures can be taken as indicative of the general pattern of distribution of work in the profession.

SHRI H. P. SAKSENA: Do you mean auditing firms or auditors, when you give that number?

SHRI V. K. DHAGE: Auditors, as I have explained constitute a partnership and they practise in the name of the firm and the Company Law as it is now being framed permits the appointment of the auditors' firm for the purpose of auditing the accounts. That is what I am trying to make out.

SHRI H. P. SAKSENA: Sir, that is no reply to my question.

MR. DEPUTY CHAIRMAN: He wants to know whether they are individuals or firms?

SHRI V. K. DHAGE: These 42 are practising in the name of firms. They are not individual auditors.

«0 RSD—5

MR. DEPUTY CHAIRMAN: So they are firms.

SHRI H. C. DASAPPA: Does each of the firms have more than one Chartered Accountant?

SHRI H. P. SAKSENA: Of course.

SHRI V. K. DHAGE: Some of them practise individually and they can practise in the name.....

SHRI H. P. SAKSENA: A Chartered Accountant may have so many assistants at his disposal. It all depends upon the magnitude of the firm or the company.

SHRI V. K. DHAGE: Now the hon. Member probably does not know that assistants are not taken into calculation at all. A Chartered Accountant may have 100 assistants, but they may not be Chartered Accountants. They may or may not have any qualification in accountancy. I am only concerned with the members of the profession who are registered under the Chartered Accountants Act. The number of the auditors that are given here pertains to those persons who practise not in their individual name, but in the name of the firms. Here is the explanation which this pamphlet gives:

"Out of 1,320 companies 973 companies i.e., about three-fourths of the work is carried out by 42 auditors' firms. Besides the above audits, these auditors also carry out the work of a host of other private and public limited companies. So the figures can be taken as indicative of the general pattern of distribution of work in the profession. Not all of these firms have partners. Some are proprietary, some may have two to three persons as partners. Assuming that 42 firms representing 126 Chartered Accountants hold three-fourths of the private sector's work, it means that out of 2,000 members holding Certificate of Practice less than 10% absorb 75% of the work leaving the other 90% to compete and struggle for the

[Shri V. K. Dhage.]
balance of 25%. That this picture of maldistribution and acute concentration of professional work in a few hands is more or less correct can"

I hope the hon. Member has been able to catch what I have said.

SHRI H. P. SAKSENA: Yes, I understand it. Thank you.

SHRI V. K. DHAGE: Now, Sir, this is the picture with regard to which they have been able to collect the information from the Investors' Encyclopaedia of 1952, and these figures do not include the number of the companies which are not quoted in that encyclopaedia. But, Sir, for your information I may probably be able to give the estimate that has been made by some of the Chartered Accountants in a particular region. Sir, some of these firms have even branches. It is the profession which conducts itself in terms of branches as well. Now the number of audits in one firm is 500. In another firm, in which I have said that there are grandfather, son and grandson, they have 400 audits. Still another firm, which has three partners has 300 audits, another 200 audits, and so on. These are the 18 firms that have been taken into consideration.

Now, Sir, I might probably be able to give you the estimate of the incomes of some of these firms on account of the audits they conduct. One firm is estimated to have an income of Rs. 11 lakhs, another firm Rs. 4 lakhs, third firm Rs. 7 lakhs, fourth firm Rs. 3 lakhs, Rs. 2 lakhs, Rs. 1½ lakhs, Rs. 2 lakhs and Rs. 2 lakhs. This is only an estimate that has been made by some members of the Chartered Accountants profession. Now because the practice is allowed to be made in the name of the firm, and because the Company Law permits the appointment of professional men in the name of a commercial firm, the firms have developed a sort of a goodwill as well. Any new person who wants to get into this kind of a firm has to pay a certain amount

of goodwill. And if I may point out, there was one question asked by Dr. Dubé of the Chairman of the Chartered Accountants' Institute—he had appeared before the Select Committee—whether a new entrant to professional firm of Chartered Accountants was charged any goodwill, the answer was 'yes'. I am saying this merely to-establish the fact that goodwill is-charged in these firms. Now it will be interesting to know the amount of goodwill that is charged for a new entrant to enter into a firm like this. This is the information. But I was not able to authenticate this information, and therefore I speak subject to correction. I am not giving out true-names. Therefore there is nothing, which is very inconvenient to say. In one firm when a partner was admitted, the goodwill charged was Rs. 60,000. In another firm it was Rs. 50,000, and in a little better established firm it was Rs. 1 lakh, I ask, Sir, if this is the condition of the profession, is there any possibility for a young man who might have probably topped the list in the examination getting any audit, when the provision in clause 224 says that a firm shall ordinarily be reappointed unless removed? And in order to remove a firm a very difficult procedure has been laid down, which creates a very difficult task. But I am not disputing that a chartered accountant should not be reappointed. I agree with the finding of the Bfiabha Committee report that the reappointment, in order that the independence of the auditor be maintained, should be provided for. That I quite agree. But if you keep-that—and also provide that the appointment of the auditor can be in the name of the firm—then the thing that I have pointed out will happen and it will become-much more so now. There is a firm which was founded by a certain European gentleman. That European gentleman died 30 years ago. The name still continues. I don't want to give the name.

SHRI KISHEN CHAND: Well-known. Fraser and Ross. Everybody knows it.

SHRI V. K. DHAGE: It is not proper. I am in the profession as well. I therefore will not like to name it. I am interested in the profession as a whole. I am interested in all the youngmen that come to practise and I am interested in dealing with all the abuses that the profession has been accused of, in the evidence that has been led before the Select Committee. That I shall come to later but because the appointment is to be made in the j name of the firm and that the firm can I be reappointed from year after year, j the result has been and will be that while the person who founded the firm died 40 years ago, yet the name of the firm continues. Not only one partner of that firm has died but about 4 or 5 of them have died and now in the course of a year or two, it shall no longer be a firm consisting of European persons but it will be a firm consisting of Indians and yet the name of that European will continue. If the reappointment is to take place in this manner. I ask what chance there is for any young man to be able to rise in this profession. I also want to know whether there are equal opportunities provided for everybody to rise in this profession. We have in the Constitution laid down that there shall be no discrimination made between one person and another provided the qualification is equal. Yet what happens in the Company Law by the provision that has been made here is, that we shall discriminate and we shall give not the same kind of an opportunity to one person as to the other. The reason being that one happens to be the son or daughter or son-in-law or the brother-in-law or the brother etc. of an established practitioner that person shall continue to have the same amount of practice which his father or grand father had developed.

MR. DEPUTY CHAIRMAN: You must be brief.

SHRI V. K. DHAGE: As I have said. I don't think I shall take very long but, there are one or two points. I

shall not take more than 10 to 15 minutes.

SHRI LALCHAND HIRACHAND DOSHI: Does the hon. Member say that the same practices of nepotism and favouritism exist even in the auditors' profession where there is no managing agency or a director managed company?

MR. DEPUTY CHAIRMAN: That is what he is making out.

SHRI BHUPESH GUPTA: Contami-nation exists.

SHRI V. K. DHAGE: I did not catch the enquiry.

SHRI AKBAR ALI KHAN: You need not.

SHRI V. K. DHAGE: Thank you. Now, the professional rules of etiquette are laid down in the Chartered Accountants' Act. I would like ^o point that out but you have restricted my time. There are certain rules laid down which rules are, that one will not do canvassing. That, I suppose, is in the legal profession as well. Another is, that they shall not distribute any kind of visiting cards etc. "You shall have a signboard of a particular size"; that in the telephone directory the name shall not be printed in bold types so as to attract particular attention but it shall be in small letters. All these are very dignified rules of etiquette that have been laid down but I am very sorry to say that many of these rules are followed in the breach. The reason being this. How is a man to maintain his dignity if he is starving? And if he cannot get an audit in order to carry on his livelihood, having spent 25 years of his life in acquiring the qualification of a Chartered Accountant with various kinds of difficulties what is he to do? I shall probably be able to deal with that later when the Chartered Accountants' Act comes before the House. I will confine myself to this here that there is a demoralisation that is taking place in the profession. The reason for

[Shri V. K. Dhage.] this is that there is no work available. The work is entirely concentrated in the hands of a few auditors. One chartered accountant in law is as qualified to work as a chartered accountant as another who is a member of another firm. In the Chartered Accountants' Act it is laid down that there is no difference between the two so far as work and ability are concerned. He has to go through a lot of drilling in the matter of getting himself qualified. That is the conception in the matter of audit. Now you find that a certain goodwill has been developed and in order that a young man may go and join a firm of auditors, he has to pay even about Rs. 1 lakh as goodwill. I cannot understand how one can adjust this kind of commercialisation with the professional work that one has to do.

As I said, there are abuses of rules of propriety taking place. The representatives of the Institute of Chartered Accountants, when they appeared before the Joint Select Committee, gave a number of cases which came before them of complaints etc. as to the number of people who have done things which are not in keeping with the rules of propriety laid down in the Act. I may tell you that one of the mass organisations' representatives that appeared before the Joint Select Committee did not think well of the chartered accountants which I feel very much. But they have said that the chartered accountants have been giving certificates which are not correct. Some of those representatives did draw the attention of the Select Committee Members in that regard. In answer to a question put by me as to why these youngmen resort to a practice of this kind which is a breach of the rules of etiquette laid down in the Chartered Accountants' Act, the reply given was 'money'. They are compelled to do this because they have got to get some money in order to live. That is the extent to which some of the youngmen in the profession have come to and that is

the kind of goodwill that the members of the profession enjoy in the eyes of the general public. It is all right to say that somebody should come forward and complain and then we shall take action. By the time the complaint is made and the action is taken, probably in-between, several things happen that is my experience as the President of the Society of Chartered Accountants in a particular region, and the thing gets diluted or killed. Nothing comes up. What is the reason? The reason, as I said, is that the work is concentrated in a few hands and a number of chartered accountants have no work at all. I have, therefore, suggested that the appointment should not be made in the name of the firm. It should be made in the name of the individual. I have also stated that there must be a limit placed on the number of audits that a single individual can do. The scheme of the Company Law has been to put restrictions upon several persons. The hon. the Finance Minister drew attention in the other House, as I have said, in reply to a question, to the socialistic pattern of society and said: "We have put a limit on the number of managing agencies which should be only 10. Also the restriction is put that a person can have only 20 directorships. And there are so many other restrictions on the financial powers, commissions, etc." And so he thought these were quite enough for the moment. I am not quarrelling on that point just now. The fact is there were certain abuses and to stop them, restrictions have been placed. So far as the amendment, I have suggested, is concerned it would be perfectly justified, it would be just, fair and humane to place the restriction which I have given notice of.

Sir, I will take only a few more minutes. Clause 238 which also deals with accounts also states:

"No firm, body corporate or other association shall be appointed as an inspector under section 235 or 237."

But this clause 238 was not there when the Bill was introduced in this House. This was accepted in the Select Committee and it has been provided—

please mark the words: "No firm..... shall be appointed as an inspector." And let me submit, Sir, that "inspection" includes going through accounts, investigation etc. Now, if the same kind of a thing is required to be done in a little detailed manner, you say that it should be done by an individual, I fail to understand why the auditor alone can be appointed in the name of a firm. Not only this. I may point out that in the matter of Estate Duty, it is the individual who is to be appointed. So also in the matter of the Reserve Bank the individual is to be appointed as auditor. In the matter of the State Bank of India also, an individual is to be appointed, if my information is correct.

SHRI C. D. DESHMUKH: In the case of the Reserve Bank, is an individual to be appointed?

SHRI V. K. DHAGE: Yes, not a firm.

SHRI C. D. DESHMUKH: Which section is the hon. Member referring to?

SHRI V. K. DHAGE: I do not know the section, but I may read out the information contained in this pamphlet:

"Friends, the suggestions we have made do not flow from any political motive."

So they too talk of "political motives."

"Neither has sentiment swayed our mind. The proposals contained here are not entirely new. They are applied in one form or other in several situations. The appointment of auditors in the case of Reserve Bank of India and the newly formed State Bank of India is to be made in the individual name of the auditor.

Valuers for the purpose of Estate Duty are recognised in their individual names."

Also in the appointment of auditors for the co-operative concerns, the cooperative banks, etc., the Registrar of Joint Stock Companies does not permit the appointment of the firm. He maintains a panel of auditors and the panel is maintained in individual names and the appointments are also made in the individual's name. Therefore, I request the hon. Finance Minister to take into consideration this aspect and accept the amendments that I have suggested.

I know the hon. Finance Minister is likely to say that there is the Central Institute of Chartered Accountants and they should be able to make such a recommendation. I will not say anything just now as to how that Institute of Chartered Accountants is constituted, I would only state that a large number of persons who are practising in the profession are in favour of the two amendments that I have suggested. I may also add that two such resolutions, by two societies, one in Bombay and the other in Hyderabad, were passed in favour of a provision suggested in my amendments and they were circulated to the members of the Select Committee also. I would not like to take up the time of the House by reading them out now. I would only say that I should feel very much happier if the hon. the Finance Minister would give his consideration to this aspect of the matter which I have brought forward in my amendments.

(Several hon. Members stood up.)

MR. DEPUTY CHAIRMAN: The hon. Member has spoken at length.

SHRI KISHEN CHAND: But, Sir, this is a very important "clause.

MR. DEPUTY CHAIRMAN: Yes, every clause is important, Mr. Kishen Chand. But we have to go through some 400 more clauses and we have only two more days left. Otherwise all

[Mr. Deputy Chairman.] the subsequent amendments will have to be guillotined.

Yes, the Finance Minister.

SHRI V. K. DHAGE: May I just finish my speech?

MR. DEPUTY CHAIRMAN: I thought you had finished. I am sorry, I have called the Finance Minister.

SHRI V. K. DHAGE: Very well, Sir.

SHRI C. D. DESHMUKH: Mr. Deputy Chairman, all these points which Shri Dhage has advanced here were before the Joint Select Committee and there was no matter to which they gave greater thought and consideration than this particular issue which Shri Dhage has made more or less his own. The reason is understandable, because he belongs to the profession and therefore he is in a position to know a little more about the ins and outs of the profession than a layman. He has made a reference to the conditions of the young chartered accountants and has made an appeal to human considerations and so on and so forth.

Now, we are here concerned not with the well being of the chartered accountants' profession, but with the proper audit of companies and the hon. Member himself has admitted that there is the separate Chartered Accountants Act which is the instrument by which the affairs of the profession are regulated, discipline is maintained and presumably the welfare of the profession as well is furthered. I have always taken the view that where the dealings of a profession are concerned, it is very much better for the profession itself to take notice of any relevant factors and to take such action as the law permits them to take. If in Shri Dhage's opinion there are deficiencies in the Chartered Accountants Act, then it is open to him to suggest for the consideration either of the Institute or of Govern-

ment any directions in which the relevant law can be changed.

5 P.M.

He has referred, by analogy, to certain other institutions. I could, at short notice, only raise the Reserve Bank of India Act. Although I have been associated for some time with the Reserve Bank of India, in view of the statement that he read out, I thought it necessary to make a reference to the Act itself and I find nothing in that Act which makes it necessary that the auditor to be appointed should be an individual. I am myself aware that we have been dealing with three firms of auditors for as long as I know the Reserve Bank, from 1935 onwards. I think originally there was one firm; then, there was another firm added from Calcutta and a third firm added from Madras. To my knowledge, those three firms of Auditors are still discharging their duties of auditors under section 50 of the Reserve Bank of India Act. I cannot, for the moment recall what provision has been made in the State Bank of India Act but I should not be surprised if Shri Dhage's information, or the information given in whatever pamphlet he read out, is wrong.

SHRI V. K. DHAGE: My point was not with regard to the amendment of the Chartered Accountants Act. My point was

SHRI CD. DESHMUKH: Would the hon. Member let me develop my point? He has taken half-an-hour to develop his point but will not allow me to develop my point. I am only at the beginning. Is this point irrelevant? He makes a statement that the Reserve Bank Act requires that an individual be appointed as an auditor and I say that that Act does not contain such a provision. Is there anything irrelevant in that point?

SHRI V. K. DHAGE: I just wanted to know whether it is in the name of an individual or firm, whatever be the provision in the law.

SHRI C. D. DESHMUKH: It is not an individual.

SHRI V. K. DHAGE: That is what I wanted to know.

SHRI C. D. DESHMUKH: If the law does not say so, there is no reason why the Reserve Bank should go and pick out an individual. That is a most unusual course of action. So far as the co-operative banks are concerned, I do not know in detail the circumstances—if that is a fact—which make it necessary for the Registrar to appoint individuals as auditors. The situation is entirely different; the units are very small and the auditors, to my knowledge, are not all members of the Institute of Chartered Accountants. In other words, the name "auditor" is there. I can even add to his information and say that Government auditors are not firms; if we are dealing with auditors, then the Comptroller and Auditor-General also has a large army of auditors under his command and there are also auditors of local bodies. I am free to confess that they are not auditors but then the circumstances are different. I say, therefore, it is not possible to argue from this analogy and come to the conclusion that the affairs of the joint stock companies should be, for that reason alone—there are other reasons with which I will deal later—looked after only by individual auditors.

I come to the next point. What he is really concerned with is the fortunes of the profession and the chances for new-comers. I am not competent to speak about the morality of the charges made for good-will. I have no doubt that if one were to look around one would find—in the case of Solicitors' firms and so on.—wherever anything has a commercial value, it has a price and it may be that good-will is charged. I have yet to learn that good-will is a thing which should not be paid if it can be translated into money. What Shri Dhage is advocating is that in a particular profession some arbitrary limit should be fixed.

not by any instrument which regulates the fortunes of that profession but in a separate Act, so as to further certain fancied interests of the profession. In my opinion, this is a wrong place in which to urge such a course of action. For instance, although this is a matter not provided by law, the legal profession also is, I believe, employed by joint stock companies and if certain lawyers were anxious about the fortunes of their profession—in the other House somebody said that this Bill was a paradise for the lawyers; may be.....

SHRI AKBAR AH KHAN: I would very much like to limit my profession also.

SHRI C. D. DESHMUKH: That is what I am coming to. They might say, in view of the dire straits to which their profession has been reduced, on account of the abolition of zamindari and so on, there should be a limit to the number of companies which a lawyer may serve. This can go on to the Doctors also; Doctors are employed by firms. That shows the unreasonableness of trying to decide everything—as hon. Members opposite are doing—by this particular instrument which we are discussing, namely, the Company Law. I am not here entering into this question as to whether it is, in the interests of the profession, necessary or not.

Now, it is not as if this matter has not been considered by the Institute of Chartered Accountants. The hon. Member himself has, I think, made a reference to the Regional Council. It is true that he argued for this. But my information is that he placed proposals to this effect before a meeting of the Bombay Regional Council of the Institute of which he is a Member and, I believe those proposals were not accepted; also, I believe, these proposals went before the Institute of Chartered Accountants in some form or other but here, also they did not receive any more favourable reception.

SHRI AKBAR ALI KHAN: Probably they wanted to keep this a close preserve for themselves.

SHRI C. D. DESHMUKH: That means, the Institute could.....

SHRI V. K. DHAGE: Since the hon. Minister has referred to this, may I ask him to give me the actual voting by which this proposition was defeated so that I may deal with it when the other Bill comes up?

MR. DEPUTY CHAIRMAN: That is a different matter.

SHRI C. D. DESHMUKH: I have just been making enquiries. I was told that this matter was discussed but that the proposals were not accepted by the professional body. It is not for me to go into the validity of the voting or its sufficiency. As I was saying, all these matters have come before the Institute. I was going to add that the Institute itself is elected on a democratic basis, if hon. Members wish to join issue with me in that particular respect, but, if the hon. Member has any doubts as to whether it has a genuinely democratic base, then I say, it is open to him to propose amendments in whichever form he chooses, for the revision of that Act. I do not know whether he was there—perhaps he is not a Member of the Council—but I addressed the Council the other day and I asked for its assistance in reviewing the work done by the Institute in these last five years and to make suggestions as to the manner in which the Chartered Accountants Act should be revised. That matter will come up again when we deal with one small Bill which we have in regard to the Chartered Accountants.

Now, Sir, I shall deal with his two arguments. The first argument is that if a firm was appointed auditor, irrespective of any change in the partnership of the firm, it should not necessarily be the auditor of the company because it would not be in the interests of the company and would introduce a hereditary element into the profession. This is his first argument, about which I am going to make certain observations. This argument

is based on an inadequate appreciation;—I hesitate to say that because he belongs to the profession, but nevertheless I say, it must be based on an inadequate appreciation of the nature of this profession. He ought to know that this profession differs from other professions such as law, medicine, etc

-Auditing consists of several forms or subsidiary jobs, each of which requires a different degree and standard of knowledge, skill and performance. Apart from the fact which I shall mention later, the auditor is appointed for the whole of the year. It is not like a lawyer. He may have a retainer but a lawyer is appointed for a particular piece of work. He referred to clause 238—prohibition of appointment as an inspector. An inspector is appointed for a particular purpose and there the personal element does come in far more than in the field of auditing. Now, Sir, to achieve the maximum results a professional Accountant has to depend on his staff with different categories of knowledge appropriate to the subsidiary jobs. Such staff, in these different categories may be either Chartered Accountants or persons other than Chartered Accountants. Chartered accountants may be working as assistants or they may be working as partners. So unless there is an association of a number of people qualified in the various relevant ways, it is very likely that the adequate discharge of his responsibility as an auditor would be difficult, if not impossible. That is one reason. Secondly, Sir, if audits by partnership were prohibited, it would work more to the disadvantage of the so called junior partners than the senior partners because the former would have little association with persons who had acquired experience and were prepared to share it with their juniors. The third argument is that if only individuals were to be appointed as auditors, the companies concerned would be seriously inconvenienced for if an individual auditor were incapable of

performing his duties for reasons beyond his control, neither could the audit be completed nor under the pro-

visions of the law could he be dismissed. Unlike a lawyer or a doctor, as I said before, who is engaged for a specific case, an auditor is appointed for the whole of the financial year of a company. Then again in this country where the profession of accountancy is still in its infancy, the appointment of firms as auditors not only enables the pooling of knowledge and experience but also helps in the training of junior chartered accountants in the art of auditing of companies and I might mention in this connection that both in the United Kingdom and in the United States of America, the bulk of the work of company audit is carried on by firms of professional accountants and not by individuals and this has not, I might add, by any means inhibited the growth of the accountancy profession in those countries.

Penultimately it is wrong to assume that once a firm has been appointed as auditors of a company, that firm will continue to remain auditors for ever. It, of course, is known to us that according to the provisions of the law, irrespective of the changes in the partnership of the firm, an auditor who does not perform his work satisfactorily need not be re-elected, whether he is a firm or whether he is an individual and he may be removed from office, even before the expiry of his term if there is a resolution of an appropriate nature.

Lastly, Sir, it is wrong to assume that so far as disciplinary jurisdiction is concerned, it makes little difference whether the auditor is a firm or an individual because it is the person who has signed the audit report that is held accountable in case there is any complaint. So it would seem that from whatever point of view this matter is considered, the appointment of a firm has an advantage over the appointment of an individual as an auditor, and so far as the affairs of the company are concerned, so far as the efficiency of audit is concerned, it does not suffer from any special disability.

Now I shall deal with the second, point which relates to the number of companies which a firm of auditors or an individual auditor should be permitted to audit. The analogy sought to be drawn with the proposed limitation on directorships or the number of companies which a managing agent can manage is misleading because here we are not dealing with any phenomenon of concentration of the economic power nor are we dealing with personal incapacity to manage more than a certain number of companies. A firm may equip itself with the required number of people in order to be able to discharge the duties laid on it. A director's duty is strictly of a personal nature which he cannot delegate to anybody else; he must discharge it himself whereas an auditor's work can be performed through his qualified and other staff and the auditor comes in only at a stage when it is essential for him to exercise his own skill in the operation of the important work which he himself performs. Now, Sir, further an auditor's liabilities, civil and criminal, and in disciplinary matters *vis-a-vis* the Institute are so wide that he would not dare to undertake an audit where he feels that he could not devote adequate time and attention to it, and here, I think, I heard Shri Dhage make a complaint that there was delay in dealing with disciplinary matters and generally I gathered he was not satisfied with the disposal of cases which went to this disciplinary body—I think it is a subcommittee or something of the Council. Well, there again the remedy is for him to move or for the Chartered Accountants whom he represents to move that a reform be made in that particular sector of the activities of the Institute although it should be remembered that no two audits are the same in size and responsibility and therefore, in a sense to limit the number of companies which an auditor can audit irrespective of the nature of work involved would be obviously unsatisfactory and therefore open to objection. We have admitted that or we shall say that

[Shri C. D. Deshmukh.] so far as managing agents are concerned, the clause itself does not say anything except an indication of our desire to take the first step, so to speak, to frown on or discourage the concentration of economic power. Now I would repeat what I said, that one point, that this matter has been carefully considered by the authorised body for chartered accountants. They have given thought to it and they have rejected similar representations made to them. I think they have rejected them for good reason and therefore I would ask the House also to reject the amendments which Shri Dhage has put forward.

MR. DEPUTY CHAIRMAN: Do you press them, Mr. Dhage?

SHRI V. K. DHAGE: Yes, Sir.

MR. DEPUTY CHAIRMAN: The question is:

122. "That at page 119, after line 2fl, the following new clauses 224A, 224B, 224C and 224D be inserted, namely: —

224A. (1) After the commencement of this Act, no person shall hereafter act as an auditor at the same time of more than twenty companies.

(2) Any person acting as an auditor in more than twenty companies, immediately before the commencement of this Act, shall within one month from such commencement—

(a) choose not more than twenty of those companies in which he wishes to continue to act as an auditor;

(b) resign as an auditor in the other companies;

(c) intimate the choice made by him under clause (a) to each of the companies for which he was acting as an auditor before such commencement to the Registrar having jurisdiction in respect of each such company.

(3) Any resignation made in pursuance of clause (b) of subsection (1) shall become effective immediately on such despatch thereof to the company concerned.

(4) No auditor shall act as an auditor—

(a) in more than twenty companies after the expiry of one month from the commencement of this Act. or

(b) in any company after despatching his resignation as an auditor thereof in pursuance of clause (b) of sub-section (1).

224B. (1) Where a person already acting as an auditor in twenty companies is appointed after the commencement of this Act as an auditor of any other company, the appointment—

(a) shall not take effect unless such person within seven days thereof, effectively resigns as an auditor in any of the companies in which he was already acting as an auditor, and

(b) shall become void immediately on the expiry of seven days if he has not before such expiry effectively resigned as an auditor in any of the companies aforesaid.

(2) Where a person already acting as an auditor in nineteen companies or less is appointed after the commencement of this Act as an auditor of other companies making the total number of companies in which he is acting as an auditor more than twenty, he shall choose the companies in which he wishes to continue to hold or to accept so however that the total number of such companies held or accepted by him shall not exceed twenty.

(3) None of the new appointments shall take effect unless such choice is made, and the new

appointment will be void if such appointment is not made within seven days.

224C. In calculating for the purpose of sections 224A and 224B, the number of companies in which a person may act as an auditor, the following companies shall be excluded: —

(a) an unlimited company, and

(b) association not carrying on business for profit.

224D. Any person who acts as an auditor in more than twenty companies in contravention of the foregoing provisions shall be punishable with fine to the extent of five thousand rupees in respect of each of these companies after the first twenty."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

123. "That at page 120, lines 16 to 19 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

124. "That at page 120, at the end of line 36, after the word 'company' the words 'or a partnership firm or association of persons' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 226 stand part of the Bill."

SHRI BHUPESH GUPTA: In clause 226 there are amendments.

MR. DEPUTY CHAIRMAN: But you were not here. The question is:

"That clause 226 stand part of the Bill."

The motion was adopted.

Clause 226 was added to the Bill.

Clause 227 (*Powers and duties of auditors*)

MR. DEPUTY CHAIRMAN: There is one amendment. No. 192 in List No. 4. Yes, Mr. Gupta.

SHRI BHUPESH GUPTA: I move:

192. "That at page 121, after line 24, the following be inserted, namely: —

'(1A) Every auditor may, at his discretion, consult any worker or employee or the representative of the trade union, where there is such a trade union, for verifying any statement made in the company's books or documents with respect to moneys shown as disbursed for payments to the workers and employees or for their benefits.'"

MR. DEPUTY CHAIRMAN: The amendment and the clause are open for discussion. Yes, Gupta. Please be brief.

SHRI BHUPESH GUPTA: Now, Sir, this clause 227 relates to the powers and duties of auditors which have been defined in the rather lengthy clause but we find a significant omission and I have therefore ventured to fill that gap. My amendment says that, amongst the other powers, the auditor may be allowed this power also. It says:

"Every auditor may, at his discretion, consult any worker or employee or the representative of the trade union, where there is such a trade union, for verifying any statement made in the company's books or documents with respect to moneys shown as disbursed for payments to the workers and employees or for their benefits."

The amendment is a very simple one. When I was speaking on another amendment it was suggested to me by some hon. Member from that side that the auditors were generally examining the accounts in good faith and that

[Shri Bhupesh Gupta.] they would not ignore vital factors. To that I said that under the existing law, it is not possible for them to ascertain certain things because of various reasons. Now, the balance sheet and the other papers of the company contain a lot of statement of accounts and facts with regard to the funds that are claimed to have been spent for the benefit of the workers and employees or for making payments to them. It is not as if they deal only with money payments. There are various types of payments and there are various types of expenditure which are shown under the head 'Benefits to workers'. Now, the auditor does not have any power to check this up. I do not know of any auditor ever going to the workers and asking them as to how the money had been spent so far as the expenditure relating to the working conditions and to their benefits are concerned. They do not do any such thing. Even if there is no positive power, in this matter a convention has developed which makes it impossible for them to examine such things on the basis of personal examination directly from the workers and employees. This has resulted in a considerable amount of malpractices and also in denial of benefits which the workers are entitled to get under the Factories Act and under the various existing laws. I am not talking about the benefits that they should get; at the moment I am only talking about the benefits to which they are entitled under the existing law. For instance, there are laws with regard to safety measures and all that. We know that in many cases these are not implemented. Such laws are violated and safety measures are not taken although in the books of the company it is often shown that sums of money have been spent on complying with the provisions of the law in regard to safety measures. Sir, the matter has reached a scandalous stage.

MR. DEPUTY CHAIRMAN: You have advanced all these arguments before. Please be brief.

SHRI BHUPESH GUPTA: This is a new argument, Sir.

MR. DEPUTY CHAIRMAN: It is a very simple amendment that the workers should be consulted regarding the expenditure on their benefits.

SHRI BHUPESH GUPTA: Then do they accept the amendment?

MR. DEPUTY CHAIRMAN: That is a different matter.

SHRI BHUPESH GUPTA: Then I will have to give my arguments as to why they should accept it.

MR. DEPUTY CHAIRMAN: There are still 400 amendments to be gone through.

SHRI BHUPESH GUPTA: I will have to give the arguments that I think should be given. Let the Government say that they accept the amendment; then I would not give any argument at all. Sir, it is very difficult. I cannot prepare my arguments according to-somebody else. I will have to proceed on my own lines. It is a very simple thing, but for the last five years we have not got them to accept such things. I know it is simple. The auditors have no such powers. We asked certain auditors. I am not entering into an academic discussion here. We have talked to auditors and they say that they cannot do any such thing because the companies do not like it and that they do not allow such things rightly or wrongly. The fact remains that they do not go and meet the workers or the trade union representatives to find out as to how the moneys have been spent—such moneys as are shown to have been spent for benefits to the workers. Take the case of coal mines. It is always shown by the company bosses that they have spent so much money on safety measures in the coal mines. Now, that is a very vital and important thing. Actually, they do not spend that money and the auditors cannot do.

anything. We have talked to them and we have found out that the auditors cannot do anything. In some cases we suggested to the auditors to go and see for themselves and ask the workers as to whether they were actually getting the benefits that are supposed to have been given to them. But they said that they cannot do any such thing. That is the position. Now, I want a positive provision in the law itself. What I have suggested is only an enabling provision which will enable the auditor, if he so desires, to make certain personal investigations in such matters. Most of these coal mine disasters would not have taken place, had it not been for the fact.....

MR. DEPUTY CHAIRMAN: Do not refer to coal mines. I will rule it out if you talk on coal mines here. We are only concerned with this simple amendment.

SHRI BHUPESH GUPTA: I am trying to show why they should have, this power.

MR. DEPUTY CHAIRMAN: It is all irrelevant.

SHRI BHUPESH GUPTA: If I am not allowed to give my arguments, there is no use. You can ask us not to move any amendment.

SHRI S. N. MAZUMDAR: I submit, Sir, that he is only giving.....

MR. DEPUTY CHAIRMAN: Mr. Gupta, you have been referring to coal mines in every amendment that you have moved.

SHRI BHUPESH GUPTA: Yes; because that is an important industry. Disasters take place there. Moneys are said to be spent on safety measures.

MR. DEPUTY CHAIRMAN: What have the auditors got to do with disasters?

SHRI S. N. MAZUMDAR: The employees must know that the moneys

MR. DEPUTY CHAIRMAN: On most of the amendments

SHRI BHUPESH GUPTA: I want one clear thing. I will have to develop my arguments as I like.

MR. DEPUTY CHAIRMAN: There are nearly 400 amendments and most of them are yours. You please choose the important amendments and speak on them. If you go on speaking on every amendment, probably you will lose the time, and on the important amendments guillotine will be applied.

SHRI BHUPESH GUPTA: You are absolutely right. Tonight I shall sit down and choose the important amendments.

MR. DEPUTY CHAIRMAN: It is not I or any of the Congress Members who will suffer. It is you who will suffer. That is why I am warning you.

SHRI BHUPESH GUPTA: I will obey your directions and choose the important amendments on which I will make long speeches and those on which I will make short speeches. It is a very reasonable suggestion that you are making, Sir.

Now, I want these powers to be given. Regarding coal mines the Government have passed laws making it obligatory on the part of companies to spend certain moneys on safety measures but it is not being done and the auditors cannot find that out. If you give this power to the auditors, they will find out as to how these laws have been implemented by the coal mine owners. In our laws it is said that the workers in the coal mines require to be given a little preferential treatment because they do dangerous work inside the pit.

MR. DEPUTY CHAIRMAN: Everybody understands your point of view. Why should there be further speech?

SHRI BHUPESH GUPTA: I have not a doubt in my mind that you understand my point. But they will

[Shri Bhupesh Gupta.] not agree with you. If they had understood such reasonable points, they would have accepted this.

SHRI M. C. SHAH: I say the hon. Member is ignorant of the law. As a matter of fact, the auditors are entitled to call for any information they like from any quarter that they like. This is not necessary at all.

SHRI BHUPESH GUPTA: Then why don't you accept my amendment?

SHRI M. C. SHAH: It is absolutely unnecessary. It is redundant.

SHRI BHUPESH GUPTA: If we can have a redundant Minister we can have a redundant provision. My point is that this malpractice has got to be put a stop to and this amendment should therefore be accepted by the Government even if it seems redundant. It does not seem redundant from our experience. We find that the auditors are helpless and we want to strengthen their position and also provide them with powers so that they can really do the audit and not just formally sign the documents as far as the workers' benefits and other things are concerned. I hope that my amendment will be accepted and they will not lose anything by accepting a redundant amendment if they think that it is a redundant amendment.

SHRI M. C. SHAH: I have already stated that auditors are entitled to receive any information that is necessary. They can just consult anybody in the company. Therefore, this is absolutely redundant, rather it will be irritating to the relations.....

SHRI BHUPESH GUPTA: Between whom?

SHRI M. C. SHAH: Between the employers and employees. We wish that the relations between the employers and employees should be cordial. That ought to be our objective -and ideal. Instead of furthering the

cause of the workers, they are hampering the cause of the workers. I am afraid I cannot accept it.....

SHRI S. N. MAZUMDAR: It is a question of evidence.

MR. DEPUTY CHAIRMAN: He is not accepting it. The question is:

(Shri S. N. Mazumdar rose to speak.)

MR. DEPUTY CHAIRMAN: Understanding is one thing, accepting is another. I am on my legs now. The question is:

192. "That at page 121, after line-24, the following be inserted, namely: —

'(1A) Every auditor may, at his discretion, consult any worker or employee or the representative of the trade union, where there is such a trade union, for verifying any statement made in the company's books or documents with respect to moneys shown as disbursed for payments to the workers and employees or for their benefits."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 227 stand part of the Bill."

The motion was adopted.

Clause 227 was added to the Bill.

Clause 228 (Audit of accounts of branch-office of company)

MR. DEPUTY CHAIRMAN: We go to clause 228. There are two amendments.

SHRI BHUPESH GUPTA: Sir, I move:

193. "That at page 122, lines 26-27, the words 'unless the company in general meeting decides otherwise' be deleted."

194. "That at page 122, line 27, after the word 'audited' the words 'either by the company's auditor or' be inserted."

(The amendments also stood in the name of Shri S. N. Mazumdar.)

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI BHUPESH GUPTA: Sir, I will follow your advice and shall be brief. If you accept my amendments, it would read as follows:

"(1) Where a company has a branch office, the accounts of that office shall be audited either by the company's auditor or....."

We are against the words "unless the company in general meeting decides otherwise". That is to say, this provision makes it possible for the company by a resolution of the general body meeting to prevent such audit being made. We wish to stop such a thing and give this power unconditionally, so that the branch office is also audited. As I said, we stand for the auditing of the branch office and we are not prepared to give away that power to the management of the company. Sir, you see I have been brief. By amendment No. 194, we want to add the words "either by the company's auditor or", at page 122, line 27. Only I want to enlarge the definition and nothing else. These are my two amendments. They are not of very great importance and I think they should be accepted by the Government.

SHRI M. C. SHAH: They are not of importance according to his own admission, and so we do not accept them. As a matter of fact, it is not necessary to have the branch offices compulsorily audited by a chartered accountant.

MR. DEPUTY CHAIRMAN: Do you withdraw your amendments?

SHRI BHUPESH GUPTA: No, Sir.

MR. DEPUTY CHAIRMAN: The question is:

193. "That at page 122, lines 26-27, the words 'unless the company in general meeting decides otherwise' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

194. "That at page 122, line 27, after the word 'audited' the words 'either by the company's auditor or' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 228 stand part of the Bill."

The motion was adopted.

Clause 228 was added to the Bill.

Clause 229 (.Signature of audit report etc.)

MR. DEPUTY CHAIRMAN: Clause 229, there is one amendment, No. 126. Mr. Dhage is not here.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 229 stand part of the Bill."

The motion was adopted.

Clause 229 was added to the Bill.

Clause 230 was added to the Bill.

Clause 231 (Right of auditor to attend general meeting)

MR. DEPUTY CHAIRMAN: There is one amendment.

SHRI BHUPESH GUPTA: Sir, I move:

195. "That at page 123, line 7, after the word 'company' the words 'or its branch auditor, if any' be inserted."

(The amendment also stood in the name of Shri S. N. Mazumdar.)

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion,

SHRI BHUPESH GUPTA: This, again, is a very simple amendment. Here you have said about the right of the auditor to attend the general meeting of the company. I have only added that the words "or its branch auditor, if any". Here again, it would read, ".....shall also be forwarded to the auditor of the company or its branch auditor, if any". I have stood for branch auditor. Therefore, I say that it should be forwarded to him. Therefore, I need not say much. Whether I make a long speech or short speech the effect on the Minister is the same.

SHRI M. C. SHAH: This is also not important. Therefore, we cannot accept it.

SHRI S. N. MAZUMDAR: Sir, is he accepting important amendments?

MR. DEPUTY CHAIRMAN: The question is:

195. "That at page 123, line 7, after the word 'company' the words 'or its branch auditor, if any' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 231 stand part of the Bill."

The motion was adopted.

Clause 231 was added to the Bill.

Clauses 232 to 234 were added to the Bill.

Clause 235 (Investigation of affairs of company on application by members or report by Registrar.) MR. DEPUTY CHAIRMAN: There are 8 amendments.

SHRI C. P. PARIKH: Sir, I move:

65. "That at page 124, line 40, for the word 'two' the word 'one' be substituted."

SHRI BHUFESH GUPTA: I move all except amendment No. 198. Sir, I move:

196. "That at page 124, line 40, for the words 'two hundred members' the words 'fifty members' be substituted."

197. "That at page 124, line 41, for the word 'one-tenth' the word 'one-twentieth' be substituted."

199. "That at page 124, at the end of line 42, after the word 'therein' the words 'or by one-fourth of the number of employees of the company who are workmen within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947)' be inserted."

200. "That at page 124, at the end of line 42, after the word 'therein' the words 'or of the employees' organisation' be inserted."

201. "That at page 124, at the end of line 45, after the words 'of members' the words 'or by one-fifth of the number of employees of the company who are workmen within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947)* be inserted."

202. "That at page 124, after line 48, the following be inserted, namely:—

'(d) in the case of any company on an application signed by not less than one-fourth of the workers and employees demanding investigation'."

(The amendments also stood in the name of Shri S. N. Mazumdar.)

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI C. P. PARIKH: Sir, I will be very brief on this amendment, because I do not like to waste the time of the House on unimportant amendments. The only thing here is instead of two hundred members of the company demanding this investigation, I say, it

should be one hundred, because at all other places the figure is one hundred, and I do not know why in this particular clause the figure is put at two hundred.

SHRI BHUPESH GUPTA: Sir, this is a matter of some importance— investigation of affairs of a company on the application by members or report by registrar. This clause provides for, and subsequent clauses also some of them, provide for an investigation into the company's affairs. Now, in the whole scheme of things you will find that the workers and the employees do not get any place. Complaints have to come from the members or from the registrar. I do not say that you debar them, they should have the right to lodge complaints and on the basis of such complaints investigations should be made. But even in their case, I have suggested that instead of two hundred members, let the number be brought down to fifty members. I think, if fifty members of a company lodge a complaint and demand investigation, in the present state of affairs, in all fairness, the investigation should be started. And the number two hundred is too high a figure for setting the process of law in motion if you at all mean to improve matters.

Similarly, in regard to one-tenth of the total voting power, I have made it one-twentieth, because one-tenth of the voting power is too high. That is to say, you require two hundred members, *on* the one hand, and one-tenth of the voting power, on the other. Unless this is fulfilled we cannot have an investigation. I think this is wrong. The scope should be widened, the number should be reduced and the voting strength should be reduced, so that it is possible, when there is reasonable ground for asking for investigation, for the members of the company to come forward and demand an investigation to be held.

Then, Sir, I come to my amendment No. 199. At page 124, after line 42. 80 RSD—6

that is to say, immediately alter this clause which provides for members making application, I say that this should be added:

"or by one-fourth of the number of employees of the company who are workmen within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947)".

And then in my amendment No. 200, I have said the words "or of the employees' organisation" be added. Now, these two amendments, I think, should be accepted by the Government because very often it happens that the employees and the workers in the company are in the know of things and from our experience we find that many of the mismanagements come to their knowledge long before they come to the knowledge of others

. And I if the workers and employees are ! given that authority at least the right to lodge a complaint and demand investigation, it will be a check on ; the mismanagement and all that. In j such a situation the employers will think twice before they proceed to indulge in malpractices or any mismanagement. I have said the workers will be vigilant and naturally whenever the industries go slow or are mismanaged or certain malpractices take place, they will come forward having knowledge of their right and demand an investigation. Thereby you get the support of the workers in such matters because the workers would not normally be interested in demanding an investigation unless they are really convinced that things are being mismanaged. And if things are mismanaged, it injures the interests of the workers immediately. Therefore, they would be very jealous of how the companies are being run. Therefore, I say that the right should be given to the workers. In most of these organised industries, we have got trade union organisations. Now, the members of the companies, of course, can ask for an investigation. Then why not the trade union organisations which function—and some of the trade union organisations are also recognised

[Shri Bhupesh Gupta.] ed organisations—why you should not entertain complaints from them and demand petition from them demandin

g investigation? This is what j cannot understand. Sir, in view of the malpractices going on in the companies, it is necessary that we give this right to the workers and tell them that in future it would be in their power to make at least an application demanding investigation, which should be launched as soon as such demand is made. This is a very reasonable amend-nent. Of course, it is for the Govern-ment to treat it according to its own iking. But what we demand here is hat the right to make such a petition should be accorded also to the em-loyees and workers. If such rights ad been given to the working classes. workers and the employees and if the mployers had been always under the Dssibility of their being held up be-tre the Investigation Tribunal, these alpractices would not have grown, therefore, this is one of the most fective ways of avoiding mismanage-ent and corruption in the companies, hope that the Government would cept both these amendments. I am t particularly dogmatic about the mber and all that. What I want is 0 things: Members on the one hand i employees and workers on the ler hand should be allowed to file ition for investigation. If the estigation is conducted, I am sure, ch of the mischief would not ow. Therefore, I say that this sndment should be accepted by Government.

HRI S. N. MAZUMDAR: I shall take more than two minutes. Sir, ie arguments are dependent on the iptance or non-acceptance of Mr. h, then it is better not to give any iments.

R. DEPUTY CHAIRMAN: He is targe of the Bill.

RI S. N. MAZUMDAR: He rejects irguments without advancing any Tient, without any plea.

SHRI M. C. SHAH: You yourself say it is not important.

SHRI S. N. MAZUMDAR: I would not have stood to speak on this amendment if Mr. Shah had not tried to confuse the issue in the previous amendment. While replying to the previous amendment he said this would embitter the relations between employer and employees. He brought in quite an irrelevant issue. This is not the question of relation between employer and the employees; this is the right of the employees.

Now, Sir, whenever a concern, due to its mismanagement or malpractices, goes into liquidation it is the workers and employees who suffer immediately. Shareholders' suffering comes later on. The workers and employees do not get their wages they have no livelihood. If they had the power from before to prevent such occurrences, they would be able to check it. I shall cite one example.

MR. DEPUTY CHAIRMAN: That comes under Industrial Disputes Act.

SHRI S. N. MAZUMDAR: Maybe, There is the case of the Times of *India*.

MR. DEPUTY CHAIRMAN: You have already taken two minutes.

SHRI S. N. MAZUMDAR: He will reply in only one minute.

MR. DEPUTY CHAIRMAN: Do not i go into examples.

SHRI S. N. MAZUMDAR. Example is necessary. When the paper, the "Times of India" in Calcutta was closed suddenly, the employees were the worst sufferers because those who were declared workmen under the Industrial Disputes Act could get some redress, but those unfortunate employees, who, due to no fault of theirs, were not included in the definition of workmen had to undergo all , sorts of suffering and hardship for a long time to come. I do not know

wither as yet they have been able to secure any redress. Now when such uses come before the Government, they say they have no power under the existing law to compel the employers to pay them their due. So in order to void such circumstances, it is better from before-hand to give the employees this right that when they come to know of certain development which will lead to the liquidation or the closure of the concern, they may ask for an inspection. The misfortune can be avoided after inspection. I do not know whether the hon. Finance Minister will accept it or not.

SHRI M. C. SHAH: Sir, I cannot accept the amendments of Mr. Parikh and Mr. Bhupesh Gupta. So far as Mr. Parikh's amendment is concerned, we have accepted the number of 200 shareholders or 1/10th, whichever is less. Whenever there is a genuine complaint, naturally it would be easy to get 200 shareholders, or if the companies are small, one-tenth. That is so in the English Law, and we also think that unless there are substantial and genuine grievances, we should not give the right only to a small number of shareholders to make such applications and just cause some harassment to the companies concerned. Therefore, we have put it at 1/10th or one-tenth, whichever is less.

Vow, with regard to the amendment my friends, Mr. Bhupesh

Mr. Gupta and Mr. Mazumdar, I do not quite understand how this is relevant. That has already been explained by the Finance Minister; their interests are safeguarded by the Industrial Disputes Act and by means of another provision, by which if they are retrenched when the concern is closed, their livelihood and lay-off is safe. He has provided for fair wages, living wages, etc.*. For that there are already provisions. In these provisions it was when that these claims can be treated as land revenue. I was thinking that these hon. Members will not put some amendment that with-paying any money for the share-

holding, they will be entitled to one-half, one-fourth or one-third of the shareholding also. That, I do not think, is correct so far as the workers are concerned. Their interests are already amply safeguarded by several other Acts and if there is any loophole they can amend these acts and get their rights safeguarded. I am sorry, it cannot be accepted.

SHRI C. P. SIR, I beg leave to withdraw my amendment.

•Amendment No. 65 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

196. "That at page 124, line 40, for the words 'two hundred members' the words 'fifty members' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

197. "That at page 124, line 41, for the word 'one-tenth' the word 'one-twentieth' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

199. "That at page 124, at the end of line 42, after the word 'therein' the words 'or by one-fourth of the number of employees of the company who are workmen within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947)' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

200. "That at page 124, at the end of line 42, after the word 'therein' the words 'or of the employees' organisation' be inserted."

The motion was negatived.

*For text of amendment, vide col. 4489 supra.

MR. DEPUTY CHAIRMAN: The question is:

201. "That at page 124, at the end of line 45, after the words 'of members' the words 'or by one-fifth of the number of employees of the company who are workmen within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947)* be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

202. "That at page 124, after line 48, the following be inserted, namely: —

'(d) in the case of any company on an application signed by not less than one-fourth of the workers and employees demanding investigation'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 235 stand part of the Bill "

The motion was adopted.

Clause 235 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now we come to clause 236. There is one amendment. It is No. 203.

SHRI M. C. SHAH: Sir, that is a consequential amendment. When they have not been given their right to apply, how does the question arise? I submit that this is out of order.

MR. DEPUTY CHAIRMAN: Yes, it is out of order. It is ruled out.

The question is:

"That clause 236 stand part of the Bill."

The motion was adopted.

Clause 236 was added to the Bill.

Clause 237 (*Investigation of company's affairs in other cases.*) MR. DEPUTY CHAIRMAN: Now we come to clause 237. There are two amendments, Nos. 204 and 205. Amendment No. 205 is out of order.

SHRI BHUPESH GUPTA: Sir, I move:

204. "That at page 125, line 23, after the words 'unlawful purpose' the words 'or with intent to defraud, or evade any obligation towards, any of its employees' be inserted."

(The amendment also stood in the name of Shri S. N. Maztmdar.)

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion.

SHRI BHUPESH GUPTA: Now ^T will just start and will continue da. after tomorrow.

MR. DEPUTY CHAIRMAN: No, no. You finish it. We must pass four more clauses.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, this clause deals with investigation of company's affairs in other cases. The number of cases has been enumerated here, in which investigation may be ordered. Now by my amendment I want to add the words 'or with intent to defraud, or evade any obligation towards, any of its employees' after the words 'unlawful purpose', that is to say, I want to widen the scope of this particular sub-clause. Now I support this portion of the clause where it is said that the investigations should start when it is found that the company is being run in a manner oppressive of any of its members. It is good to have that provision. At the same time, I want similar investigations to be started whether the company is running in a manner oppressive of the workers and the employees. I hope the hon. Minister will kindly note this point, because it is not only the shareholders who have a stake in the company, but the workers and the employees have also

a stake in *the* company. And as far as they are concerned, there is no remedy. On the contrary, Sir, they have got a bigger stake than those handful of shareholders.

MR. DEPUTY CHAIRMAN: Mr. Gupta, be brief. We have to finish four more clauses.

SHRI BHUPESH GUPTA: I think, Sir, that this provision here should be widened. I know that time is short,

.....(*Interruption*)..... Sir, I can give so many instances. Take for instance Bennett Coleman & Co. which was running in Calcutta their newspapers in a highly oppressive.....

MR. DEPUTY CHAIRMAN: We can finish ten more clauses, if you be brief.

SHRI BHUPESH GUPTA: Sir, I have just started. I have got a number of cases, a bagful of cases, and therefore, Sir, I think I should be allowed to continue on Monday.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. on Monday, the 28th September 1955.

The House then adjourned at three minutes past six of the clock till eleven of the clock on Monday, the 26th September 1955.