

THE COMPANIES BILL, 1955—
continued

Clause 324.—Power of Central Government to notify that companies engaged in specified classes of Industry or Business shall not have Managing Agents.

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

149. "That at page 170, line 24, for the words 'all notifications issued', the words 'drafts of all notifications proposed to be issued' be substituted."

I also move:

150. "That at page 170, line 26 for the words 'or issued', the words 'or proposed to be issued' be substituted."

I also move:

151. "That at page 170, at the end of line 26, after the word 'Parliament', the words 'for a period of not less than thirty days while they are in session, and if, with n that period, either House disapproves the issue of the notification, or approves of such issue only with modifications, the notification shall not be issued, or as the case may require, shall be issued only with such modifications as may be agreed upon by both the Houses' lie added."

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

269. "That at page 170, for the existing clause 324, the following be substituted, namely:—

'324. Every managing agent to cease functioning by 31st December, 1957.—
Every managing agent shall cease to function as such on the 31st December, 1957, unless he ceases so to function at an earlier date:

Provided, however, that the Central Government may, by notification in the Official Gazette.

permit the continuation of the managing agents, wholly or in part in such class or description of industry or business as may be specified in the notification:

Provided further that the reasons for the granting of such permission shall be recorded in writing in the said notification."

I also move:

270. "That at page 170, line 17, for the words 'three years', the words 'one year' be substituted."

I also move:

271. "That at page 170, line 19, for the word 'later', the word 'earlier' be substituted."

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

MR. CHAIRMAN: The clause and the amendments are now open for discussion. Mr. Kapoor, be as brief as possible. We have now five hours and fourteen minutes only.

SHRI JASPAT ROY KAPOOR: I will be as brief as you desire me to be. Hereafter we shall not have many clauses here requiring long discussion. This particular clause perhaps is a very important one, not so much from my point of view as from the point of view of my friends over there. The amendments that stand in my name run as follows;

149. "That at page 170, line 24, for the words 'all notifications issued', the words 'drafts of all notifications proposed to be issued' be substituted."

THE MINISTER FOR FINANCE (SHRI C. D. DESHMUKH) : Sir, we have read the amendments.

MR. CHAIRMAN: The amendments have been read by all the interested people. So you need not read them again. You make your comments, if any.

SHRI JASPAT ROY KAPOOR: My idea was to shorten my speech because these amendments would in some way explain the purpose thereof but if you want that I should explain only by long speech, I have no objection.

SHRI C. D. DESHMUKH: That means it is self-explanatory.

SHRI JASPAT ROY KAPOOR: I thought in some measure they were self-ex-

planatory and, therefore, reading them over would shorten my speech. Anyway, I would not read them. Before supporting my amendments I might as well say that I am opposed to the amendments that have been tabled in the name of my friend Mr. Bhupesh Gupta which are of course, supported by his redoubtable loyal colleague Mr. Mazumdar. I will only say a word about it later but to start with I will support my own amendment. The purpose of my amendment is that when the Central Government at any particular time comes to the conclusion that it is necessary to abolish the managing agency system in the case of any particular industry or particular class of industries, then before it issues a notification to that effect, which, of course, would come into operation about three years thereafter or on the 15th August 1960 whichever is later, I suggest that before issuing this notification the draft of this notification should be placed before both the Houses of Parliament and those proposed drafts should remain on the Table of the two Houses for a period of 30 days so that both Houses of Parliament may have an opportunity to consider the subject matter of the proposed notifications and the two Houses may discuss those notifications, consider them, suggest any amendments to them, accept them or reject them. That is the purpose of my amendment. I might at the outset also make it clear as it is clear in the amendments also, that my suggestion does not apply to all the rules and regulations which the Central Government may frame.

i It applies only to the notifications which will deal with the abolition of the managing agency in any particular industry or class of industries. Its scope, therefore, is very limited. Secondly, I would submit that it should be borne in mind that the acceptance of my amendment would

d not in the slightest measure delay the abolition of the managing system if of course the Parliament agrees to the notifications as it may be drafted. So the question of delay should not come in the way of accepting my amendment. I think it would not be denied and it would be zealously urged by every hon. Member of this House that Parliament should be the ultimate authority in deciding important questions of policy and it would not like that such an important matter as this should be left entirely to the discretion of the Central Government. Once we have decided this question in a general way, once we agree that a particular class of industry should have no managing agency, then, of course, it should be open to the Central Government to implement that decision and nobody would like to interfere in the implementation of the decision, but so far as the decision of this policy is concerned, it should be the Parliament, that should have the final say in the matter.

According to clause 324 as it stands at present, these notifications have got to be placed before both Houses of Parliament, but then the Houses of Parliament thereby do not have the opportunity to discuss them. I do not understand what useful purpose or for the matter of that any purpose whatsoever, would be served by these notifications being placed before us if we have no opportunity to discuss them, if we cannot modify them, or amend them and cannot express our opinion, thereon. It is no use my being told later on by any hon. Member who may be opposed to my amendment or the learned Minister that it is always open to Parliament to discuss anything in this world

by a Bill or a Resolution or a Motion—that is entirely a different affair. It is not easy for a non-official motion to come up. It has to go through the ballot, it may or may not come up and we don't know if at all it comes up, when it will come up. It may come up when the period prescribed in the notification may be over. I, therefore, submit that if we have to have any effective voice in this matter, as I submit we should have as it is an important matter, then the draft notification should first be placed before us—nothing will be lost and no delay will be incurred thereby and after we have disposed it, then it should be published in the manner in which we finally approve it.

There is one more reason which I might urge in support of my amendment, viz., when these draft notifications come up before us, we can review the whole thing in its generality and we shall then have an opportunity to discuss this important question of managing agency if we find it assuming any particular shape at that particular time. We have given the managing agency system, generally speaking, a grace period of five years. We have said enough against the managing agents and rightly so. They have deserved it amply. But we have also to recognise the fact that they have done pioneering work in establishing industries in the country. We have also to observe that although it was open to anybody to establish industries, yet it is only the managing agents who have come ■*.o establish them. Let us not in our enthusiasm to do a particular thing or in our enthusiasm to adhere to any particular policy lose sight of the fact that though the whole field was open for anybody to start and run the industries, yet it is only this particular class of persons, those who were engaged in the managing agency system, who have established industries. The natural inference therefrom is that those who did not form themselves into the managing - agencies did not perhaps find it easy

or convenient to establish industries. They could not do it through any system except through the system of managing agencies. Otherwise, we should have had many industries established other than through managing agencies. I am not, of course, advocating their cause, I am as much opposed to them as my other friends here. At the same time, I do not want to lose sight of the fact that they have done useful service and though I am not for rewarding them for that, I am only concerned to see that with their going away there is no vacuum left. That is my apprehension. It may be a wrong apprehension; but my impression is based on the simple consideration that heretofore, though it was open to everybody to establish industries, yet we do not find many industries established by any method other than the method or system of managing agency. Therefore, in the next five years which is the period of grace which we have allowed them, let us see how these managing agents behave. If after the enactment of this legislation they start with a clean slate, if they behave well, of course, then we can re-examine the position. I submit there is nothing inherently wrong in the managing agency system. Though the majority of them might have behaved in a shabby manner, not all of them have done so. So after this period if we find that they have removed their defects then we shall reconsider the whole thing, in the light of the new developments and in the light of their reformation and then decide the matter with reference to each particular class of industry on its own merit. I do not want straightaway, from this very moment the managing agents should be made to feel that hereafter this system is going to be destroyed altogether. Let us give them a sort of, shall I say, bait, as it were and make them feel that if they behave well, they will be allowed to exist, otherwise they will become extinct. Otherwise, I feel there is this danger

[Shri Jaspal Roy Kapoor.]

that in this period of five years, they may exploit the industries like any thing saying, "Let us make hay when the sun shines. Let us take away as much from the industry as we now can, for we cannot be certain of the future and after two, three, four or five years we may not be allowed to exist". Therefore, I submit that we should give them the hope that if they behave well, they will be allowed to exist. There is no danger in that, as I have already submitted, there is nothing inherently wrong in the" managing agency system and we may allow the system to continue if they function properly. As I said the other day, and many others, including the Finance Minister¹ have also said it, we have to give some credit to the managing agents for the good they have done. Let us not forget that with all their nefarious activities they have been helping the cause of freedom's battle by handsome subscriptions. There was nothing wrong in it. Yesterday, surprisingly, objection was taken to their making contributions to the Congress Party funds by my hon. friend Mr. Gupta

SHRI B. C. GHOSE (West Bengal): Any political party including the Congress.

SHRI JASPAT ROY KAPOOR: Yes, any political party, but.....

SHRI BHUPESH GUPTA: But that sum of Rs. 70,000 went to you.

SHRI JASPAT ROY KAPOOR: Exactly. Therefore, I was right in particularly referring to the Congress though the friends of my friend Mr. Gupta are more discrete and want us to forget that his attack was specifically directed on the contribution to the Congress and they would like to discuss the question as a general one, though Mr. Gupta wants it otherwise.

SHRI B. C. GHOSE: Mr. Gupta also includes all political parties, he had an amendment to that effect.

SHRI JASPAT ROY KAPOOR: But let us not forget that our hon. friends here have their amendments in a relevant form, but when they dilate on those amendments, they say things which are sometimes contrary to the amendments and some times things which have absolutely no bearing on their own amendments. Therefore, we have also to deal with.....

SHRI BHUPESH GUPTA: On a point of information, Sir

SHRI JASPAT ROY KAPOOR: Therefore, I have also to deal with things relevant and irrelevant that they urge in support of or with reference to their amendments.

Sir, it was strongly criticised that some industrialists gave very hand some amounts to the Congress Party. We ought to be grateful to them for that and we should appreciate it. Not only the Congress Party, but other political parties also can, because they also should entertain the hope that if they.....

MR. CHAIRMAN: We are not discussing party funds on this amendment.

SHRI B. C. GHOSE: Quite so, Sir, these are not relevant.

SHRI C. D. DESHMUKH: And I was going to say, Sir, that this was a self-explanatory amendment and did not actually need all this elaboration. Secondly, I was going to say that I was going to accept it.

SHRI JASPAT ROY KAPOOR: I thank the hon. the Finance Minister very sincerely for that, Sir. I was only going to ask if in addition to being self-explanatory the very amendment was also self-convincing and if that be so I have nothing more to say, except to thank once more the Finance Minister for accepting it.

MR. CHAIRMAN: And if Mr. Gupta also makes a quiet speech, I do not know what will happen.

SHRI BHUPESH GUPTA: Sir, we I have heard a speech from the hon. Member just now who was at pains to be relevant but was mostly otherwise.

SHRI JASPAT ROY KAPOOR: In that case, I must have followed only Mr. Gupta's example.

SHRI BHUPESH GUPTA: And he spoke in support of the managing agency system because he has some faith left in them. I for one do not have any such faith left in me. Therefore, I have come forward with this amendment.

Sir, with the recent arrest of a managing agent, at Mansingh Road, I think one should ponder over this matter a little. I feel that the time has come when the Government should adopt a provision like the one I have suggested for expeditiously bringing to an end this hated system of managing agents. I suggest that instead of the clause that is there in this measure, we should say that every managing agent should cease to function by the 31st of December, 1957. That is the title which I give to the clause that I propose, that he should cease to function by 31st December, 1957, unless, of course, he ceases to function by an earlier date.

Sir, you may be surprised why even I should tolerate this system for another one year and a half. But I am helpless in this matter inasmuch as an earlier suggestion that the managing agency system should be abolished forthwith, immediately, had not been accepted by the Government. That is why I am prepared to give them this further lease of life, but only for another year and a half, no more than that.

Further I want to make a provision which, I believe, is also self-explanatory as far as the words go, but unintelligible as far as the understanding goes, on that side of the House. There is this proviso:

"Provided, however, that the Central Government may, by notification in the official Gazette, permit the continuation of the managing agents, wholly or in part, in such class or description of industry or business as may be specified in the notification:

Provided further that the reasons for the granting of such permission shall be recorded in writing in the said notification."

Now, I have made provisions for the Government at its discretion to make certain alterations if it so desires in the interests of the public and in the interests of the proper managing of companies. The Government, Sir, should accept this amendment. The Finance Minister the other day in that House referred to the year 1960. After 1960, he almost gave us to understand, certain processes will take place more or less in conformity with the desires of the people. But he did not make it categorical. He never said that immediately after 1960 the managing agency system would be abolished. Nothing of the sort. Clever as he is, he wanted to humour us a little, but unfortunately we have not been humoured by this kind of dates and all that. We wanted the abolition of the system. You have not accepted it. You think that it should continue for some more time. After all that you have said, you have not made it clear as to how long you think the system should continue. What is there to wait? What is there to see? What is there to find out from the working of the system? It has been there for about half a century in this country. We have become quite familiar with their ways, with their practices, with their behaviour, with their attitude and with their morals. Therefore, we are in a position, from whatever knowledge we have of the system, to decide in the first instance whether it should remain or not. And once you decide that it should not remain, we would like to be told as to when this system would be put an end to, but the Finance Minister is avoiding this

[Shri Bhupesh Gupta.] issue. Why is he not coming out with a bold statement as to where he stands? Why does he not tell the country that he wants to do away with this system on such and such a date? That is the question I ask of the hon. the Finance Minister. He should take the country into his confidence, he should take the Parliament into his confidence and tell us frankly where he stands in regard to this matter, instead of trying to trot out all these formulae and argumentations. Sir, from our experience of the past policies that this present Government had been following, we have a fear that this system would be continued as long as this Government is in power. This is what I say. Maybe, in one or two cases the managing agency system may be abolished in order to assuage the feelings in the country, but by and large it appears to me, from what is coming out from them, that they are inclined to retain this managing agency system. The Government should make its position absolutely clear before the country because here we are discussing this matter and in a year and a half general elections will take place in the country and let the country know now where the Government stands with regard to this matter so that the electorate and the people can exercise their judgment about this issue. Let this also be an issue in the elections. Now, the Finance Minister, I know, is concerned more with finance than with politics. His trouble is, he is handling things from the wrong end. Therefore, I would ask him that we in Parliament should have a statement from this Government as far as its policy in this matter is concerned. Then, we can work out details. Therefore, Sir, I would ask the Finance Minister to state his position. He is a person who can speak very clearly; he does not suffer from any confusion of thought or language. If he thinks that he should make his position in the matter clear to the country and to the Parliament, why is he not speaking in clear terms? "Why is he not telling us where he

stands? I have got his speeches, the reports of his speeches that have been given to us in the shape of a pamphlet. It is difficult to find out from it as to what he actually means from the words he has spoken; and, naturally, we are also clever people. We study other things, we read the journals, we read the speeches which they deliver in the various Chambers of Commerce. We also are familiar with certain hob-nobbings of the Government bosses with the business bosses. From all this, I gather that they are determined to retain the managing agency system. The Finance Minister has made only a nominal concession when he says that he has fixed 1960 as the year for doing certain things. We say that this kind of thing will not do. They must make their position clear as far as these matters are concerned. You do not take your own Members in your party into confidence. I have talked to a number of Congressmen. What do they think? They cannot give any answer. They do not know where they stand. They are part of your party but they do not know where they stand *vis-a-vis* this question of the managing agency system. The Finance Minister has left them high and dry and absolutely in the dark with regard to this matter. Therefore, Sir, I would seek your protection in this House, when the Finance Minister speaks; he should speak in categorical terms and make the position known to the country as to exactly where we stand and when we are going to have this system abolished, if at all we are going to have this system abolished. Let him say that instead of words trying to champion in glittering the cause of the managing agency system which cannot stand any kind of scrutiny or examination. As far as the other clause, the new clause 324 A, is concerned, I would leave it to my colleague, Mr. I'azumdar, to speak on. /

MR. CHAIRMAN: It is not before us now.

SHRIMATI LILAVATI MUNSHI (Bombay): Sir, I am sorry that I have missed the debate, almost the whole

of it in this House, which is so interesting and so informative. However, I have read the speeches of the Finance Minister delivered in the Lok Sabha which have been distributed to us in the form of a booklet and I find that there is a ring of sincerity in those speeches and the language is unexceptionable.

[MR. DEPUTY CHAIRMAN in the Chair]

I say this because only just now Mr. Bhupesh Gupta has said that he is not speaking in clear terms. On the contrary, I think that he has spoken in very clear terms and in spite of provocations on the part of some Members, he has not used a harsh word, but has made clear his own point of view. He has not allowed himself to be ruffled by the adjectives used in the other House and he will not be ruffled by the adjectives used in this House either. I find his exposition of his views very clear and lucid and it deserves our appreciation.

First of all, I should like to oppose the amendment just now moved by Mr. Bhupesh Gupta and support the original clause. This clause is the most contentious clause and I should like to take the arguments for and against the managing agency system. The opposition is to the lease of life given to the managing agency system. The question is. Who should run the industries, the Government or the managing agents during these years? Many hon. Members like Shri Bhupesh Gupta and others like to abolish the managing agency system forthwith, but there are some who want to retain it and for some good reasons. Those in favour of abolishing the managing agency are so because they want to achieve the socialistic pattern of society immediately. They feel that with that ideal the managing agency system is not consistent. People who want to retain the managing agency feel that the system has served the nation and when there was no Government plan or programme for production, it served the country with industrial expansion. Against this again the people who are for its abolition say that it encourages nepotism,

corruption, etc. The other side is ! equally vehement in replying that there is nepotism and corruption—that ! is their view—in the Government Departments too and that the Government officers in the Centre as well as in the States are not free from giving the benefits to their relatives and friends and that corruption in the Government officers is evident in many places. There are even proven cases against the Government high officials. So those Parliament Members who want to retain the managing agency system can say: We are not perfect, our own House is not perfect; how can we cast stones against the managing agency? Then again, Sir, there is a movement against the managing agency and they say that they have bungled. Against this also there is an argument that there is also bungling in so many dealings of the Government against which every year the Audit Report cries out. It is said that managing agents take too much profit and amass money. Against this, it is said that the officers take big salaries and allowances and foreign experts cost still more, and that the bungling of the Government officers costs the taxpayers enormous loss without any personal loss to them whereas if a managing agent bungles he loses his own money along with the money of the limited number of his friends and shareholders. It is, Sir, difficult to say which is the costlier game for the taxpayer and the nation of course. Besides, it is said that in checking the managing agency, Government has to create a big Department which may swallow a major part of the money which Government may get by such checking. What the Finance Minister has tried to achieve in this Bill is the golden mean between these two stands. He says that after all there are only 24 managing agents who are managing more than the stipulated number of companies. They are not all bad. They have served the concerns, and to remove them from those concerns may be to the

detriment of those concerns themselves.

[Shrimati Lilavati Munshi.] I selves. Hence the special power has been taken in this Bill. However, the trend of the nation is towards the socialistic pattern of society. A few people amassing money are not to be tolerated. Somebody can say that if we take away all the gains of the managing agents and distribute it amongst the 36 crores of our people, probably they may not get one rupee extra per head. However, as I said above, the trend is towards the socialistic pattern of society. We require money for our Five Year Plan. We want to create more jobs and give more patronage. Let us be frank and say that we require this money and that is why we want to nationalise the industry. But then there is another aspect of it, Sir. It is not only this aspect which weighs with the Government, but there is another need and that is that all the key industries should be in the hands of the Government or under the supervision of the Government only for this reason that it is necessary for defence and for an emergency. No Government can afford to neglect this aspect. Supposing if you have a war and if you have not got this nationalised agency of air then you won't have the number of pilots you require for conducting a defensive war although we are certainly a peaceful nation and we are not contemplating any aggression against anybody.

This is only by way of illustrating my point. By retaining the managing agency up to 1960, what the Finance Minister has in view at the moment is: G

Government is not ready to take over the burden of so many concerns managed by managing agents; Government's hands are full; they have the Second Five Year Plan to execute. There are not enough technical personnel or know-how; and the resources are also limited. Until all these are created he does not want to abolish the system which has served the country so far. Managing agents also take risk and finance the concerns and in future a¹ so they will help in industrialising the country in a quicker way. In our I

Five Year Plan also there is a public-sector as well as there is a private sector. What the Finance Minister has done in this Bill is to limit their gains and create sufficient checks. This will safeguard the interest of the shareholders as well as of the nation.

But a word of caution I should like to give and that is that while creating checks, the Finance Minister should* take care to see that he does not create a harassing Department. During the past departmental corruption afdi Ignorance of people in charge are well known. During war-time the nation had the experience

e of rackets going on in giving licences and permits and so on. Probably, the Finance Minister knows more about it than anyone else. I have no doubt in my mind that if this Finance Minister is to continue for ten years, he will create a very efficient Department. But, in a democracy, one never knows where he will remain, whether he wiH be the Finance Minister in the Centre or a Chief Minister of a State. Nobody knows; I do not think even he himself knows. In that case his ideas may not be given full scope by his successors.

Nobody wants the managing agency system to remain if we have an alternative, that is, if we have experienced,, uncorrupt good officials in sufficient numbers and a stable Government. Whatever may be the scheme in thi

s Bill, the human beings to implement it are a most necessary part of it. Pandit Kunzru the other day rightly said that staffing would be a great problem and it is not only the higher key officials who will run the Department, but there will be many lower officials who will shwe the responsibility. Today many Government schemes are criticised not because the schemes themselves are bald, but the people in charge are not efficient or honest and Government requires time to create a cadre of good officers to man all these schemes and that is why the Finance Minister wants to retain the managing agency system till 1960 Till we have hens of our own let us not kill th« other hens laying egg* for

the country's industrial expansion. I support this clause.

SHRI KISHEN CHAND (Hyderabad) : Mr. Deputy Chairman, the hon. lady Member who has just spoken, has probably not read the clause that we are discussing. It was a general speech on the benefits of managing agency system. I suppose she did not get an opportunity in the first reading of the Bill and, therefore, that speech was delivered now. But the heading of this clause 324 is "Power of Central Government to notify that companies engaged in specified classes of industry or business shall not have managing agents." There is an advisory committee and they will carefully examine and consider whether a particular industry requires managing agents or not. It is not a demand by Members on this side of the House for abolition of managing agency system. The whole question is.....

SHRIMATI LILAVATI MUNSHI: The amendment is that every managing agent shall cease functioning by 31st December 1957 and so it was all quite relevant.

SHRI KISHEN CHAND: If you just wait, I shall explain the whole thing and show how the clause is worded.

MR. DEPUTY CHAIRMAN: Order, Order.

SHRI KISHEN CHAND: I was trying to submit, Sir, that there was an advisory commission that would go into the merits of the case and it would examine and consider thoroughly whether any particular industry required managing agency system or whether it did not require that system. After all that, the Government comes to the conclusion that a particular industry does not require the managing agency system. And thereupon what will the Government do? Where any such company has a managing agent on the specified date, the term of office of that managing agent shall, if it does not expire earlier, expire at the end of three years from the specified date or on the 15th day of August,

1960, whichever is later; and the company shall not re-appoint or appoint the same or any other managing agent. And it is in this context that you must read the amendment. The amendment simply says that you have fixed an arbitrary date of 15th August 1960. It is after all an arbitrary date. Now, we are in September 1955. That means we have fixed a date nearly five years hence. Instead of 1960 we should fix a date towards the end of 1957, that is 2½ years from now, which gives ample time. The clause says that the company shall not have managing agents after three years from the date of the notification. It is possible that the notification may be made some time, say, two days before the 15th August 1960; that means in that particular case the managing agents will continue for three years after that date. One can be in favour of managing agents; one can be against the managing agents but in a clause like this once the Government comes to the conclusion that there is no need of managing agents in a particular industry, then any idea of procrastination, simply giving a longer lease of life, is not justified. The amendment of Mr. Kapoor also is very good in so far as it wants the list to be placed before Parliament so that it may consider it but if there is any idea of delay or of postponing things thereby giving it a longer lease of life. I am not for it. We say that it should be changed from August 1960 to the end of 1957. It becomes important because it is mentioned here, "at the end of three years from the specified date or on the 15th day of August, 1960, whichever is later". If that clause "whichever is later" were not there, we would not have minded the words "three years". With this clause, it would mean that in that particular industry if the notification is issued only a day or two before 15th August, 1960, we will be continuing the managing agency till August, 1963. Sir, the hon. the Finance Minister himself is really wavering, and very guardedly he supports the managing agency system. I very much welcome his

[Shri Kishen Chand.] retention of this clause and giving power to the Central Government to notify that companies engaged in specified classes of industry or business shall not have managing agents I welcome it but while welcoming that idea. I do submit that to keep it five years hence and give it a fresh lease of life of three years, would mean giving it a life of eight years and it is too long a period. I do not see any reason for that and I support the amendment to the extent that this date of 15th August, 1960 should be replaced by 31st December, 1957.

SHRI B. C. GHOSE: Sir, I would not have intervened on this clause if the Finance Minister had not stated that he was willing to accept Mr. Kapoor's amendment. I must confess that I have not given very much thought to this amendment but reading it, I am inclined to oppose it. Therefore, I want some clarification on certain points from the Finance Minister. What I am afraid of is if this amendment is accepted, it will cause, as my friend, Mr. Kishen Chand, has said, more delay and also probably increase uncertainties. Here it says "all notifications issued", as the clause stands at present, and Mr. Kapoor's amendment is "drafts of all notifications proposed to be issued". I believe the difference is that the decisions so far as the drafts are concerned are to be regarded as not final. The procedure we have laid down in the Bill is that the Government will first investigate and come to a decision. They will also take counsel with the advisory commission and after doing all that, they will, say, come to decision that managing agencies should not continue in certain industries or in certain classes of business and that decision will be notified in the Official Gazette. More or less that will be a final decision. Of course, it will be placed before Parliament and Parliament will have the right either to accept or reject that decision of the Government. If it is rejected that would be in the nature of a censure on the Govern-

ment for having come to a decision which they cannot afterwards give effect to. If what is proposed now is that the decision which is notified will not be final, then I fear that it would cause a lot of difficulties; that would give ground for speculation for a longer period of time. That would cause delay. I do not see any reason why that should be so, because the whole scheme of things, if the Finance Minister will remember, was whether managing agencies should be abolished or not. There was a very strong opinion within the Select Committee that they should be altogether abolished. Then a compromise was arrived at which is reflected in the present Bill and the first draft, if I remember rightly, did not contain any provision as to whether copies of notifications should be placed before Parliament or not. Then we introduced it thinking that Parliament should be given an opportunity to discuss this with a view to finding out whether other industries should also not have been included in the notification. That was the idea of many of the hon. Members, that the Government might take a decision to apply this clause to only a few industries whereas there may be other industries of the same class which they might have exempted and it was with a view that the scope of the notification might be widened that we wanted this provision in this clause. But now if the drafts are to be placed, I feel that it would create difficulties and it would be going beyond the intention or the desire of the majority of the Members of the Select Committee. That is my apprehension.

SHRI S. C. KARAYALAR (Travancore-Cochin): Mr. Deputy Chairman. I oppose both the amendments before the House. Sir, the amendment moved by Mr. Kapoor is to the effect that the notification to be issued under sub-clause (1) of this clause should be placed before Parliament and that Parliament should be competent to modify or even to completely throw it out in which case the Central Government's power which is given to it

under sub-clause (1) of this clause will be completely nullified. Sir, the power given to the Central Government under sub-clause (1) to issue a notification is absolute.

When that power is given to the Government, to seek by an amendment to sub-clause (3) to take away that power is inconsistent with the subclause (1). Therefore, technically this amendment of Mr. Jaspat Roy Kapoor cannot stand. They cannot be read together. You cannot put the two subclauses together. The amendment will really nullify the effect of sub-clause (1). If his object was to give power to Parliament to modify or to throw out such notifications, then it should have been by way of an amendment to sub-clause (1) and not to sub-clause (3). If these were to stand together, ...

SHRI JASPAT ROY KAPOOR: There is an amendment to sub-clause (1) also.

SHRI S. C. KARAYALAR: You have not done it.

MR. DEPUTY CHAIRMAN: Please go on.

SHRI S. C. KARAYALAR: If this amendment were to be adopted, it will really nullify sub-clause (1) and it will not make much sense.

SHRI B. C. GHOSE: Amendment No. 14S is for sub-clause (3) and not for sub-clause (1).

SHRI S. C. KARAYALAR: That is my first objection. And then with regard to the amendment moved by Mr. Bhupesh Gupta, he said that there was no policy indicated by the Finance Minister. As a matter of fact, his complaint was that the Finance Minister had no definite policy. Whatever policy has got to be adopted in this respect is deemed to be laid down in the provisions of the Bill. He cannot have an independent policy. That policy is already one which is incorporated in the Bill itself as a result of the deliberations of the Joint Committee. The Joint Committee came to the definite conclusion that it would

be inadvisable to straightway abolish the managing agency system. They adopted the middle course whereby they said that the cases of managing agency should be examined on the basis of material to be collected by the Government in the course of a few years, and then they should decide as to whether the managing agency system in any particular industry should continue or not. That was the decision that was arrived at by the Joint Committee. And that is the policy which is underlying this clause. I do not see how the Finance Minister by himself can lay down a policy independent of what is laid down in the provisions of the Bill itself. That is my point against Mr. Bhupesh Gupta's amendment. He wanted a categorical statement of the policy on the subject matter as to whether the managing agency system would be straightway abolished or not. That is what he wanted the Finance Minister to state categorically. I say that the policy is embodied in the Bill itself

SHRI S. N. MAZUMDAR (West Bengal): He can move an amendment to the Bill if he accepts that.

SHRI S. C. KARAYALAR: The effect of the amendment would be to nullify the policy underlying this particular clause.

Some objection was raised by my hon. friend, Mr. Kishen Chand, as to whether the date 15th August, 1960 mentioned in the clause has got any definite meaning. I went through the speech of the Finance Minister and I find that he has made a case for the retention of this particular date. He has said categorically that the Department that will be set up in relation to the company law hereafter' would collect a lot of material and that material would be available for the Ministry to examine the case for or against the retention of the managing agency system in any industry. And then it would be time enough for them' to come to a judgment as to whether the managing agency system in any

[Shri S. C. Karayalar.] particular industry should be continued or not. He has made out a strong case for the retention of the clause 15th August 1960. About three years or so will be required for collection of statistics and to come to a definite conclusion as to whether the system should be continued. That is the object of the date 15th August, 1960. I cannot see any reason for this date being revised.

SHRI AKBAR ALI KHAN (Hyderabad): Sir. I was not inclined to say anything but for my learned friend, Mr. Ghose. When I found his objection that this should be left entirely to the executive and the benefit of the advice of Parliament should not be given

SHRI B. C. GHOSE: I did not say that.

SHRI AKBAR ALI KHAN: It amounts to that, because he opposed Mr. Jaspat Roy Kapoor's amendment. Mr. Jaspat Roy Kapoor's amendment means that Parliament will have the benefit of seeing that notification and expressing its views, and Government, which has come to a tentative decision after looking into the debate and the views of Members, would come to a final conclusion. And to that extent there would be no difficulty. The decision will be with the Government. But as in many cases certain papers are placed before us. Members have an opportunity to express their views and taking advantage of that they come to final conclusions. So, if I have understood my learned friend rightly, he wanted Mr. Jaspat Roy Kapoor's amendment rejected.

SHRI S. C. KARAYALAR: What will happen if the notification is disapproved?

MR. DEPUTY CHAIRMAN: Order, order.

SHRI AKBAR ALI KHAN: Here what we are saying is that the draft notifications will be placed before Parliament before they issue them. That is the position. Now, according

to the clause as it stands, the notifications will be placed after they have issued them. That is the difference. And I think the intention of the amendment is quite clear and I support the amendment.

SHRI C. D. DESHMUKH: Mr. Deputy Chairman, I confess I do not understand the difference of opinion that has arisen over Shri Jaspat Roy Kapoor's amendment. I thought it was one of those things where all Members of both Houses would be agreed that in important matters if Government had a proposal, it was advantageous to let the Houses have the opportunity of discussing it, should they want to discuss it and should they wish to modify it. I do not think that there is any danger of delay. It is only about one month additional in a period which, if the clause stands as it is, will be three years in any case after the issue of the notification. Therefore, delay cannot exist in a matter like that. Nor do I see what uncertainty there will be or speculation except, of course, in regard to what Parliament is going to do. Now, it is not an offence against the majority of the Select Committee if one has a spirit of humility in a matter of such importance—the abolition of managing agency in the whole industry—and it struck me that it might be useful to have the guidance of the House, at least in the initial years. I have no doubt that as we learn the technique and learn to fix the material criteria in matters of this kind, it may be that the discussion in the House itself will not be prolonged; but it is quite possible that the first time when such a draft notification comes before the House, the House may be able to give very valuable guidance as to what might have been left out by the notification. There is no proposal that the House should add anything to the proposal, because the draft is the draft of a particular intention in regard to a particular industry based on an investigation, presumably conducted and completed by the Government before such a draft is brought

before Parliament. And, therefore, I think only good can flow out of such an arrangement.

Now, as regards the actual drafting of it, again, I have not followed the point made by the penultimate speaker. But if it is a drafting matter I have no doubt that we shall have time to take care of it. As a present advised, since Shri Kapoor said, I agree that it is not the rules that are to be laid before the House. I move „ that Shri Jaspat Roy Kapoor's

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♦amendments Nos. 149 to 151 be modified as follows:

"For sub-clause (3) of clause 324, substitute the following: —

'(3) Copies of all rules prescribed under sub-section (1) shall, as soon as may be after they have been prescribed, be laid before both Houses of Parliament.

'4) A copy of every notification proposed to be issued under subsection (1) shall be laid in draft before both Houses of Parliament for a period of not less than thirty days while they are in session; and if, within that period, either House disapproves of the issue of the notification or approves of such issue only with modifications, the notification shall not be issued or, as the case may require, shall be issued only with such modifications as may be agreed or by both the Houses'."

"Sub-clause (4) is similar to that in the amendment and similar to that which we have inserted in clause 620 (2) on page 287 of the Bill.

SHRI JASPAT ROY KAPOOR: I have borrowed it from there.

SHRI C. D. DESHMUKH: No doubt, 'because it was well drafted and, what is important, it was inserted in similar circumstances. There also

♦For text of amendments, vide col. *797 supra. 85 RSD—4

SHRI AKBAR ALI KHAN: The Finance Minister wants to take credit for himself.

SHRI C. D. DESHMUKH: I do not draft these. I do not claim any credit. We have a devoted draftsman who drafts all these things. What I am going to point out is that it was inserted in that clause after a great deal of discussion in the other House. There was an important issue whether Government companies should be exempted from the provisions of this whole Act and in theory, it was urged, although it is a terrible apprehension to entertain, that by one stroke of the pen Government might exempt a Government company from the Companies Act; and in order to clear ourselves of any such fell intention, we thought it better to place every single matter of exemption of a Government company before the House. I am saying that these matters are important enough for us to take the House into confidence before anything happens, because, as one hon. Member pointed out, supposing the House does not like the notification after it is issued and takes some opportunity of making that known to Government, then it all amounts to a vote of censure on Government. It is very much better to prevent this unpleasant situation from arising. That is our justification for accepting this particular amendment of Shri Kapoor.

As regards Mr. Bhupesh Gupta's amendment, he says that my words have no clear meaning to him and since he has asked your protection in the matter, I do not know what to do, because between him and me, the only medium of communication can be words. I have no other means of conveying. What he says seems to give an entirely different theory of semantics. Now, we are all aware that words are imperfect. Obviously, I cannot blame the lack of understanding on Shri Bhupesh Gupta's intelligence which, as one knows, is very high indeed.

SHRI JASPAT ROY KAPOOR: Too high to be reached!

SHRI C. D. DESHMUKH: Therefore, it must be some lack of clarity either of thinking or of expression on my part. I have tried to explain the position as clearly as I can. My ArsF proposition is that here and now, we are not ready to take a positive judgment that managing agencies shall be abolished and it is only a question of a scheme of steady and systematic extermination of the system. It may be a negative finding, but that is all Government are prepared to agree to

at this moment. This question
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SHRI BHUPESH GUPTA: What is the obverse of this statement?

SHRI C. D. DESHMUKH: I make it quite clear. The first statement is that there is no justification for saying that they should be abolished here and now. Let us consider the problem. The problem is that the managing agents have had certain advantages and they have had certain disadvantages or certain abuses have been practised. Now, with regard to the positive side,

that is: to say (*Interruptions*). If I am going to answer every single interruption, it prevents me from developing an argument properly. I think impatience should be avoided on both parts of the House. What I say is that no one will deny except perhaps people who are extremely prejudiced against the system that it has had something to its credit at least in the past. Now why should we do it? That policy is historically clear. Either they have played a very considerable part in the promotion of industries, that is to say, as entrepreneurs, or they have played a very important part in financing industrial undertakings. Now what one has to make sure is to what extent this promotional talent is available and is growing in the country. The position is not static. Secondly, to what extent are other facilities for financing companies available and are being made available in the country? Now, that situation also is not static. A judgment which you take today may be naturally different from a judgment

which you may take in 1960 or it may again differ from the judgment you may take in 1965. But I submit, Sir, that you should *not* arrive at a conclusion without arriving at a specific judgment in this matter from time to time, because if we were to do so. then we should be prejudicing the interest of industrialisation in our country. Anyone who says today that managing agencies must be abolished here and now or after fifteen or eighteen months, himself also holds the opinion, with his hand on his heart, that promotional activities can be carried on by other means and that the withdrawal of any finance which the managing agents are finding can be made up by other means.....

SHRI BHUPESH GUPTA: That is to-say that the managing agency is to continue.

MR, DEPUTY CHAIRMAN: Mr. Gupta, please do not disturb.

SHRI BHUPESH GUPTA: There is-no use your saying this.

SHRI C. D. DESHMUKH: All I can say is that this is a grievous error and they do not know the real situation in regard both to promotional activities as well as finance. I get cases almost every day where proposals are made for reconstitution. I have passed a proposal only this morning in regard to an important mining concern. Now, the new people who have come in have a great deal of experience. They brought forward a proposition under which they will take a certain amount, fourteen or fifteen lakhs of shares of the company. We have also promised a certain amount of loan, may be 20 or 25 lakhs of rupees, to the company *in order to* enable it to carry on their important undertakings. I cannot see anything wrong because this arrangement has been arrived at with the approval of the Industrial Finance Corporation which had advanced a smaller loan to this company, but which they found was ineffective

because of the lack of a larger amount of finance and of proper, experienced management.' Now, in a case like this, I hold that the interests of the country are furthered and not impeded by our approving of this managing agency, and we propose to do so. There may be other instances.

Now, what we have agreed to in the Select Committee as well as in the Lok Sabha is a scheme like this. It is our duty to find out from time to time which are the industries where promotional talent is perhaps no longer required. May be, an industry has reached its peak in this country or is so well established that it does not require any efforts at finance. Now, if that is found to exist in any industry, then it is possible that we shall put forward a draft notification now, if we accept this clause, before the House and consult them. But my point is this. What has been suggested in the amendment put forward by Mr. Bhupesh Gupta is that we first say that they will all be abolished; by a proviso, we will give power to Government to say that in any particular industry they might continue, because it assumes that, within a very short period, we shall already have collected all the evidence that is necessary in regard to all the industries in the country. Now, I say that, to a Department which will have been newly constituted, this will be a tremendous responsibility to carry and a responsibility which I, for one, will not be prepared to undertake. After all, time must be given in order to find out whether what you are doing is in the interests of the country or not. Here it is that the time element is significant. As one hon. Member pointed out, apart from the question of our taking time to find out the facts, we are on the eve of a) Second Five Year Plan where industrialisation is going to play a much more important part, and the year 1960, although it does not coincide with the end of the Second Five Year Plan, is just about nine or ten months before the end of the Second Five Year Plan. Therefore,

I say we shall have a certain amount of breathing space and we shall be able to find out the effects.

Now, this with regard to the positive side, namely, (a) existence from time to time in the country with reference to particular industries of the promotional activities and (b) the financing capacity. It is on this that we shall deal with industries as a whole.

That still leaves us with the problem of abuses. Now, here the scheme is by 1960—really four years after the Act will have come into force we find out in the case of individual concerns—where there has been no notification and where that notification has not begun to be operated—only in those cases we try to find out without prejudicing our capacity to take action continuously under clause 324. That action can be taken today or in 1960-61 in which you find changed conditions. It all depends on when we complete the investigation; it all depends on when circumstances have changed sufficiently in the country or in any industry. So far as clause 324 is concerned we are unable to deal with individual abuses. Now by that time again, i.e., by 1960, we shall have four years' experience of how this improved Act has been working. As I said the other day, we must at all costs draw distinction between the managing agents as persons and individuals who are contributing talent to the industry, and the system. I suspect, Sir, that many people are carried away by their feelings against the managing agents themselves. Shri Bhupesh Gupta made no secret of the fact that he was actuated by "hatred".

SHRI BHUPESH GUPTA: Against the system also.

SHRI C. D. DESHMUKH: But when he says "hatred" against system, it means a system which inspires hatred in him and various other people. Now I say that they are a hopeless minority. I also say.....

SHRI BHUPESH GUPTA: How do you know that?

MR. DEPUTY CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: On what basis is he making that statement? Has he enlisted public opinion?

MR. DEPUTY CHAIRMAN: Order, order. He has a right to express himself.

SHRI BHUPESH GUPTA: You always call us to order. You should ask him not to make such a statement.

MR. DEPUTY CHAIRMAN: He is on his legs and you are interrupting.

SHRI C. D. DESHMUKH: It will be quite clear that he is in a minority.

SHRI BHUPESH GUPTA: I may be in a minority in the House, but not in the country.

SHRI AKBAR ALI KHAN: Also in the country. This House represents the country.

MR. DEPUTY CHAIRMAN: Mr. Akbar Ali Khan, please sit down.

SHRI C. D. DESHMUKH: I also say that any arguments which are based on hatred are usually bad arguments because they are not based on reason.

SHRI BHUPESH GUPTA: It is reason that makes hate at serpents.

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, when one Member is standing you cannot go on standing every time. You must observe Parliamentary rules. You cannot get up and speak unless he has finished.

SHRI BHUPESH GUPTA: I observe Parliamentary rules. You always pounce upon me.

MR. DEPUTY CHAIRMAN: You cannot stand up like that. Order, order.

SHRI C. D. DESHMUKH: Now, Sir, I was going to say one should, there fore, make a distinction between persons or individuals or men and systems, i.e., the machine. What we are concerned with is a particular system. People with managerial experience and command of funds, to a certain extent, are allowed to make contracts with companies for running their affairs in a way which gives them more power, shall we say in practice, than under any other system managed by managing directors or board of directors or whatever it may be. Now, my contention is that people should not be misled by the fact that there have been abuses and that they should remember that the power to do good is inseparable from the power to do evil. In other words, what they are objecting to is not the good or the evil but the power itself, and these sentiments, coming as they do from the proponents of a managing agency in politics, you might say, that is to say, where "authoritarian".....

SHRI BHUPESH GUPTA: If you like I can get up and answer that.

SHRI C. D. DESHMUKH: Now since there is proof that their power is well exercised, people do not mind, but if, on the other hand, power is badly exercised, then the public want to take certain steps. Those steps this House is going to take in regard to the capacity for controlling this abuse.

Now, if you read, if you succeed in reading it, that can be a matter of judgment of its abuse, you may consider the positive side of it on which I spoke before. That is, shorn of all abuses, is it likely to make a contribution in a country in which proportional activities or financing capacity is still not in abundant supply. That is the question which every one must consider. My reply is that we should not take a defeatist attitude in regard to our capacity to rectify abuses, otherwise the whole of this Bill has no meaning. If you are going to start with this assumption that whatever you do

these abuses are going to continue, I say this House should reject the whole of this Bill. But I am quite convinced that with the enormous powers that we are going to assume, we shall be able to put a stop to many of these abuses. And that brings me to this particular method which we are going to adopt in regard to managing agency systems—consider it as individual systems, so to speak, about individual enterprises. Under clause 326 we say that we shall not give our approval to the continuance of the managing agency system unless we are satisfied on certain counts. What are those counts? That it is not against public interest to continue that managing agency in that particular enterprise. Surely, no one can raise any objection if we make sure that the public interest is not prejudiced by the continuance of that managing agency. I add here again that even if we take such decision under clause 326 and supposing an inquiry takes place in that industry in which this enterprise happens to be included, and in 1961 or 1962 one comes to the conclusion that for the industry as a whole no managing agents are required, judged from the positive criteria as I have already indicated, then irrespective of what action you take under clause 326, a notification under clause 324 will issue subject to the device that may be given by the Houses. That is the first condition. The other two conditions are personal fitness, which gets rid* of hereditary element, and fair and reasonable terms.

It will be relevant, when we come to further amendments here because it comprises almost everything—remuneration and any other conditions that the managing agents may have sought to impose, division of power between the company and the managing agents and in order to make the assurance doubly sure, so to speak, there are also general conditions which it would be open to the Government to impose and to see that these conditions have been fulfilled by the managing agents in that particular case before that

managing agency is continued. I think, Sir, that this from all points of view is a system which is calculated most to further the interest of the country and, therefore, I am strongly opposed to accept the amendments which have been moved by Shri Bhupesh Gupta.

SHRI KANHAIYALAL D. VAIDYA (Madhya Bharat): Why in U.S.A., U.K. and Canada is the managing agency system not accepted?

MR. DEPUTY CHAIRMAN: Order, order. Do you accept all these modified sub-clauses?

SHRI JASPAT ROY KAPOOR: I do not know what the modifications are.

MR. DEPUTY CHAIRMAN: It was read to you in the House.

SHRI JASPAT ROY KAPOOR: I am sorry, I was not here then. But since you say it was read, I accept it.

SHRI H. N. KUNZRU (Uttar Pradesh): As a matter of procedure, Sir, any change that is made must be put to the House and be accepted.

MR. DEPUTY CHAIRMAN: I am putting it to the House.

SHRI JASPAT ROY KAPOOR: I am not very anxious that it should go in my name. But then if any technicality has to be observed, the Finance Minister's amendment would be an amendment to my amendment. And ultimately, it becomes an amendment as amended by the Finance Minister. I do not mind its being in anybody's name.

MR. DEPUTY CHAIRMAN: I am now putting Shri Jaspal Roy Kapoor's amendments Nos. 149—151, as modified by the Finance Minister:

"For sub-clause (3) of clause 324, substitute the following: —

*For text of amendments, *vide co.* 4797 *supra*.

[Mr. Deputy Chairman.]

W Copies of all rules prescribed under sub-section (1) shall, as soon as may be after they have been prescribed, be laid before both Houses of Parliament.

(4) A copy of every notification proposed to be issued under subsection (1) shall be laid in draft before both Houses of Parliament for a period of not less than thirty days while they are in session; and if, within that period, either House disapproves of the issue of the notification or approves of such issue only with modifications, the notification shall not be issued or, as the case may require, shall be issued only with such modifications as may be agreed on by both the Houses'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The Question is:

269. "That at page 170, for the existing clause 324, the following be substituted, namely: —

'324. *Every managing agent to cease functioning by 31st December, 1957.*— Every managing agent shall cease to function as such on the 31st December, 1957, unless he ceases so to function at an earlier date:

Provided, however, that the Central Government may, by notification in the official Gazette, permit the continuation of the managing agents, wholly or in part, in such class or description of industry or business as may be specified in the notification:

Provided, further, that the reasons for the granting of such permission shall be recorded in writing in the said notification'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

270. "That at page 170, line 17, for the words 'three years' the words 'one year' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

271. "That at page 170, line 19, for the word 'later', the word 'earlier' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 324, as amended, stand part of the Bill."

The motion was adopted.

Clause 324, as amended, was added to the Bill.

New Clause 324-A

SHRI S. N. MAZUMDAR: Sir I move:

272. "That at page 170, after line 26, the following new clause 324A be inserted, namely: —

'3-24A. *Companies engaged in certain classes of industry not to have managing agents.*—Notwithstanding anything contained in section 324, no company engaged in the manufacture or sale of any cotton or jute textile, electrical goods or equipments, or the generation or supply of electricity, or the extracting or sale of any mineral, or in any plantation industry shall be managed by a managing agent after the 31st December, 1958, or the expiry of the term of the existing managing agent, whichever is earlier."

MR. DEPUTY CHAIRMAN: The amendment is before the House.

SHRI S. N. MAZUMDAR: Mr Deputy Chairman, my amendment wants that the managing agency

system in respect of certain industries should cease to function from now on. Now, the hon. the Finance Minister said that his was a policy of a systematic extermination of the managing agency system. Sir, I find it very difficult to imagine the suave Finance Minister in the role of the executioner of the managing agency system. Rather, so far as I have seen in the piloting of this Bill he has come forward as a protecting angel for the managing agency system which was put on the executioner's block. Sir, an overwhelming majority of the Members in both the Houses have expressed the opinion that the managing agency system should be abolished immediately. But it has been given a further lease of life. Now, Sir, in our present amendment we have sought to give the Government the power to abolish the managing agency system from 1959, and in case it is found necessary by the Government that the managing agency system is necessary for certain industries, it can notify and say that certain industries may have the managing agency system. But the industries which I have specified in my amendment, in my opinion, do not stand in any need of further continuance of the managing agency system even for a moment.

Now, Sir, much has been said in connection with the managing agency system. I do not want to go into all those things. I will only touch those points which are relevant for the purpose of making out a case for my amendment. Sir, it has been said that the managing agency system has done much good to the country. It has done good when there was lack of promotional activity and lack of initiative and lack of finance. But my contention is that the managing agency system even now is dominantly controlled by the Britishers, and they function in this country in such a manner as to keep this country as an appendage of imperialist exploitation, and exploitation of the country as a source of raw materials and as a market for the

British goods, which is, in no way, connected with the industrial development of this country. If some industries develop here, they develop in spite of the managing agency system. Now, it may be argued that because of the managing agency system there is so much development in the textile industry and other industries. But that does not mean that if the managing agency system had not been here, the industries would not have developed. The textile industry itself had developed in the face of stiff opposition from the then Government of India. Now Sir, it has been said that in our country promotional activities have been lagging behind, initiative is lagging behind. But my contention is that it is exactly the opposite. Promotional activities and initiative were stifled in this country by the vicious grip of the managing agency system. Even now what do we find? We find promotional activity and initiative in the real sense of the term among small and medium industries. There are so many small and medium industrialists, and we find their promotional activities and initiative in those fields. But they find it very difficult to push forward in the face of severe competition, fair or unfair, from the giants of the managing agency system. And now there has been an unholy combination of Indian monopolists and foreign monopolists, and this unholy alliance is stifling the growth of promotional activity and initiative of the smaller and medium capitalists.

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

Now, Sir, coming to the particular industries, my contention is that all these industries which I have specified here, for example, cotton or jute textile, electrical goods or equipments, or the generation or supply of electricity, or the extracting of any mineral, and so on and so forth, are well-established industries. These are precisely the industries where, from the very beginning, the managing agencies have devoted their attention. They do not stand in need of any

[Shri S. N. Mazumdar.] further expansion or promotional activity or any finance. Secondly, Sir, these are the industries which occupy the vital sectors of our national economy. Reference was made by Mrs. Lilavati Munshi and the Finance Minister that We have now the Second Five Year Plan. It is precisely for the fulfilment of the good aspects proposed in the Second Five Year Plan that these industries should cease to have the managing agency system from now on. As I said earlier, those good and commendable aspects in the Second Five Year Plan regarding the industrialisation of the country, the stress on developing our heavy industries, if they are really carried out, they must come into conflict with the British capital. That is not my idea only. Here is an article in the A.I.C.C. "Economic Review" and no less a person than Shri H. D. Malaviya has said that the British capital is mortally afraid that the Mahalanobis Plan will ultimately impinge upon it. They need not be afraid because that aspect has not dawned upon other Members of the Government but it has dawned upon some gentlemen and they are attacking the British capital.

My point is that in all these industries, excepting in the case of textiles, the grip of foreign capital is working to the detriment of our national interest. They have earned huge profits and have sent most of them outside the country. The total profit earned within a period of seven years have, in most cases, been double the share capital, and in some cases more than 200 per cent. One of the biggest managing agency concerns, Parry & Co., earned a total of more than 300 per cent, of the share capital as profits. I shall now take the industries one by one to show how foreign capital is working in a manner detrimental to the national interests and how it has not done anything to develop our industries.

Take the case of the tea Industry. There has been some industrialisation: In

spite of that 70 per cent, or 75 per cent of that industry is still under the control of a dozen British managing agents. This fact has been admitted by no less a person than perhaps Mr. B. M. Birla or some other gentleman of the capitalist class, in his evidence before the Joint Select Committee. Some Indian concerns have developed; some of the bigger Indian concerns are now enjoying their honeymoon with the foreign capitalists and traders. The smaller and medium concerns which developed by the sweat of their brow—I am not holding any brief for them, but the fact of the matter is—had to do so« against a stiff fight with the big, foreign concerns. Even now, they cannot develop further. Even in 1952, when a so-called crisis was manipulated by these monopolists, the whole burden was passed on to the workers: and the smaller and medium concerns. As I said on an earlier occasion, the managing agents, in regard to the tea industry, control every aspect from financing to shipping. In between, they also control the warehousing and brokerage. Because of this grip, the export market of India is still London. We have not been able to develop any other centre whereas actually there is a vast potential market in other countries. The internal market also has not been developed. We have gone through the Report of the Tea Auction Committee—which also has come to the same conclusion. In other words, they have said that nothing was done to develop Calcutta as an auction centre. Rather, the proposal to have Calcutta as an auction centre was fought against. Not only this. The tea industry is situated mostly in the distant regions of the country. These foreign monopolists are working to the detriment of our national interest in another direction. These concerns are engaging in subversive activities and are also encouraging the separatist tendencies in the frontier. There are many such cases of their not only indulging in separatist activities but also indulging in espionage. If a former military

officer is appointed as a Labour Welfare Officer of a Tea Association in such a vulnerable region, what conclusions could we draw from it? The Government, however, refuses to draw the proper conclusion.

I now come to the question of jute. In jute also, we find that though 70 per cent, of the direct ownership has now passed on to Indian hands, still half a dozen managing agencies control 72 per cent, of the total looms; e. Let us see the result of this position. The jute industry has lagged behind the target set out by the Five Year Plan. The first Five Year Plan did not envisage any expansion in the installed capacity of the jute industry which is 12 lakhs tons per year according to the Jute Enquiry Commission. These targets have not been achieved; rather, the I.J.M.A. deliberately adopted a policy of freezing utilisation of the installed capacity. Nothing has been done to develop a home market for jute even though there is a vast possibility; I should rather say that the possibilities of developing the home market have been thwarted. The producers of raw jute, the poor agriculturists, are deprived of sharing the advantage, accruing to the jute industry. It is these Jute bosses who have prevented the fixation of a floor price. On the other hand, with old and worn out machinery, the bosses have launched upon a campaign of speeding up and rationalisation, a reduction in the labour force and so on resulting in the number of accidents going up in recent years.

I now come to the coal Industry. Here also we know that the grip of foreign capital is very tight. If we were to go through the different reports submitted by committees which have gone into the coal industry, we shall find that it has worked in a manner detrimental to the national interest. We heard much about the question of preservation of metallurgical coal but that question was

taken up only at a later stage when the reckless working of the coal mines with the profit motive as the sole guide, led to the reserves of metallurgical coal reaching a dangerously low level. Nothing much has been done about this and we know that the output of coal is lagging behind. The working of the coal mines has been in such a manner that the number of accidents have increased resulting in the loss of life of many workers. There is a proposal that the coal industry should be nationalised. This proposal has reached an acute form and added importance in view of the facts I have mentioned above.

I now come to the electrical goods industry. Both the first Five Year Plan and the second Five Year Plan have envisaged an increase in the production of electricity. This is important for the development of our country. This cannot proceed further unless the electricity generated, is consumed by the industries. Here the question of increasing the production of electrical goods assumes importance. Unless that industry runs in a proper form, conforming to the national interest and conforming to the Plan, all these grandeur schemes of electrification will come to be shipwrecked.

I now come to the textile industry where the Indian managing agents predominate. Here also, some of the big concerns like Harvey Bros, and the Buckingham & Carnatic Mills are controlled by the foreigners. We know how the textile production increased; we know the role of the managing agents and we also know how the managing agents, in Bombay and Ahmedabad, amassed profits for five years which amounted to the total paid-up capital of the industry. Yet, when there was a slight decrease in production, mills were closed and workers were retrenched. Government had to come, not to the rescue exactly but to the so-called rescue of the industry, and grant some concessions

[Shri S. N. Mazumdar.] to it. The industry has now concentrated more on exports whereas the average consumption of cloth per annum in the country is yet below the pre-war level.

Considering all these facts, it is my firm opinion that all the arguments which have been advanced by the gallant defenders of the managing agency system for granting a further lease of life to the managing agency system do not apply here. These are the industries which do not require for a moment the continuance of the managing agency system. If the hon. the Finance Minister is really thinking of coming forward in the role of a ruthless exterminator of the managing agency system, let him begin with this. I cannot believe or imagine him to act in the role of the exterminator of the managing agency system because it is he who has come forward to grant a lease of life to that system. It is the progressive forces of the country belonging to the different parties and even outside the parties which have asserted themselves so that the managing agency system after a long period, was put on the executioner's block. The role of the Finance Minister has been to stay the hand of the executioner for a further period. The progressive forces will further assert themselves and will see that this system is exterminated but the forces have to act through some persons. The Finance Minister may be in love with the managing agency system—I say this because I heard him speaking on one occasion that the quantitative amount of the good done by the managing agency system has not been gone into and no research has been undertaken into it and if a research was undertaken, then much could be said in its defence. I wonder why, while the managing agency is under fire for the last two decades, it did not occur to these gentlemen to undertake a research into all the good that has been done by them but it has dawned upon the Finance Minister at this late hour to point out its aspect.

However, I finally submit that these are the industries from which a start should be made immediately in the process of extermination of the managing agency system.

SHRI C. P. PARIKH (Bombay): Sir, I oppose this amendment because it has specified specific industries' without knowledge of the industries. In the first place the textile industry is there and the hon. Member forgets that about 300 units in the country require renovation and reconditioning costing to the extent of 200 crores of rupees which somebody will have to find out and some institution will have to be there for management in order to utilize these funds. Even though the Finance Minister has amply clarified this point, Mr. Mazumdar misses it. I don't know what he is going to do if we are going to change the system. Whom are we going to put in charge? That he has not said. The same thing can be said about the jute industry. Although both these industries have an installed capacity which is, in his opinion, adequate, even then renovation also in the jute industry is necessary. He says we have not reached the target.

SHRI S. N. MAZUMDAR: My complaint is that the installed capacity was not utilized.

SHRI C. P. PARIKH: I am not yielding. With regard to the jute industry, we are losing on export because the units that are existing now have no funds to renovate them. Now the Industrial Finance Corporation as well as the Industrial Development Corporation are now coming in the field to advance them finance. But to whom will they advance? They will advance to the managing agents in whom they will have trust in order that the funds will be utilized and the country's interests are safeguarded. Unless we substitute this system by any other, system which is better, the purpose will not be served. Therefore, I oppose the amendment.

THE MINISTER FOR REVENUE AND CIVIL EXPENDITURE (SHRI M. C. SHAH): I will not take much time of the House in opposing this new clause. When we have passed clause 324, I feel that this new clause was not required here though it is not barred because the Mover of the amendment has been clever enough to just insert the words "notwithstanding clause 324". So, I cannot contend that this new clause is barred but when the policy decision has been already taken by the House, I don't think that the House will be justified in accepting this new clause on the argument advanced by Mr. Mazumdar. The views that Mr. Mazumdar has expressed may perhaps be helpful in the enquiry that we propose to undertake as was explained by the Finance Minister. We cannot act on opinions. It may be a very genuine opinion but we cannot act upon the opinion of the hon. Member who moved this amendment. After all this will be an opinion. It cannot be a conclusion arrived at after a detailed enquiry which is absolutely essential when we have to come to a certain conclusion as to whether a certain industry will require managing agency or not. As has been amply said on more than one occasion by the hon. the Finance Minister, we cannot take any decision unless we have had a very thorough enquiry into those industries. The moment we come to the conclusion that there is no necessity for a managing agency in a particular industry, then we will not hesitate to come forward with a notification to be placed before both Houses of Parliament to be adopted by them. At present I don't think we will be well advised to accept the proposition that certain industries mentioned by Mr. Mazumdar in his amendment do not require managing agency without going into those industries very thoroughly and so I submit that the House should reject this amendment unceremoniously.

SHRI BHUPESH GUPTA:— Why unceremoniously—why not ceremoniously?

SHRI M. C. SHAH: Because it does not require any attention. This is only because this amendment has been moved by those gallant opponents of the managing agency system who have no knowledge about the managing agency system and its working.

AN HON. MEMBER: Supporters know much about it.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

272. "That at page 170-, after line 26, the following new clause 324A be inserted, namely:—

'324A. *Companies engaged in certain classes of industry not to have managing agents.*—Notwithstanding anything contained in section 324, no company engaged in the manufacture or sale of any cotton or jute textile, electrical goods or equipments, or the generation or supply of electricity, or the extracting or sale of any mineral, or in any plantation industry shall be managed by a managing agent after the 31st December, 1958, or the expiry of the term of the existing managing agent, whichever is earlier'."

The motion was negatived.

SHRI BHUPESH GUPTA: Is it ceremoniously or unceremoniously?

SHRI M. C. SHAH: Unceremoniously.

Clause 325 was added to the Bill.

Clause 326.—Central Government to approve of appointment, etc., of managing agent; and circumstances in which approval may be accorded.

■ SHRI SHRIYANS PRASAD JAIN (Bombay): Sir, I move:

83. "That at page 171, for lines 6 to 15, the following be substituted, namely:—

'(2) The Central Government shall not refuse its approval under

[Shri Shriyans Prasad"Jain.]

sub-section (1) in any case, unless it is satisfied—

(a) that it is not in the public interest to allow the company to have a managing agent;

(b) that the managing agent proposed is not, in its opinion, a fit and proper person to be appointed or re-appointed as such, and that the conditions of the managing agency agreement proposed are not fair and reasonable; and

(c) that the managing agent proposed has not fulfilled any conditions which the Central Government requires him to fulfil."

SHRI LALCHAND HIRACHAND
DOSHI (Bombay): Sir, I move:

152. "That at page 171 for lines 4 and 5, the following be substituted namely:—

'(b) unless the Central Government has not refused such appointment or re-appointment under subsection (2)'."

I also move:

153. "That at page 171, for lines 6 to 15, the following be substituted, namely:—

'(2) The Central Government shall not refuse its approval under sub-section (1) in any case, unless it is satisfied—

(at) that it is not in the public interest to allow the company to have a managing agent; and

(b) that the managing agent proposed is not, in its opinion, a fit and proper person to be appointed or re-appointed as such, and that the conditions of the managing agency agreement proposed are not fair and reasonable'."

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

154. "That at page 171, after line 15, the following be inserted, namely:—

'(d) that in the case of a manufacturing company with a paid-up-capital of over four lakh, and fifty thousands rupees, twelve and a half per cent, of the total managerial remuneration received by way of percentage on net profits, is provided to be shared by a part-time or full-time technician or technicians holding a diploma or degree.

Explanation.—For the purposes of this clause, a manufacturing company is a company to which the Factories Act, 1948, applies'."

Sir, I also move:

240. "That at page 171, after line 15, the following be added, namely:—

'(d) that the percentage of remuneration is reasonable according to the circumstances of the company'."

SHRI BHUPESH GUPTA: Sir, I move:

273. "That at page 171, line 2, after the words 'managing agent', the words 'or its directors' be inserted."

I also move:

274. "That at page 171, line 3, after the word 'company', the words 'by a special resolution' be inserted."

I also move:

275. "That at page 171 after line 5, the following be inserted, namely:—

'(c) unless the approval of the Central Government is obtained as to the appointment of the directors on the ground that they conform to the qualifications as may be laid down by the Central

Government for such directors provided however that the Central Government may lay down different qualifications for the directors of the managing agent dealing in different types of industries'."

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

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

327. "That at page 171, after line 15, the following be inserted .namely: —

'(d) that the remuneration is ■shared to the extent of twelve and .a half per cent, by technicians possessing a prescribed degree or diploma in manufacturing companies having a paid up capital of over four lakhs and fifty thousand rupees'."

THE VICE-CHAIRMAN (SHRI H. C. TMATHUR): The clause and the amendments are open for discussion.

SHRI BHUPESH GUPTA: Sir, I rise -on a point of order before I take up .discussion on the amendments.

A large number of amendments ;stand in the names of some of UK and sve feel that our privileges are not being properly upheld.

"Now, I shall relate the rules. First of all take up the Constitution, article ;105, which says:

"Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament."

Then, there are other articles guaranteeing this freedom. Now clearly from the Constitutional provision that we have got here, freedom of speech is only subject to regulations and stand-

* * * Expunged as ordered by the Chair.

ing orders ansr procedure of Parliament. This brings me to the procedure of Parliament. But before I come to that, I should like to deal with one point. When the Business Advisory Committee has fixed a certain thing and we are a party to it, then I would stand by it. But I submit that the procedure laid down has not been maintained on the floor of this House, in this respect.

Sir, on the 21st of September, 1955, there was a meeting of the Business Advisory Committee where certain decisions were taken with regard to the allotment of time. Now, I come to rule 28F of the Rules of Procedure which reads as follows;

"As soon as may be after the report has been made to the Council, a motion may be moved by a member of the Committee designated by the Chairman of the Council 'that this Council agrees with the allocation of time proposed by the Committee in regard to such and such Bill or Bills', and if such a motion is accepted by the Council, it shall take effect as if it were an Order of the Council:"

And the Deputy Chairman announced this here—I am reading from the proceedings of this House:

"I have to inform hon. Members that the Business Advisory Committee has allotted time as follows for legislative and other business during the remaining part of the current session of the Rajya Sabha:—"

And then follows a list of the Bills and the time allotted against each of them. And then he continues:

"In order to be able to complete this programme, the House would sit also on Saturday, September 24, Saturday October 1, and Monday, October 3, 1955. The House..... "

SHRI P. T. LEUVA (Bombay): But. why interrupt the present proceedings by reading out the past proceedings of this House?

SHRI BHUPESH GUPTA: Sir, I am on my legs and.....

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): All right, you proceed.

SHRI BHUPESH GUPTA: Yes, Sir. And the Deputy Chairman goes on to say:

"The House will sit every day from 11 A.M. to 6 P.M. without any recess for lunch. There will be no Question Hour on October 3, 1955.

The House now stands adjourned till 11 A.M. tomorrow".

Here the provision is that the decision taken by the Business Advisory Committee is to be reported to the House and the sanction of the House sought. For it lays down:

".....a motion may be moved by a member of the Committee designated by the Chairman of the Council 'that this Council agrees with the allocation of time proposed by the Committee in regard to such and such Bill or Bills' and if such a motion is accepted by the Council, it shall take effect as if it were an Order of the Council :"

But Sir, this particular procedure, I submit, had not been observed in this case, because it was not placed in the form of a motion before the Council.

* * * * *

That is point No. 1.

Therefore, let us be clear. We certainly stand by the decision arrived at the meeting of the Business Advisory Committee. But it had not been properly endorsed on the floor of this House.

* * * * *

That is my point No. 1.

My second point is this. With regard to the discussion, no fixed time is generally allotted for the Company Bill or any other Bill. Earlier, here,

* * * Expunged as ordered by the Chair.

Of course, it was settled to allot separate time for each stage of the Bill. When allotment of time is made, according to the rules no one can alter the time, except, of course, according to the procedure laid down under the rules. We are not on that: but the question here is: Can the Chair direct, in the matter of debates, when the debate is taking place? There I come up against this rule to which I would like to invite your attention. That is rule 86 in the Rules of Procedure which says:

"Amendments of which notice has been given, shall, as far as practicable, be arranged in the list of amendments, issued from time to time, in the order in which they may be called. In arranging amendments raising the same question at the same point of a clause, precedence may be given to an amendment moved by the member in charge of the Bill. Subject as aforesaid, amendments may be arranged in the order in which notice of them is received."

What I mean to point out is, nowhere is there any provision in the rules whereby it is possible for the Chair to intervene in the debate, except when the debate does not conform to rules 200 of the Rules of Procedure. My submission is that the Chair cannot say that it would not allow any speech or anything of that sort, unless and until it is satisfied under certain specific rules of procedure of this House. We feel that every Member is.....

SHRI H. C. DASAPPA (Mysore):: May I rise to.....

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Let him explain his point first; then you can have your say.

SHRI BHUPESH GUPTA: Yes, let me finish my point of order, and then my hon. friend there can raise a counter point, if he likes. Let him at least have the patience to hear the point of order that I am making.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Yes, yes. Please go on with the point of order.

SHRI BHUPESH GUPTA: Yes, Sir. I only say that if there are interruptions it will only take more time.

What I feel is that certainly the Chair is in a position to give certain directions, but that again it must do within the four corners of the Rules of Procedure and Conduct of Business. The Chair has certain discretions, no doubt, but they are also covered by the Rules of Procedure. When a Member is speaking, there can be intervention only in such cases as are given in the rule.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Which rule?

SHRI BHUPESH GUPTA: Rule 200 says:

"That a member shall not, while speaking:

(i) refer to any matter of fact on which a judicial decision is pending;

(ii) make a personal charge against a member:

(iii) use offensive expressions about the conduct or proceedings of the Houses or any State Legislature;

(iv) reflect on any determination of the Council except on a motion for rescinding it;

(v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms;"

and then there is an *Explanation*.

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THE VICE-CHAIRMAN (SHRI H. C. MATHUR): But your point of order must be in respect of one specific point. You cannot raise a point on the general

proceedings. So let me know which particular point you are raising.

SHRI BHUPESH GUPTA: As far as I am concerned, I am on the point of privilege and on the point of order I am only drawing your attention to this matter so that in the future discussions we have not to face the same difficulties, otherwise we cannot take part in the discussions.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): I do not know if it is a point of order.

SHRI B. C. GHOSE: But what he is raising is a point of order and a point of privilege, I am only trying to explain the position, I am not supporting or opposing Mr. Gupta.

SHRI BHUPESH GUPTA: I had given notice of this, that I would raise it.

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Therefore, at this hour I have raised it. I say that I can raise a point of privilege at any time in the discussion. At any time I can raise it.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): But, Mr. Gupta, you rose saying you were raising a point of order and.....

SHRI BHUPESH GUPTA: And privilege, I say.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): But you cannot mix up the two things.

SHRI BHUPESH GUPTA: But then... •

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): I am on my legs. Please sit down.

The first thing is this. I have no objection to your raising a point of order in relation to any proceedings that took place before I came to the Chair. But if you are raising a point

* "Expunged as ordered by the Chair.

[Shri H. C. Mathur.] of order, it should, as you will see in rule 218, relate to a specific point. So please proceed with that on which you want to raise the point of order so that we can come to certain conclusions. Then after coming to a decision on that, we can proceed to any other matter, if you have got anything to say further.

SHRI BHUPESH GUPTA: Sir, the thing is this. When the Minister was giving a reply

SHRI LALCHAND HIRACHAND DOSHI: Is this a point of order or a point of privilege?

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Point of order.

SHRI BHUPESH GUPTA: The hon. Minister gives a reply and the reply relates to certain Members or the party to which he belongs. Under the rules there is provision for a Member to get up and offer a personal explanation. Naturally by personal explanation I do not mean that I refer to some of my private affairs. That is not the only thing which is intended to be covered by this provision.

• * * *

Now, with regard to future discussion on the amendments, I would only like to say that the Chair has no power under the rules to stop discussion unless it is satisfied that sufficient discussion has taken place. In such cases, or course, the Chair can say that the Chair does not want any more discussion on the matter, that the matter has been sufficiently discussed.

When we proceed to the clauses, if it is intended that the discussion should be curtailed, there is the procedure of a closure or guillotine open to the House. It is not for the Chair to say that the discussion is over and that it will not allow a Member to speak. It

is not open to the Chair to prevent* any speaker from referring to anything, unless it is covered by the rules of this Sabha. Therefore, we hope that our rights would be guaranteed.

SHRI H. C. DASAPPA: There is no point of order.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Have you anything further to say?

SHRI BHUPESH GUPTA: I say that when we speak we should be guaranteed our Constitutional right and no direction should emanate from any quarter which is not in conformity with the Rules of Procedure of this House

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): There is no point of order.

SHRI B. C. GHOSE: On the matter which Mr. Gupta mentioned, there is one point on which I should like to say a word to remove misunderstanding. That is about a motion moved in the House on the decision arrived at by the Business Advisory Committee. There is provision for this in the rules, but I was present at that meeting and, when it was suggested that a motion might be moved, I said that there might be difficulties, then it would be inflexible and that, therefore, if we put it from the Chair, we might extend the time, and, therefore, the motion need not be moved so that the House would not stand committed to these particular hours and so that an option would remain for us to extend the time or to have any longer hours. I think that was the reason why a motion was not moved.

SHRI BHUPESH GUPTA: I now come to know that a certain decision was arrived at

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): There is no point of order.

***Expunged as ordered by the Chair.

Now, regarding discussion and facilities to Members and accommodation to them, es has been already explained by Mr. Ghose, a motion was not formally moved to allow a certain flexibility and it is only with the co-operation of the House that the Chair wanted to proceed in this matter. The Business Advisory Committee's recommendation is only advisory in its very nature. They had another meeting of the Advisory Committee in which you were also invited to participate.

Regarding the conduct of this Companies Bill itself, let me assure you that it would be the anxiety of the Chairman to see that all view-points are accommodated.

SHRI JASPAT ROY KAPOOR: No information has been given so far that certain non-Members are also invited to the meeting of the Business Advisory Committee, May I know on what basis non-Members are invited?

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): It has no relevance to this.

SHRI BHUPESH GUPTA: Yes Sir, you are very right.

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SHRI LALCHAND HIRACHAND DOSHI: On a point of order

SHRI BHUPESH GUPTA: Can he speak from a different seat?

SHRI LALCHAND HIRACHAND DOSHI: Am I to understand that this decision of having 50 hours for discussion on the Companies Bill is not going to be rigidly followed or that the time will be extended?

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): It has already been done. That was the reason why a formal motion was not moved. If necessary we can extend the time. It is entirely for the House to decide.

SHRI SHRIYANS PRASAD JAIN: What will be the time?

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): That will be known to the Deputy Chairman. They had a Business Advisory Committee meeting today. I am not aware of the decision yet.

SHRI BHUPESH GUPTA: * * * Mr. Vice-Chairman, chapter III is an important chapter and, therefore, we consider it our duty to advance our amendments with regard to this particular chapter clause by clause, because this chapter deals with a very important institution in company affairs namely, the managing agency system. We have made our position quite clear in the course of the discussion that the House has gone through up till now. Clause 326 deals with Central Government's powers to approve of appointment, etc., or managing agent. We want to extend this to directors also. Then we propose also to add the words "by a special resolution". These are the two major points that we propose to incorporate. We are in favour of restricting the powers of this institution. Now that you have retained this institution you should see to it that its powers are curtailed as much as possible and it is placed in a situation from where it would be difficult for it to act against the interests of the shareholders or of the public or of the employees. Now that we are going to have a separate Department to administer company law, for which I understand that a grant has also been asked for and passed in the other House and the matter will come before this House shortly, I do not see any reason why the Government should not retain powers in its hands with a view to going into such cases and giving approval when managing agents and directors are appointed in certain cases. This is all that I wish to say about this matter. When I say this

***Expunged as ordered by the Chair.

[Shri Bhupesh Gupta.] thing, I have before me in mind that the gentlemen in the Ministry have friends amongst managing agents. Even so I would like to give them the power because I feel the public opinion and the pressure of the majority of the Congressmen opposite will be made to tell on the Administration some day or the other and the concerns will not be in a position to get away with their friendship in that manner.

SHRI C. P. PARIKH: Sir, with regard to this clause I do not know what Mr. Bhupesh Gupta means with regard to "managing agent or its directors". It means directors of managing agents. Managing agents as such have no directors. I think he means the directors to be appointed By managing agents. If so the proper words should have been there. So I think, Sir, that amendment does not deserve any consideration. Do you mean the directors to be appointed by the managing agents?

SHRI BHUPESH GUPTA: No.

SHRI C. P. PARIKH: All the directors.

SHRI BHUPESH GUPTA: No.

SHRI C. P. PARIKH: Or the directors of the managing companies.

SHRI BHUPESH GUPTA: No, not at all. Some of them I would not like to be appointed by them at all, by the managing agents. Only those who are appointed should have the approval of the Government.

SHRI C. P. PARIKH: Therefore, that position does not stand.

Now, this clause is very important in this way that till . 1960 all the appointments of managing agents will be made by the general meeting and will be approved by Government. Therefore, during this whole period Government will be exercising great control over the appointment of managing agents. In addition to get-

ting the sanction of the company in general meeting there is the further provision made in sub-clause (2) and the clauses (a), (b) and (c) under it are very important, because, first of all, the Government can terminate any managing agency unit-wise if it is not in the public interest and I think, Sir, it means that Government will have the right to abolish and terminate the managing agency in any unit if they consider there it is not in public interest and that clause will show that Government have made great efforts in mending the present managing system and I think, Sir, the managing system which will prevail hereafter will be entirely different from what it is now. Now, the sub-clause (2)(b), I think, is too wide. This sub-clause is not clear to me because they have taken too much power and also they have not clarified who will be "a fit and proper person" and what do they mean by "that the conditions of the managing agency agreement proposed are fair and reasonable". That, Sir, is very wide. It means that Government may say that a person is not a fit or proper person. It is very difficult to understand what is meant by "a person is not a fit and proper person to be appointed as such." I think, Sir, for that if they mean anything, then it should be prescribed by rules that on these lines they will receive an application of a managing agent, that such and such qualifications will be necessary to appoint a managing agent and such and such persons will have to observe such and such conditions. But what the Government mean by "the conditions of the managing agency agreement proposed are fair and reasonable" and what Government have In view, it is very difficult to understand for those who want to carry on the management of business. Therefore, Sir, by rules this sub-clause should be made very clear. Now, what I suggest there is this. Two conditions should be there that the remuneration that is given to a managing agent is fair and reasonable according to the circumstances of the company. If that

is incorporated, that will meet the condition which the hon. Minister has in view, in my opinion. But, Sir, it is not mentioned and, therefore, I have moved an amendment that reasonable remuneration will be given to the managing agents. If that subclause is there, then as regards remunerations, he will be particular in approving remuneration according to the circumstances of each company. Then, Sir, the companies will be able to know how to proceed in the matter, but in the general way as it has been laid down, it is very difficult.

Now, I come to my second point and it is this. When managing agents are to be appointed in manufacturing concerns, if they want to promote the industrialisation of the country, in the way in which we desire, I say, Sir, the managing agents should share twelve and a half per cent, remuneration with the technician and that technician may be of their own choice, of their own family, but in order that in a manufacturing concern the management does not suffer for want of technical knowledge, this sub-clause is necessary. They may also give such remuneration to the technicians who are working in the concern itself. That also should be sufficient. They may have a consultant, an outside technician, whom they may pay such remuneration. But there must be somebody in the constitution of the whole managing agency system. I mean, a technician who is getting such remuneration of twelve and a half per cent. I have advanced these arguments yesterday and the hon. the Finance Minister said: How to incorporate this? There is no public opinion. In order that public opinion may be created and in order that we may know what the duties of the managing agents are, in order to create that circumstance I have put forward this amendment because the technician's help is very necessary in carrying out the activities of a concern, especially, when it is a manufacturing one; and if out of his own remuneration twelve and a half per

cent, is to be shared to the technician, I think, Sir, the production of the concern will increase and it will be known outside to the shareholders and they will approve of the best technician because technicians are the main lever of a manufacturing concern. If, as he said, it is not adopted now, it may have to be adopted at a later date because in foreign companies, if we examine them, most of the persons or half the number of persons in management in manufacturing concerns are technicians. In Indian companies technicians do not share—I myself know—in the managerial remuneration. Therefore, this should be provided, as I said, and they should share in the twelve and a half per cent, remuneration of the managing agents. They may train the members of their own family, relatives, friends, whomsoever they like, but a qualified person should be there in order that the concern is carried on in a satisfactory manner.

Then, Sir, with regard to the clause about conditions, it should be made clear that the prescribed conditions are there, and naturally sub-clause (c) will not be useful.

With these words, Sir, I commend my amendment.

SHRI LALCHAND HIRACHAND DOSHI: My amendment is rather a positive thing than sub-clause (1)(b) as mentioned here, which is negative. My amendment says that as long as the Government have not said 'No' there should be freedom for the company to appoint a managing agent or to reappoint him whereas this subclause (J)(b) says: "unless the approval of the Central Government has been obtained for such appointment or reappointment." Sir, there is no need to wait for this because, after all, the Government are going to say whether the managing agents shall be there or shall not be there industry-wise and as long as such a notification has not been forthcoming, it should be the freedom of the company to

[Shri Lalchand Hirachand Doshi.] appoint the managing agents or the treasurers or the managing directors. As the system has been approved in this Companies Bill providing for alternative systems of management, it should be the freedom of the company to appoint or choose whichever form of management they want to have and as long as the Government have not said 'No' for the managing agent, well, the company should have the freedom to make its choice. This is the main object of this amendment and I do hope the Government will accept it.

SHRI SHRIYANS PRASAD JAIN: Mr. Vice-Chairman, the purpose of this clause is: Where there is no notification by the Government in a particular industry, the managing agent shall not be appointed only by the shareholders. This clause empowers the Government to approve the managing agents unit-wise. I welcome this clause, but there are certain difficulties in its working which I would like rather to point out here. Shri Bhupesh Gupta has put in an amendment, No. 274, wherein he says that the words "by a special resolution" be inserted after the word "company". In this connection I would rather like to draw his attention to the fact that this clause was very much debated in the Joint Select Committee and previously it was suggested that this might be passed by a special resolution. But there was no provision that after it is passed by a special resolution, that resolution must come before the Government for its approval. After much debate a *via media* course has been adopted that so far as the shareholders are concerned, they should pass the resolution by a simple majority and afterwards it will come up for the approval of the Government so that the interests of the shareholders, if unfortunately they cannot safeguard them themselves, could be safeguarded by the Government. So if there is any misapprehension in the mind of Mr. Gupta, I can say that it would

be safeguarded by the Government, if it is not looked after by the shareholders themselves.

Sub-Clause (2)(b) says that a managing agent shall not be appointed or re-appointed unless the approval of the Central Government has been obtained for such appointment or reappointment. In this connection I would like to say to the hon. the Finance Minister that if he is not prepared to have here a time limit for such sanction, then that must be provided in the rules and if within that time limit sanction is not forthcoming it must be construed that the sanction has been given. Suppose an application has been made and no sanction is received, say, for three, four or six months, the business cannot wait indefinitely. Who will manage the company if the term of the managing agent has expired? Therefore, the sanction must be forthcoming within a specified time, two or three months, whichever is reasonable; and if no sanction is forthcoming within that period, it should be construed automatically that sanction has been obtained. The hon. Minister may provide any time limit in the rules so that there may be a clear understanding that within that time 'yes' or 'no' will be coming from the Government.

As regards sub-clause (2) (a), it says: "that it is not against the public interest to allow the company to have a managing agent". When a notification has not been issued, presumably it is to be understood that it is not against the interest of the public to sanction the appointment of the managing agent. I cannot visualise any situation where the managing agent is permitted to be appointed in a particular industry and at the same time it is not in public interest to have him. We cannot visualise such a situation. I do not "know; I had also asked this in the Select Committee. I do not know the meaning of this. If it is not in public interest you will

abolish, the "whole managing agency in •that particular adustry.

Sub-clause (2)(b) says: " that managing agent proposed is, in its opinion, a fit and proper person to be appointed or re-appointed as such, and that the conditions of the managing agency agreement proposed are fair and reasonable". In this connection I would rather like to know from the hon. the Finance Minister what would be the yardstick for judging whether a person is a fit and proper person. So far as the present managing agents are concerned, probably there will be less difficulty. The record is there and it can be seen whether a particular agent has been functioning in a proper manner and whether he has been running the concern properly. But what about the newcomers? When they want to come in, how are you going to decide whether a newcomer is a fit and proper person? Unless you have an opportunity to see his work, you cannot decide whether he will be able to function in a proper manner and whether he will be fit and proper for appointment. So instead of putting it this way, I think it would be much better if it is said, "unless he is unfit or improper person". Give him a chance; see whether he is doing his work all right, whether he is functioning according to the regulations, whether he is acting in public interest. Otherwise, it will be very difficult for the Government to say that a newcomer is or is not a fit and proper person. There may be other difficulties also. People may go to the courts and question the decision of the Government. They might ask how the Government have come to this conclusion. There may be prolonged litigation. I do not hope that such a situation might arise but I think it would be better to avoid such a situation. So, I would suggest to the Finance Minister that instead of writing in this positive form, we should put it in a negative form and say "unfit or improper person". That would

solve the difficulty and it would not lead to litigation, particularly in the case of newcomers. With these words-I suggest that the Finance Minister might give thought to what I have said.

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Vice-Chairman, I welcome this clause very much and I particularly welcome the provisions contained in sub-clauses (2) (a) and (2)(b). I will first make some observations with regard to (2)(b). I think it is a properly worded clause and it ought to be flexible as it is now. The Government must be given ample discretionary power to decide who is a fit and proper person to be appointed a managing agent. It will not be very difficult for the Government to decide on each individual case whether the applicant is a fit and proper person or not. I am opposed to the idea of making beforehand any set of rules, as suggested by my hon. friends over there. If you look to the words, the meaning is very clear. The Government will have to examine and make up its mind whether a particular person who has made an application to be appointed or reappointed as managing agent is a fit and proper person or not and for that purpose they will have to see firstly the record of his business morality. What has been his business morality and how he has conducted himself in the business. That will be quite enough for the Government to decide whether he is a fit and proper person or whether he is not fit. I am sure the Government will not permit undesirable persons to continue in the managing agency system.

Then, I would also not like that this matter should be taken to the law courts when an application is rejected by the Government. We should see that a provision is made in the law itself that it is not open to that person to go to the law court. The decision of the Government must be final. I will insist on that and if there is any loop-hole on that account

[Shri Rajendra Firatap Sinha.] I would like the Finance Minister to get this point examined so that there may not be prolonged litigation as anticipated by my hon. friend there. I would like that the Government decision in this matter should be made absolute and non-justiciable.

Coming to sub-clause (2)(a) I am opposed to the suggestion that if an industry has not been declared not to have managing agency under clause 324, then this clause must not be allowed to operate, because whenever a particular application comes to the Government, it should have the liberty to examine each and every case and at that time to take a decision as to whether it is or it is not in public interest to permit that company to be managed under the managing agency system. May be that on that particular case, the Government may also decide that that industry as a whole should not have managing agency. So let it be decided on each and every case. There is no point in fettering the hands of the Government that unless they have taken a decision and issued a notification under clause 324, they cannot apply this provision. I do not agree with that suggestion.

In the end, I would like the Government to take note of the strong opinion that is in this House—not only in this House but also in the other House—against the system of managing agency. I would like the Government to note that this strong opinion against, this system is not only in this side of the House, but there is a very, very strong section in the ruling party itself which is opposed to the continuance of this system. And, therefore, because it is a democratic Government they ought to be responsive. The legislature is arming the Government with ample powers and they must justify the powers that are being given to them. Not only they should put an end to the abuses that are existing in the managing agency system, but they should use the powers that are being given to them for encouraging other methods and forms of **corporate** management that is indicat-

ed in this Bill. And I say, Sir, that, this clause 326, if properly used by the Government, will encourage other forms of management. And I am sure if the Government does not make a judicious use of the power that is vested in them under this clause, the other forms of management—secretaries and treasurers, managing directors or director management—will not develop.

Then Sir, this is a very handy clause to get implemented the decision that the managing agents will not manage more than ten companies. I apprehend that there will be attempts to circumvent the provision of not managing more than ten companies. And the Government will be amply justified if they take action under sub-clause (2)(a) to reject such applications when they feel that the application is there in order to circumvent that provision. They should see under this clause that the spirit of the clause is carried out. That is to say, one managing agent does not manage more than ten companies. And I am sure that if they make proper use of this power vested in this clause, they will be encouraging other forms of management. I would also warn here that if they do not make a proper use of this clause to prohibit on a large scale management of corporate bodies and the managing agency, other forms of management will not flourish in this country. Thank you.

SHRI M. C. SHAH; Mr. Vice-Chairman, I am afraid I cannot accept any of the amendments proposed by Mr. Chandulal Parikh, Mr. Shriyans Prasad Jain, Mr. Lalchand Hirachand Doshi and Mr. Bhupesh Gupta

SHRI BHUPESH GUPTA: Not in the same breath, but after a little pause.

SHRI M. C. SHAH; Now, so far as Mr. Parikh is concerned, he has got a pet theory of associating technicians with the Board of directors. Failing that he wants to give by Statute a certain percentage of remuneration to technicians in order to encourage the class of technicians. His objective is

good. But I am afraid that the objective cannot be attained by inserting the clause he wants to have inserted in the Bill. So, I am afraid it - will not be possible to accept that amendment. He has been replied to on that point at very great length by the Finance Minister, but he has tried again to contest that position. But the fact remains that we cannot have in a Statute such a provision.

Now, my friends, Mr. Shriyans Prasad Jain and Mr. Lalchand Hirachand Doshi, want to have full freedom to have the managing agency system. They say that as long as under clause 324 industries are not notified, the managing agency system should be allowed to continue

SHRI SHRIYANS PRASAD JAIN: No, Sir. That is not my contention. I have not said that.

SHRI M. C. SHAH: If it is not yourself, it is Mr. Lalchand Hirachand Doshi. This clause also was discussed at great length and each word of it was put there after full discussion and considering all the pros and cons. They want to have a negative formula. That means that they want to throw the onus on the Government to say that it is not in the public interest. I say, they cannot do that. When we find that the managing agency system is not necessary in the interests of the nation in a particular unit then we have taken powers under clause 326 not to approve the managing agency system.

They have raised an objection to the words "a fit and proper person". That is a wording commonly known. He may look into the dictionary. They must rest content with the mature judgement of the Government to say whether a person is fit and proper. According to my friend, Mr. Shriyans Prasad Jain, Government should "form an opinion as to whether that managing agent has behaved well or bad, or has acted against the interests of the company for his own well-being. That is correct. But about the new

people also coming in, there will have to be some machinery to find out whether that person is "a fit and proper person" and could be entrusted with public moneys in the undertaking that he wants to initiate. Therefore, it is absolutely clear that the words whether he is a "fit and proper person" should be there. It is very well known that if a man wants to come to a business concern, he must have his past antecedents verified, in order to ascertain whether that person is fit and proper to be entrusted with public moneys. Therefore I feel those friends who are advocating this freedom to the managing agents should be satisfied that they have got this time when they will be on trial and they must prove their worth and the trust that is being reposed in them by the shareholding public. So, whenever there is an application for the appointment or reappointment of a managing agent, Government means to exercise the powers, that have been given in clause 326 judiciously, but at the same time effectively. I can assure my friend, Mr. Rajendra Pratap Sinha, that these powers under this clause will be exercised with great care and effect at the same time judiciously. He said that the decision of the Government should be final. I agree with that view, though we have not put it in the clause. If we find that there are persons who want to take the Government to litigation and to courts, then we will have to bring an amending Bill. An amending Bill will have to be brought forward very soon because this is a very long Bill and we will have to get experience of its working. And there may be certain loop-holes, although we have tried to make it as perfect as possible. But human ingenuity being what it is, many people would take the advice of the legal profession and will try to circumvent one or the other. The moment we come to know of that in the working, of this Act, I can assure the House that we will not be lagging behind in bringing forward an amendment to plug these loop-holes when-

[Shri M. C. Shah.] ever we find them. So, if you find that under this clause also people want to take recourse to litigation we will not be lagging behind in bringing forward an amending legislation.

SHRI RAJENDRA PRATAP SINHA: I should like to know as to what is the advice of the Law Ministry over this clause. Do they think that the authority of the Government is not final and absolute in this matter? Do they anticipate that persons can go to court if they are dissatisfied with the decisions of the Government?

SHRI M. C. SHAH: On that point, we have not taken advice. We have just shown the clause as it stands. I assure my hon. friend that we will watch the working. We have got enough powers to prevent such abuses if practised by any person who is coming to us for approval of the managing agents. There I do not think that I should take more time of the House and I oppose all these amendments.

SHRI SHRIYANS PRASAD JAIN: I request leave of the House to withdraw amendment No. 83.

♦Amendment No. 83 was, by leave withdrawn.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

152. 'That at page 171, for lines 4 and 5, the following be substituted, namely: —

'(b) unless the Central Government has not refused such appointment or reappointment under subsection (2)'."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

153. "That at page 171, for lines 6 to 15, the following be substituted namely: —

'(2) 'fine Central Government shall not refuse its approval under sub-section (1) in any case, unless it is satisfied—

(a) that it is not in the public interest to allow the company to have a managing agent; and

(b) that the managing agent proposed not, in its opinion, a fit and proper person to be appointed or re-appointed as such, and that the conditions of the managing agency Agreement proposed are not fair and reasonable'."

The motion was negatived.

SHRI C. P. PARIKH: I request leave of the House to withdraw my amendments Nos. 154, 240 and 327.

*Amendments Nos. 154, 240 and 327 were by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

273. "That at page 171, line 2, after the words 'managing agent' the words 'or its directors' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

274. "That at page 171, line 3, after the word 'company', the words 'by a special resolution' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

275. "That at page 171, after line 5, the following be inserted, namely:—

'(c) Unless the approval of the Central Government is obtained as to the appointment of the directors on the ground that they conform to the qualifications as may be laid down by the Central

*For text amendments, vide cols. 4842—4845 *supra*.

Government for such directors provided however that the Central Government may lay down different qualifications for the directors of the managing agent dealing in different types of industries."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

"That clause 326 stand part of the Bill."

The motion was adopted.

Clause 326 was added to the Bill.

Clause 327 was added to the Bill.

Clause 328.—Term of office of managing agent

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

85. "That at page 171, line 29, for the word 'fifteen', the word 'ten' be substituted."

SHRI LALCHAND HIRACHAND DOSHI: Sir, I beg to move:

155. "That at page 172, line 1, the word 'entire' be deleted."

I also move:

156. "That at page 172, line 2, for the words 'is made', the words 'is in excess of the terms laid down by sub-section (1) above' be substituted."

SHRI BHUPESH GUPTA: Sir, I beg to move:

276. "That at page 171, line 29, for the words 'fifteen years', the words 'five years' be substituted."

I also move:

277. "That at page 171. lines 35 to 37 be deleted."

I also move:

278. "That at page 171-172. for the existing clause 328, the following be substituted, namely:—

"328. *Every managing agent to cease functioning by 31st December, 1957.*—Every managing agent shall cease to function as such on the 31st December, »1957, unless he ceases so to function at an earlier date."

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

SHRI KISHEN CHAND: Sir, I move:

84. "That at page 171, line 29, for the word 'fifteen', the word 'ten' be substituted."

(The amendment also stood in the name of Shri V. K. Dhage.)

86. "That at page 171, line 31, for the word 'ten', the word 'five' be substituted."

(The amendment also stood in the names of Shri C. P. Parikh and Shri V. K. Dhage.)

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The clause and the amendments are open for discussion.

SHRI KISHEN CHAND: We have already discussed for the last two or three days about this. In clause 328, it is stated: "in case it appoints a managing agent for the first time (that is to say, in case the company has had no managing agent at any time since its formation), make the appointment for a term exceeding fifteen years." We agree that the whole structure of this Bill is that the managing agents are going to disappear slowly and gradually. And when we accept the scheme of this Bill, what is the reason and what is the justification for making fresh appointments for a period of fifteen years? That is too long a period and I think it is very essential that this 15 years' period be reduced to ten years. In sub-clause (1) (b), it is said: 'in any other case, re-appoint or appoint a managing agent for a term exceeding ten years at a ,

[Shri Kishen Chand.]

•time." If a company had been managed by the managing agents for a number of years and their record is not too good, I do not see any reason why we should re-appoint them for a period of ten years. I mean that, every five years let them come for re-appointment, if their record is satisfactory. I am one of those who believe that managing agents should disappear and I think if they have to come frequently to the Central Government, they will have to perform their duties very carefully. Because if they are not performing their duties well and if there is any flaw in their management, naturally when they come up after five years, their re-appointment will not be sanctioned by the Central Government. I want to say that the hon. the Finance Minister should certainly have no objection against accepting this, which is really aiming at the realisation of the objective of this Bill. Therefore, I move my amendment.

SHRI C. P. PARIKH: I think fifteen years in the initial stage is quite a big period because every time after ten years, there will be need for revision even by the shareholders as well as by the Government. Therefore, no longer period should be put down than ten years.

With regard to re-appointment also, this period should be five years instead of ten because the general meeting should have a right to say in the matter and the Government's approval is necessary. So, in both cases, it is very necessary.

I oppose the amendments, especially No. 278, of Mr. Bhupesh Gupta in which he again insists that every managing agency should be terminated on the 31st December, 1957. It may be repeatedly pointed out here that it will be difficult to terminate any managing agency, unless you establish pre-requisite conditions for its abolition. Unless you create a

substitute machinery—a credit machinery—in the country, I think somebody in management will have to provide finance. It is no use repeating these arguments because, even after 1960, if the managing agents find that finance could not be provided in any other way, that system may be continued even after 1960. You may make it tighter in any way you like, but whatever name you give, you must see that the system functions also in respect of providing finances.

(Prof. G. Ranga rose.)

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Prof. Ranga has not taken part in the debate. Since he got up he should be given time.

PROF. G. RANGA (Andhra): No, no. You speak.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, my amendments relate to the term of office of the managing agent. Here the provision is that after the commencement of the Act no company shall appoint managing agent. If they appoint managing agent now, they will be for 15 years. Then again there is the provision with regard to the re-appointment and all that. For the benefit of the hon. Member, Mr. Parikh, I can tell him that as long as managing agency remains in the country we shall pursue it and pursue it with all our might till the end of their day or our day. There is no compromise between the two. Therefore, whenever we have got an opportunity we have moved an amendment knowing that it will not be accepted but yet thinking that at every point this system has to be dealt a blow.

In the sonorous phrases of the hon. the Finance Minister, we have been told here that we require managing agency for what he called promotional

activities. The hon. Mr. Parikh is much more business like in this matter. He has the business approach when he says: Where are the prerequisites since you are thinking in terms of abolishing the system? As if the entire pre-requisite for the industrial development of our country is concentrated in the preserve ■domains of the managing agency houses. We reject that proposition. It is not worthy of serious thought •even. But before I answer this point in support of my amendment, I •would like, Mr. Vice-Chairman, to draw your attention to this particular ■clause, not for what it only says, but for what its implications are.

We have been told this morning here by the hon. the Finance Minister that they had retained managing agent with a purpose. The answer came from him. In fact, I spoke a little provocatively, intentionally, with a view to getting a straightforward answer from him, and I am •thankful to him that he has given the answer to this Parliament and to the country that for some time to come the managing agency will continue. While the entire country thinks that system is bad, he thinks that it is not bad. On account of pressure he said so many things. He has given a fresh lease of life in perpetuity. That is what I say.

Now, Sir, this particular clause really is in conformity with the outlook that even after the commencement of this Act a company would be in a position to appoint a new managing agent for a period of at least 15 years, not 10 or 5 years.

SHRI AKBAR ALI KHAN: 1960 is there. How can you say it is in perpetuity?

SHRI BHUPESH GUPTA: When I said that I thought the hon. Member was a lawyer. He should remember that because the other thing is there it will not be abolished. I say the approach and the period has been fixed. The Parliament will continue as long as the Constitution will con-

tinue. This Lok Sabha has a term for five years. It does not mean that Lok Sabha will be abolished. After all you understand the point!

Therefore, here it is very simple. This exposes the Government's intentions. 15 years! During three Five Year Plans—Second, Third and Fourth—a newly appointed managing agent can continue under this provision. What will happen later, we need not go into it at the moment. This is the approach. Therefore, Mr. Vice-Chairman, it has been amply proved by the text of the law that the Government does not intend at all to abolish this thing and would be only too willing to allow it to continue as long as it is possible for them to allow the managing agency to continue. Therefore, for us this clause is significant, in that it gives a better picture of the intention of the law-makers, as far as this company law is concerned. He has prejudged the opinions of three Parliaments. He should have left it for next Parliament as to what they will do. I could understand it.

Now, I come to "promotional activities". This is the main thing we have been told today. Promotional activities! Who promotes industries? Managing agent. Who bungles industries? Managing agent. Who is put under arrest? Managing agent for swindling in a certain insurance company. Who evades income tax? Managing agent. Everything managing agent. Morals managing agent, virtues managing agent. Everything is imputed to the managing agent—one in practice and the other in theory. I say it is contradictory attitude. It is a contradictory approach altogether. If you admit that they have done wrong things, you are not in a position to claim that they should be given a long lease of life.

You have said here that you made certain provision. I would like to know what these provisions are like. You follow the argument. You should not take cover under the

[Shri Bhupesh Gupta.] phrase "promotional activities". Who finds the money for the managing agent? We have been told in the speeches made in the other House that only about ten crores of rupees or less had been found by the managing agent; the rest of the funds had come from the shareholders and the public and some other concerns. Even then you want managing agents.

Again, we are told that they promote industrialisation. Now, you will say that probably finances they do not give but the initiative and enterprise they do give. I reject this thing. I ask: What particular development of our industrial economy have they done? It is true that they are in a position of command and they occupy important positions without which we cannot run major industries. To some extent it is true. But suppose they are eliminated. Industries can be started by the shareholders, some people coming forward from among the shareholders or even from among the financiers, who would not stand for the managing agency but who would support industries. Money will be subscribed to that concern and industry will be floated that way. It is conceivable that we can start industries in our country. Nobody has proved that but for the managing agency industry would not have been started in our country. Therefore, I say, there are alternative methods of promoting industries in the country. Now, there are certain industries, insurance industry, for instance, where there is no managing agency; banking industry, for instance, where there is no managing agency. Have these industries gone to dogs? Not at all. There was a time when they started, not with managing agents, but independently. Even when they eliminated managing agents they stand on their feet and they function. It is not an argument which should be seriously advanced in this House because we know why it is possible.

Then, we have got planned economy. We are supposed to have Five Year Plans. Naturally, you can so arrange your affairs that promotional activities develop, not on the managing agency basis but on some other basis. Government can take initiative in this matter. There will not be dearth of men and finance in the country to start new enterprises. That is why I say, for promotional activities you do not require managing agency at all. On the contrary, if you want to industrialise the country, set up new units, big and small, all over the country. For that, it is necessary that we strike a dead blow to the managing agency which comes in the way of the development of small and medium industry. How many small concerns in the country have been crushed under the wheels of the managing agency, I would like the Finance Minister to tell us. Is it not a fact that every day a number of industries in our country, small and medium ones, are facing fierce competition from the side of the managing agent? Is it not a fact that managing agency in the country has prospered and flourished on the ruins of a number of small and medium industries? Are these not facts? It is time we take a lesson from them. Therefore, it is a farce to suggest that the economy of the country cannot be advanced without the managing agency.

3 P.M.

Then, Sir, about the finances. Yes, we can get the finances. If these gentlemen have got money, get money from them by taxation, get money from them by capital-gains tax. Increase the death duty and the estate duty, and procure money from them by legal methods and utilise this money through the State agency or otherwise for the development of industries. On account of their finances they cannot dictate terms to our economy and thereby prolong their life. I think these people have to be dislodged from

Uieir vested and entrenched positions, and as far as their money is concerned, we know where they keep their money. They keep their money in the banks or sometimes in the form of jewellery or properties. We can easily get that money and we can harness it for the development of the country's economy. We cannot allow them to hold the country to ransom like that just because they are plutocrats. And we can do away with those plutocrats if we abolish the managing agency system. The managing agency system has to improve—if at all it is to be there—precisely for the planned development and for the diversified development of our economy. We have got to create a climate of economic advancement in conformity with the broader interests of the country. Sir, 'these monopolists and capitalists should be told point blank that we are embarking upon an age of planned construction, and gone are the days when they could make money out of the suffering and exploitation of the people. You can accept his amendments if you do not like mine. Give them five years' time. Five years' time is enough for them. I know five years' time would mean Rs. 50 crores for each of them, not less than that. I know how they make money. Wherever they look, everything becomes a desert except themselves who flourish on that account. I know how they make money. Within five years they can easily make Rs. 50 crores—all the top ones. I, therefore, request the hon. Minister to accept our amendment and our suggestion here, because this system has been condemned on all hands, even by your own party men. Now, the Finance Minister said that the country did not want it. Now, we find that various arguments have been advanced in this House as well as in the other House for the abolition of this system, even by the parties and by the organs which support them. And I can safely tell you that over that question of abolishing the managing agency system, the consensus of opinion in the coun-

try is for its abolition, and that includes the opinion inside the Congress Party and the P.S.P., the Communist Party, and others. The consensus of opinion is that this system has to go and the will of the people has to be respected, but I know that the Government love the managing agency more than they respect the wishes of people.

SHRI H. C. DASAPPA: Mr, Vice-Chairman, I am inclined to agree with my friend, Mr. Parikh, in regard to the reduction of the tenure in the case of managing agencies. Sir, although I may not agree with Mr. Bhupesh Gupta with regard to all his arguments and his fulminations against the managing agents, I feel that it is a wholly wrong position to take up to say that it is only through the managing agency system that we can build up our industries. The whole of the West has adopted a different system, and I may say, that they have not been less capitalistic on that account. Let my friend, Mr. Bhupesh Gupta, who is not here at the moment, not be under a misapprehension that merely because we do away with the managing agencies, we do away with the capitalists.

SHRI S. N. MAZUMDAR: We never said it.

SHRI H. C. DASAPPA: Anyway, he meant that managing agencies lead to concentration of power and wealth and development of monopolistic tendencies. And that is the form... (*Interruption.*) Sir, he even went to the extent of saying that the recent debacle in an insurance company was because there was managing agency system. I do not know how the managing agency system came into the insurance companies.

SHRI S. N. MAZUMDAR: You are misunderstanding the whole position.

SHRI H. C. DASAPPA: Sir, I do not want to be diverted from the

TShri H. C. Dasappa.] simple objective that I have got. The West has set an example to us that it is not necessary for us to go through the managing agency system in order to develop our industries. And so I feel that for promotional purposes the adoption of the managing agency is not necessary. That is my main point, and I reinforce this argument from the rich experience of our own country. Sir, quite a large number of industries have been promoted and have been sponsored without adopting the managing agency system, and I feel, Sir, that in time to come, not only in the next five years, but for all years to come, private enterprise will not be forthcoming to any appreciable extent for developing our industries. That is my calculation, that is my reading of the situation. It may be for various reasons; it may be that the taxation proposals are such that they do not provide a sufficient incentive to private enterprise. I am referring to what we tried, and with a great deal of success, in Mysore. We did not find private enterprise coming forth to any appreciable extent, and therefore, the State itself undertook to sponsor the industries. But they were not going in for 51 per cent, always of the paid-up capital; they were taking only 10 per cent, very often, and they were able to build up a large number of industries. I invite my hon. friends to come to my State and see for themselves how these industries have been developed.

So, Sir, in the first place, it is not necessary to have the managing agency system to promote industries. And in the second place, in the Plan frame that we have conceived, it will be the State that has got to take a larger share in the promotion of industries, and in finding the finance for the industries. And I am sure, Sir, that it is an added advantage, for the simple reason that when the States take up these industries, the j my private capital will no longer be

shy, and it will come forth in greater amounts. For some reason or another, I do not want to cast any blame on the managing agents, there is a large amount of suspicion today as regards the managing agents who promote industries. The very first question that they ask is: Are the managing agents going to make the best for themselves of the shareholders' finances? I think, barring a few well-established and reputed houses, unfortunately there is always this lurking suspicion, and that is why private enterprise has not as yet come forward to launch these industries.

Therefore, Sir, I think my friend, Mr. Parikh's amendment is a very reasonable one. My hon. friend, Mr. Bhupesh Gupta, wants five years. That would virtually mean that if his amendment to clause 326 were accepted, somewhere at the end of 1960 the entire system of managing agents should be done away with. I think the formula of my friend, Mr. Chandulal Parikh, is an exceedingly reasonable one and I would beg of my friend, Mr. Shah, not to stick to this wonderful figure of 15 years. I do not know what virtue there is in this period any more than what is in ten; nor do I find any virtues in five any more than in ten. I think it will be only accommodating the large measure of opinion in this House if he were to accept Mr. Chandulal Parikh's amendment.

PROF. G. RANGA: Mr. Vice-Chairman, I find myself in complete agreement with what Mr. Dasappa has said just now. The Finance Minister may not be able to accept this amendment of Mr. Parikh limiting the period to ten years but I wish to sound a note of warning not merely to him but to myself and to this House that whatever may be written into this Bill now for whatever reasons and with whatever facility, this is not going to be the last word. Let it be remembered by everybody. About eighteen months ago, it was.

left to a few of us, both outside as well inside the Congress but swearing by Mahatma Gandhi, to say that the Government of this country, this Congress Government should try to learn and to live in such a way as to lead this country towards the achievement of a socialistic pattern of life. When we were saying that and pleading for it, the same Government on these very same benches was unwilling to accept our plea. On the other hand, it said, "You listen to us. We have very good reasons and arguments. We are not going to accept your plea." That is what they used to say. Fortunately for us, thanks to the existence of democracy in this country, the privilege has been given to this Government, the very same Government, to change from that attitude to the present-day attitude and to say, "We have re-considered this question and various other things also. We have done that in the light of our profession and our acceptance of socialism and a socialistic pattern of life". It is also our good fortune that the very same Prime Minister was able to achieve this transformation in the policy of his Government, with the very same members of his Cabinet. I am sincerely hoping, whatever may happen today or tomorrow or the day after, that even while Pandit Jawa-harlal Nehru continues to be the Prime Minister, we may be able to bring forward to this House and to the successor of the other House a Bill abolishing the managing agency system and formally proposing active and definite steps to be taken in order to put an end to capitalist exploitation of this country. I am living in that hope; it is quite possible that I may not succeed or this Government may not succeed; it may be that these friends might succeed and deal with the Communists in a way which they would not like. Who knows? We do not know. We know only what has happened in China. They had nearly as popular a Prime Minister as we are having today and he was held to be one of the great statesmen during the War and he

was considered as the wisest states--man east of Jhe Suez. We know where he is today. We would not

[MR. DEPUTY CHAIRMAN in the Chair]

like similar things to happen in our country. It is because of that, Mr. Deputy Chairman, that I went all out the other day in support of this Bill as it has emerged from the Joint Select Committee. I did so not because I was in love with this system or with the capitalist system. No; I am not a friend of the capitalist system but I do not mind getting on with it for some time. I do not wish to be its enemy. I would like to get rid of it in a peaceful way, in a friendly way, in a comradely way and in a fraternal way. Much less than this capitalist system is this wonderful system of managing agency. This is a device and a discovery of Rajasthan, I think, and of some other areas. I do not know what *is* produced in Rajasthan; I do not know but this seems to have arisen there.

SHRI M. GOVINDA REDDY (Mysore): Exploiters.

PROF. G. RANGA: I have seen there one deity, a deity which has no features except a kind of red colour on its forehead. That was the only thing that I saw; that was the only achievement of those days when the *rajputs* were there. The present day Rajasthan seems to have given birth to this system of managing agents. In 1937, when that Government was there, we were opposed to it and I am opposed to it even today. I think my hon. friends are anxious somehow or other to give them four more years so that they can set their house in order by 1960 and be ready to try their fortunes in the new pattern of life that we want to establish in this country. But no, they want fifteen years more. They want their sons and grand-sons also to get into it, to start new ventures and make money. Well, we have no objection because we want, to develop this country. We want to give-

[Prof. G. Ranga.] them an opportunity. We want those, who have made riches by going into the bowels of the earth and have filled the necks and all parts of their women and children with all sorts of jewels, to come into the open and put their money into the various concerns so that the industrial development of this country can be promoted. For that reason, we do not mind giving them a little more time; but, why fifteen years? Mr. Bhupesh Gupta toad much to say for his argument that it could possibly be that the Government was thinking in terms of three more five-year periods of plans of development and that, until then, it would not like to get rid of this system. That is point No. 1; No. 2, until then they want to give an opportunity for all these new people to begin to play their tricks; and No. 3, give them an opportunity to run a race with us—those of us who are in favour of a socialistic pattern of society. How can I say he is wrong when he says that? It appears to be true. Therefore, what shall we do? Here is a compromise suggested by Mr. Dasappa. Is ten years not poisonous? I think it is. Rather too long a period. I find it difficult to swallow it; nevertheless, if we have got to swallow so many things—our own Communist friends themselves are prepared to swallow so many things now in the light of the inevitable passage of this Bill— I should also be prepared to swallow this. I am prepared to do that.

SHRI K. L. NARASIMHAM (Madras) : By taking up the managing -agency of the Congress?

PROF. G. RANGA: I am prepared to swallow this amendment of Mr. Parikh.

SHRI BHUPESH GUPTA: You take mine; it is only for five years.

PROF. G. RANGA: Now, surely, Mr. Parikh cannot be accused of being a socialist or an enemy of the managing agents. Certainly, he is Jiot and enemy of capitalism. He

wants healthy capitalism, wholesome capitalism, progressive capitalism so that it can live safely for a longer period. He is a wise man, a fore-sighted man. Now, could not our Government take the cue from him? If he were to think seriously—as he has done so today—that ten years would be more than enough for the new people to come in, why should not our Government agree to it? It might be said that he has already had his full meal, that he has got his feet well planted in a number of concerns.....

SHRI BHUPESH GUPTA: Indigestion now!

PROF. G. RANGA:.....amd that he does not want any competitors to come forward in future. Therefore, it is that he is content to have only ten years. That is very strong argument to urge but nevertheless that argument ought not to be" levelled against him because as he is a progressive capitalist and those behind him for whom he speaks are also progressive capitalists, they would certainly like to take advantage of this Bill, when it becomes an Act, and venture into various other industries and enterprises also, put their money into it and develop them. Therefore, it is in their own interest that they should ask for 10 years or 15 or 20 years. It is no good accusing them of acting like a dog in the manger. They certainly would like to go ahead and yet they think that 10 years are enough. What is more, I don't know whether I am correct but I have a feeling that they are wise about it. They are far-sighted about it. They think if they could possibly get 10 more years for the new ventures to be developed through this managing agency, during these 10 years they should be able to make good and satisfy the nation and give a very good account of themselves to the people and in that way[^] ensure their own survival, ensure their own continuation or their influence in this country. If on the other hand they were to ask for 15 years, they might

gat away with it now but they might accused of being over-greedy and, would be subjected to very much more criticism than what is being levered against them now. In an enlightened self-interest, they have themselves suggested 10 years and I would

SHRI C. P. PARIKH: If they are agreeable, then fcbey can be reappointed.

PROF. G. RANGA: There arc; raurthies here. There is one *murthy* 'h is Brahma, there is another . i. Vishnu and only one is Rudra. I don't know which one of thorn is Rudra but I am quite certain "-at Mr. Parikh in moving this amendment is not "playing the role of Rudra.

SHRI LALCHAND HIRACHAND DOSHI: Rudra from the point of view of businessmen.

PROF. G. RANGA: Therefore, I think it is only fair that the Government should see their way to accept this amendment. Supposing they do not, and I am obliged like all the others to allow the Government to have its own way merely because for the time being we have placed it in charge of thijs Bill, we have got to re our judgment, I suppose, in . their hands, then I wish to warn them that very soon Government will have to come back with an amending Bill possibly at the end of the genera¹ elections in answer to the wish of the public as a whole all over the country and propose that more than 5 years should be allowed or even that thi^ managing agency system itself should be put an end to because I am convinced about one filing. Whatever may be the virtues or vices of capitalism, the managing agency has very few virtues. It has become a sort of an inevitable evil and because of our dire necessity today to go ahead anyhow and under any circumstance-', just as we are allowing foreign capital al^o to come in

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*.iera although we don't like it, similarly we have to allow this vicious system to continue to play its role in this country with 49 per cent advantages and 51 per cent, disadvantages.

MR. DEPUTY CHAIRMAN: Mr. Vaidya, just two minutes.

SHRI KANHAIYALAL D. VAIDYA: Five minutes I want. It is important.

MR. DEPUTY CHAIRMAN: Time is running short. We have still got 300 clauses.

PROF. G. RANGA: This is a very important matter and we are going to end the managing agency.

श्री कन्हैयालाल दाँडू वैद्य : उपसभापति महोदय, माननीय अर्थ मंत्री जी ने कहा है कि जो बहुत सी आवश्यक धाराएँ इस बिल में हैं, उन्हें हम पास कर चुके हैं। किन्तु, अगर कोई भी आदमी इस बिल के एन्ने पन्ने को नंगे हाथ से देखेगा तो वह यह नहीं कह सकता कि हमारा स्वतंत्र भारत ने जो अपना धर्म्य वेलफेयर राज्य का बनाया है, जिस राज्य की संविधान में कल्पना की गई है, वह सब इस के अनुरूप है। क्या हम इस बिल को संविधान में दिये गये सिद्धान्तों के अनुरूप कर सकते हैं? हम अपने देश में जो सोशलिस्टिक पैटर्न आफ सोसाइटी स्थापित करने जा रहे हैं क्या यह बिल उसके अनुरूप है? माननीय अर्थ मंत्री जी ने जो भाषण इस सदन में इस बिल के सम्बन्ध में दिया उससे मालूम होता था कि स्वतंत्र भारत में सोशलिस्टिक पैटर्न आफ सोसाइटी को कायम करने के लिए यह बिल एक क्रान्तिकारी कदम है और एक क्रान्तिकारी कानून है और इस बिल द्वारा देश में जो भ्रष्टाचार मनीजंग एजेंसी की पद्धति से फैला हुआ है, वह समूल नष्ट हो जायेगा और देश में एक नई क्रान्ति पैदा हो जायेगी। किन्तु सदन को और देश की जनता को यह बात अच्छी तरह से मालूम है कि इन्वेंस्टीगेशन कमीशन, फिस्कल कमीशन और इन्डीस्ट्रियल फाइनेंस

[श्री कन्हैयालाल दॉ० वेंच]

कारपोरेशन ने मैनेजिंग एजेंसी सिस्टम के बारे में अपनी क्या रायें लिखी हैं और किस तरह उनके विषय में भंडाफोड़ किया है। इन कमीशनों ने उनकी सब बुराइयों को जनता के सामने रखा, मगर इसका कुछ भी परिणाम नहीं निकला। सेलेक्ट कमेटी के सामने भी ये सब बातें रखी गईं किन्तु उस का भी कोई नतीजा नहीं निकला। बल्कि इसके विपरीत हम यह देखते हैं कि दश का क्राइडें रुपया इस मैनेजिंग सिस्टम द्वारा उन लोगों के पास जा रहा है। अगर आप इस पद्धति के इतिहास को देखेंगे तो आप को मालूम होगा कि मैनेजिंग एजेंट के पद को प्राप्त करने के लिए दश में किस प्रकार होड़ लगी रहती है। इसका कारण यह है कि इस पद को प्राप्त करने के बाद जनता का रुपया आसानी के साथ हाथ लग जाता है। मैं आपको इंडिया युनाइटेड मिल्स का ताजा उदाहरण देना चाहता हूं कि किस प्रकार उस मिल की मैनेजिंग एजेंसी को प्राप्त करने के लिये नीलामी की बोली जैसा प्रदर्शन हुआ था। मैं सदन का ज्यादा समय इस बात की हीटिंग्स में जाकर नष्ट करना नहीं चाहता हूं, किन्तु मैं माननीय अर्थ मंत्री जी के सम्मने सुझाव रखना चाहता हूं। जैसा अभी माननीय रंगा जी ने कहा कि निकट भविष्य में सारे दश में चुनाव आने वाले हैं, अतः मैनेजिंग एजेंसी की प्रथा के सम्बन्ध में जनता के जो विचार हैं और इस सदन और उस सदन में माननीय सदस्यों ने जो विचार प्रकट किये हैं, उनके ऊपर सरकार को चलना चाहिये। अगर इस प्रकार की नीति पर सरकार चलेगी तो वह सही अर्थ में जनता की भावनाओं की पूर्ति करेगी और दश में सच्चे अर्थों में सोशलिस्टिक पैटर्न आफ सोसाइटी की स्थापना कर सकेंगे। माननीय अर्थ मंत्री जी ने सेलेक्ट कमेटी में इस सिद्धान्त को स्वीकार कर लिया था कि सन् १९६० के बाद मैनेजिंग एजेंसी को समाप्त कर दिया जायेगा किन्तु इस धारा द्वारा फिर आप १० और

१५ वर्ष बाद मैनेजिंग एजेंसी की प्रणाली पर पुनः विचार करने की व्यवस्था रख रहे हैं। आप इस तरह से एक हाथ से दे रहे हैं और दूसरे हाथ से उसी चीज को वापस ले रहे हैं। मैं इस चीज का विरोध करता हूं। अगर यह व्यवस्था अमल में लाई गई तो आपका ध्येय जो इस बिल को पास करने में है वह सफल नहीं होगा। आपको तो किसी भी नई या पुरानी कंपनी को मैनेजिंग एजेंसी व्यवस्था कायम करने के लिए कोई भी इक्वारा नाम नहीं करने देना चाहिये, जैसा कि आप इस धारा में करने जा रहे हैं। अगर आपने इस तरह की बात की तो आप दश में वेलफेयर राज्य और सोशलिस्टिक पैटर्न आफ सोसाइटी की स्थापना नहीं कर सकेंगे। आपको अपने दश की अर्थ नीति इस तरह से बनानी चाहिये जिससे जनता का हित हो। मुझे आशा है माननीय अर्थ मंत्री जी इस धारा को इसी रूप में नहीं रखेंगे और जो सुझाव मैंने इस सम्बन्ध में दिये हैं उन्हें स्वीकार करेंगे।

ME. DEPUTY CHAIRMAN: Shri Shah.

DR. W. S. BARLINGAY (Madhya Pradesh): May I say a few words?

MR. DEPUTY CHAIRMAN: I have already called Mr. Shah.

SHRI M. C. SHAH: Mr. Deputy Chairman, I have heard the arguments of my friend Mr. Ranga with great attention and I have heard the feelings of the last speaker against the managing agents. He comes from Madhya Bharat and perhaps he may have come across very bitter experience of the managing agents. It is not my business here to defend those managing agents who have behaved very badly in the past and it is because of the bad behaviour of those managing agents that we have brought this Bill here with so many checks and counter-checks upon the managing agency system if that is allowed to remain. Now, under clause 328 it is after the commencement of tW>

Act that for the managing agents, if they are allowed in any company, the first period of 15 years is mentioned. But we must take into consideration two factors. The first is clause 320 wherein we have already stated that for all those managing agents who are appointed before the commencement of the Act, those managing agency agreements will come to an end on the 15th August 1960. In clause 326 we have already prescribed certain restrictions with regard to the appointment of the managing agents after the commencement of the Act. There is a very important sub-clause by which the managing agents will be allowed only if they are considered to be in the public interest. Now, if a certain industry is considered to be vital in the public interest of the country and if those managing agents are approved after going through the facts as to whether they are proper persons, whether the conditions are reasonable—if after taking into consideration all those things—the Government come to the conclusion that in a particular industry in order to encourage that industry to develop the industrial progress of the country, it is in the best interest of the country as a whole, then it is only fair that the managing agency should be given a fair opportunity of working out the scheme. As a matter of fact, though I have not been in business but I have come in contact with some business people and I know that in certain industries—those industries which have to be developed—for several years in the beginning, there cannot be any profits. On the other hand, there will be losses which are taken over from year to year and it is only after a few years that the concerns are able to make both ends meet. Now, if we allow managing agents in an industry which is considered to be vital in the interest of the country, I think that we will not be justified in not giving them a fair trial, I mean to those people who are in the managing agency of that industry, for a period of fifteen years. Therefore, after a great deal of con-

sideration, the Select Committee came to the conclusion that this period of fifteen years is not unreasonable. Therefore, we have accepted this period of fifteen years.

My hon. friend, Prof. Ranga, said that after a short time, an amending Bill would have to be brought forward. I do not know whether he was present when I was speaking on clause 326 when I said, that was a very complex piece of legislation and in the working of it, if we found that there were loop-holes to be plugged, then certainly an amending Bill would have to be brought up, might be very early. Therefore, when Prof. Ranga says that circumstances will force the then Government to bring forward an amending Bill, to abolish the managing agency system, I say, I will not be unhappy if the circumstances are such that the managing agency has to be abolished immediately at that time. In that case, certainly, it would be for both Houses of Parliament to decide the matter. But today when we have accepted this scheme, then I submit the scheme has to be accepted in its entirety. We have to do that if we want to carry out this experiment under this scheme. Under clause 324 certain industries will be looked into, will be enquired into, and if Government comes to the conclusion that the managing agency system is not necessary for a certain industry, then there will be a notification to that effect. And this morning we have accepted the proposal that that notification will be effective after Parliament had approved of the same. After all, Parliament is the supreme body and naturally when there is such an occurrence, we will not be unhappy. But at present we have accepted the position that time should yet be allowed for managing agencies to remain in some of the industries or in some of the units. Therefore, I submit it is but fair and proper that proper opportunity is given to those who are allowed to be appointed as managing agents in certain industries

[Shri M. C. Shah.] or units to work. We should not cripple them by restricting the period to 10 years. As I said the criterion, the most important criterion will be whether the managing agency system, whether the appointment of the managing agents in a particular unit or industry is in the best interests of the country. Therefore, I will not be justified in accepting the amendment of Mr. Parikh.

I am not saying much about my hon. friend Mr. Bhupesh Gupta, because we have heard those pet phrases of his so often and to all those phrases we have replied

SHRI BHUPESH GUPTA: What are those pet phrases, may I ask?

SHRI M. C. SHAH: My hon. friend's pet phrases.

SHRI BHUPESH GUPTA: If I am using pet phrases, then the Minister's performances are just gramophone records, and not very good even at that.

SHRI M. C. SHAH: My hon. friend has got his pet phrases and his figures that, he will quote. And he will always try to justify any amendment that he moves.

SHRI BHUPESH GUPTA: Obviously.

SHRI M. C. SHAH: All those arguments have been replied to so often and I am sure that even if I were to speak for three or four hours even, he would not be convinced because he is confirmed in certain opinions and I do not think that his opinions are today in the best interests of the country. What the Government has to do is to see that whatever decision is arrived, it is in the best interests of the country. We have formulated the scheme of the Companies Bill and we have considered the whole Bill with the one objective and one objective only, namely, whether under the present circumstances, the provisions are in the best interests of

the country. We feel that this scheme that is proposed here is in the best interests of the country. Therefore, I appeal to my friends—not those hon. Members on the opposite side, because they will never agree to any reason—I appeal to my other friends in the House and say that if we feel that there is room for changing the scheme, then we will be prepared to accept the change. But in the present circumstances we do not think there is any good justification or any good reason for changing the scheme in this respect.

SHRI RAJENDRA PRATAP SINHA: Sir, I would like a little clarification on one point. In the first part of clause 328, it is laid down that the appointment of the managing agent for the first time will be for a period, not exceeding 15 years. And in part (b) of the sub-clause, it further says that you cannot

"in any other case, re-appoint or appoint a; agent for a term exceeding ten years at a time;"

Does it mean that there will not be appointment of managing agents for less than fifteen years?

MR. DEPUTY CHAIRMAN: Yes, the period should be less than fifteen years?

SHRI M. C. SHAH: Yes, it is very clear. It says that no company shall make the appointment for a term exceeding fifteen years

SHRI C. P. PARIKH: The word "not" is not there. If my hon. friend will only read it again

MR. DEPUTY CHAIRMAN: Order, order. Two hon. Members cannot be speaking at the same time.

The wording is quite clear, Mr. Sinha.

SHRI RAJENDRA PRATAP SINHA: But I want to know if an appointment can be made for a period of more than fifteen years

MR. DEPUTY CHAIRMAN: Yes, it can be made.

SHRI M. C. SHAH: Yes. A promoter may come and ask for a term of on five years, or seven yearj; or ton years. Then we say, "Aill right." But it should not exceed fifteen years.

SHRI RAJENDRA PRATAP SINHA: Just one more point. I would like to invite attention to clause 326 (2) (c) which says that the Central Government, shall not accord its approval to the appointment of the mana.. agent unless it is satisfied—

"that the managing agent proposed has fulfilled a'ny conditions which the Central Government require them to fulfil."

Under this provision, cannot the Government impose the condition the period allowed to the managing I agents will not be more than say 10 years? And cannot the Government change this period without amending the clause as is now being proposed? In exceptional cases Govern- ment can take action under provision 326 (2) (c) that I just now referred to.

SHRI M. C. SHAH: Yes, yes, Whatever powers we have been- given we will exercise them. To what extent, we cannot say just now, be cause that will depend upon the cir- cumstances of each case.

MR. DEPUTY CHAIRMAN: The question is:

84. "That at page 171, line 29, for the word fifteen', the word 'ten' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: *Amend-ment No. 85 of Shri C. P. Parikh is the same as amendment No. 84. So that is now barred. I put Mr. Kishen Chand's amendment, that is No. I The question is:

86. "That at page 171, line 3i, for the word 'ten', the word 'five' be substituted."

The motion was negatived.

SHRI LALCHAND HIRACHAND DOSHI: I beg leave to withdraw my amendments Nos. 155 and 156.

*Amendments Nos. 155 and 156 were, by leave, withdrawn,

MR. DEPUTY CHAIRMAN: The question is:

276. "That at page 171, line 29, for the words 'fifteen years' the words 'five years' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

277. "That at page 171. lines 35 to 37 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

278. "That at. pa'ges 3 71-172, for the existing clause 328, the follow ing be substituted, namely: —

'328. *Every managing agent to cease functioning* by 31st December, 1957.— Every managing agent shall cease to function as such on the 31st December, 1957, unless he ceases so to function at an earlier date"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

*

"That clause 328 stand part of the Bill."

r.-ot:on was adopted.

Clause 328 was added io the BUI.

*For text of amendments, vtfe <oi. 4869 *supra*.

Clause 329.—*Variation of managing agency agreement*

SHRI C. P. PARIKH: Sir, I move: 279. "That at page 172, lines 4 to 8, the existing clause 329 be renumbered as sub-clause (i) of that clause and alter line 8, the following be inserted, namely: —

'(2) Such sanction shall not be accorded only in cases where variation of the terms is not in accordance with the provisions of this Act and is likely to affect prejudicially the affairs of the company'."

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

SHRI C. P. PARIKH: First of all, under clause 326 the consent and approval of Government will be necessary where there is a new appointment, but here under clause 329 it is said that when there is a variation in the managing agency agreement, we have to approach the Central Government for their previous sanction before a resolution is passed at a general meeting. I ask on what ground this is required, on what principles the Central Government will exercise discretion and judgement? I think when a variation is there, it must be a simple matter? Therefore, such sanction should not be accorded in cases where the variation of the terms is not in accordance with the provisions in this Act and is likely to affect prejudicially the affairs of the company. Otherwise, such sanction must be given according to the provisions in the law.

SHRI M. C. SHAH: We do not want to limit the scope of the Central Government's discretion in the matter of this approval.

SHRI B. C. GHOSE: I have not understood the reason.

MR. DEPUTY CHAIRMAN: He does not want to restrict the power of the Central Government in giving or not giving sanction.

SHRI C. P. PARIKH: I would like to withdraw my amendment.

SHRI B. C. GHOSE: We do not allow him to withdraw.

MR. DEPUTY CHAIRMAN: The question is:

279. "That at page 172, lines 4 to 8, the existing clause 329 be renumbered as sub-clause (1) of that clause and after line 8, the following be inserted, namely: —

'(2) Such sanction shall not be accorded only in cases where variation of the terms is not in accordance with the provisions of this Act and is likely to affect prejudicially the affairs of the company.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 329 stand part of the Bill."

The motion was adopted.

Clause 329 was added to the Bill.

Clause 330.—*Term of office of existing managing agents to terminate on 15th August 1960*

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

157. "That at page 172,—

(i) in line 16, after the words and figures '15th day of August, 1960', the words 'in the case of a manufacturing company, and the 15th day of August, 1958, in the case of a non-manufacturing company,' be inserted; and

(ii) after line 18, the following Explanation be inserted, namely:—

Explanation.—A manufacturing company is a company to which the Factories Act, 1948, applies and a non-manufacturing company is a company to which the said Act does not apply.*"

SHRI BHUPESH GUPTA: Sir, I move:

280. "That at page 172, lines 16 to 18, the words 'unless before that date he is re-appointed for a fresh term in accordance with any provision contained in this Act' be deleted."

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

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

SHRI C. P. PARIKH: This amendment is again a little important and I would like to elucidate my amendment. First of all I said that the managing agency system should be terminated on the 15th August, 1958, in the case of a non-manufacturing company. We must distinguish here between a manufacturing company and a non-manufacturing company. I do not understand why managing agency is required for non-manufacturing companies. The Government, if necessary, may take special powers to exempt them, but I think that in the case of a non-manufacturing company, the managing agency system is not at all necessary. If a non-manufacturing company is there and it has a large capital, it can appoint managing directors, managers and so on and so forth. There are other systems of management which the non-manufacturing sector especially should adopt. What are the companies in the non-manufacturing sector? The companies with over Rs. 5 lakhs capital are 615. 326 companies have a capital of between Rs. 5 lakhs and Rs. 10 lakhs. 247 companies have got capital between Rs. 10 lakhs and Rs. 15 lakhs. 21 companies have a capital between Rs. 50 lakhs and Rs. 100 lakhs. 21 companies have a capital over Rs. 100 lakhs. I do not know why the managing agency system should be continued in the case of trading companies. Automatically, in my opinion, we should terminate the system in 1958, because trading activities can very

well be carried on by managing directors or by the directors in charge. That should be very clearly understood.

Now, I want to explain my point: There are public limited companies and private limited companies of a manufacturing nature and they are 297. In the case of private limited companies, even though they may be manufacturing concerns, they should not be allowed to continue the system. This must be allowed only in the case of public limited concerns. If they want to continue as manufacturing concerns, they must look to the interests of the country and get themselves converted into public limited companies. There will be no difficulty because in the case of public limited companies the membership required is only seven. A public limited company can be formed with only seven members. So all these private companies, which are manufacturing concerns and which have capital of Rs. 5 lakhs and over, should be controlled in the same degree as other public limited companies. Therefore, I say that even in the case of the private manufacturing concerns, their appointment should be terminated in 1958, because manufacturing is an activity which is carried on for the larger interests of the country and the public or the consumers are entitled to know what is happening. That is my reason for moving this amendment. If you see clause 327 it says that the provisions of clauses 328 to 331 shall apply only to a private company which is not a subsidiary of a public company, unless the Central Government, by general or special order, specifically, exempts a private company. That is why I say in the case of private limited companies also it should automatically terminate. I am saying all this because many Members of this House do not know the implications of a private limited company what a manufacturing activity and in what way these clauses will be applicable to them.

SHRI RAJENDRA PRATAP SINHA: Why should he presume that we do not know it?

SHRI C. P. PARIKH: Not regarding the private limited companies but as regards the various provisions which are applicable or not applicable to private limited companies. About this the Members are not aware. It is difficult even for me to And out and make a list of the provisions which are so applicable.

SHRI RAJENDRA PRATAP SINHA: Why should he presume that it will be difficult for us?

SHRI C. P. PARIKH: I have read these clauses for 5 hours every day for 3 months and I am unable to understand.....

SHRI RAJENDRA PRATAP SINHA: You may be unable, but the rest of the Members may be able.

SHRI C. P. PARIKH: Of course. Mr. Sihha might understand, but the way in which the debate is being carried on shows how complex the Bill is. I think many Members will admit that, the Bill is very complex and it is very difficult to understand it.

SHRI BHUPESH GUPTA: My amendment says that the words "unless before that date he is reappointed for a fresh term in accordance with any provision contained in this Act" should be deleted. I do not like this sort of qualification here. It must terminate on the 15th August, 1960. If this qualification remains, it means that, if in 1959 there is an agreement, it will not terminate. I cannot accept that position. If it does not terminate now, at least it should terminate on that date. There should not be any qualification whatsoever.

SHRI H. P. SAKSENA (Uttar Pradesh): Sir, I invite your attention to clause 328 which you have passed a few minutes before. There are certain managing agents who will be given

licence for fifteen years. If the managing agents are to be terminated on the 15th August 1960, what will happen to those managing agents who been appointed under clause 328 for fifteen years? That is my point.

SHRI M. C. SHAH: The first point

(Shri Rajendra Pratap Sinha rose.)

MR. DEPUTY CHAIRMAN: You may reply to Mr. Saksena's point after Mr. Rajendra Pratap Sinha has finished.

SHRI M. C. SHAH: All right, Sir.

RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, I must congratulate my friend Mr. Parikh for giving that, amendment. Sir, my hon. friend sitting next to him was in search of what would be the definition of "a fit and proper person". Here is a person who is a fit and proper person who

has caught the spirit of the times. Now his amendment is this that in non-manufacturing concerns managing agency should be terminated and he has given a date probably 1958. Now, I think, Sir, there is no justification whatsoever in having a managing agency system in a non-manufacturing industry or business and I support him that the Government should see that they are terminated by 1958. I would like to urge this point and, therefore, I am taking your valuable time. I hope there would be records and Government should take note of the volume of opinion that has been expressed in this House or in the other House against certain provisions. Now, I also maintain, Sir, that there are ample provisions in the Bill itself. If they are judiciously and effectively carried out, and my friend Mr. Shah has said that they would be used so— Government would be able to get it implemented.

Now, here is another provision. They should see that none of the concerns which are of a non-manufacturing type should have any managing agency

system. They should take note of these views on important points and should see how they could get it implemented.

Thank you.

SHRI M. C. SHAH: With regard to the point of my friend Mr. Saksena, where a company has a managing agent at the commencement of the Act, there clause 330 applies. To the companies which will be formed after the commencement of the Act, there permission will be taken under clause 326 and about the period it will be as shown in clause 328. Clause 330 applies to all the managing agencies which existed before the Act is brought into operation and all those managing agencies will expire on that date. I think that is clear now to my friend, Mr. Saksena.

And, about my friend Mr. Chandulal Parikh, I am sorry I cannot accept because we do not propose to make any discrimination of this or that variation — because we do not propose to have any variation in the structure of the Companies Bill that we have proposed.

Mr. DEPUTY CHAIRMAN: What about Mr. Gupta's amendment?

SHRI M. C. SHAH: About Mr. Gupta's amendment there is this difficulty. The effect of that amendment will be that all existing managing agencies will expire on the 15th August, 1960 irrespective of whether the managing agency has been renewed with the permission of the Central Government in accordance with the provisions of this Bill after it has been passed. If under clause 326 we have given permission or we have approved the managing agency system in a particular unit under those conditions and if the period also is as given in clause 328, because after the commencement of the Act we give permission that does not mean that we propose to terminate those managing agencies on the 15th August, 1950.

85 RSD—7.

SHRI B. C. GHOSE: I wanted to ask the hon. Minister: Is the reason for his objecting to Shri Parikh's amendment this that promotional talent and activity are also necessary in non-manufacturing business? The Finance Minister stated that the main argument for continuing the system was that there was the necessity of promotional activities—I can understand that. Do I understand from what the Minister stated just now that promotional activity is also necessary in non-manufacturing businesses?

SHRI M. C. SHAH: This is the clause with regard to the termination of managing agencies which existed before the commencement of the Act. Now

MR. DEPUTY CHAIRMAN: What he wants to know is whether in promotional activities of non-manufacturing business the managing agency system is necessary.

SHRI M. C. SHAH: But that will be after. The scheme of the Bill is this. Under clause 330 all the managing agencies which existed before the commencement of the Act will cease on the 15th August 1960. Now he wants to make a change, 15th August 1958 in the case of a non-manufacturing company and 15th August 1960 in the case of a manufacturing company. It would become very difficult and it would be a complex thing for there may be certain concerns which may be doing manufacture - *cum* - non-manufacture. We do not propose to bring in complications in view of this position.

SHRI B. C. GHOSE: Do I understand that, although it is the same date for both manufacturing and non-manufacturing concerns, so far as the termination of existing managing agencies are concerned, the Government will see to it that the distinction which Shri Parikh has drawn will be borne in mind while giving permission for managing agencies to continue?

SHRI M. C. SHAH: Certainly, certainly, there is no doubt about it.

MR. DEPUTY CHAIRMAN: So, Mr. Parikh, what about your amendment?

SHRI C. P. PARIKH: I beg leave to withdraw my amendment in view of the assurance that is given,

SHRI M. C. SHAH: It is about this new permission; that is the assurance that has been asked for.

♦Amendment No. 157 was, by leave withdrawn.

MR. DEPUTY CHAIRMAN: . What about you, Mr. Gupta?

SHRI BHUPESH GUPTA: I press my amendment.

MR. DEPUTY CHAIRMAN: The question is:

280. "That at page 172, lines 16 to 18, the words 'unless before that date he is re-appointed for a fresh term in accordance with any provision contained in this Act' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 330 stand part of the Bill."

The motion was adopted.

Clause 330 was added to the Bill.

Clause 331 was added to the Bfl.

Clause 332.—No person to be managing agent of more than ten companies after 15th August 1960

SHRI KISHEN CHAND: Sir, I move:

88. "That at page 172, line 27, for the figure '1960' the figure '1957' be substituted."

*F't>r text of amendment, vide col. 4896 *supra*.

I also move:

8S. "That at page 172, at the end of line 28, after the word 'companies' the words 'of which not more than five companies have a paid up total capital each of fifty lakhs of rupees or more or not more than two companies each of which has a capital of two crores of rupees or more' be added."

(The amendments also stood in the name of Shri V. K. Dhage.)

SHRI C. P. PARIKH: I move:

241. "That at page 172, line 27, for the figure '1960' the figure '1958' be substituted."

I also move:

242. "That at page 173 line 4, for the words 'not less than twenty' the words 'or control not less than twenty-five' be substituted."

I also move:

283. "That at page 172, at the end of line 38, after the word 'company' the words 'nor specifically exempted by the Central Government by a general or special order' be inserted."

SHRI BHUPESH GUPTA: Sir, I move:

281. "That at page 172,—

(i) in line 27, for the figure '1960' the figure '1957' be substituted; and

(it) in line 28, for the words 'ten companies' the words 'five companies' be substituted."

I also move:

228. "That at page 172, after line 28, the following be inserted, namely:—

'Provided that if any person holds office at the same time as the managing agent of more than one company, the number of those companies shall be such that the block capital of such companies shall not in the aggregate exceed five crores of rupees.' "

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

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

SHRI C. P. PARIKH: Here it is mentioned in clause 332 that nobody can be a managing agent of more than ten companies and this provision will come into operation after the 15th August, 1960. My amendment is that it should come into operation from 1958 and not 1960 because for those who are holding more than *ten* managing agency companies there is ample time up to 15th August, 1958, a period of nearly three years, to decide which ten managing agencies they would like to hold. They can think about it from now on, and those managing agents managing more than ten companies must make up their minds much earlier than 1960, that they will have to surrender certain companies which they are managing now. The Finance Minister has given a list of 84 companies where more than ten companies are managed by one person and such companies the list of which he has given are thus very few. Now, Sir, in that list of companies I find, Sir, that the proportionate holding of managing agencies of more than ten companies is mostly of foreigners, the foreign companies, and I do not know why we will not act up to what is the demand in the country that the managing agents should not be holding more than ten companies and why a decision cannot be arrived at earlier than 1960 and why they cannot say that by 1958 we shall terminate the managing agencies of companies over ten. They have also another provision under secretaries and treasurers. They can be secre-

taries and treasurers if the Government approve of their appointment. Here, their decision to select ten companies or to surrender the managing agency of more than ten companies should be taken by them as early as possible.

My next amendment is with reference to sub-clause (3) (a) according to which in calculating the number of companies of which a person may be a managing agent, a private company which is neither a subsidiary nor a holding company of a public company shall be included. Here I wish to draw the attention of the hon. Mr. Sinha how private companies are understood by many Members in this House. If we read clause 327 we will find that some words had been added there after the Joint Select Committee's report was published. Clause 327 (c) reads: "a private company which is not a subsidiary of a public company unless the Central Government, *by* general or special order, specifically exempt the private company." By adopting this principle in clause 327 and *in* many other clauses it will appear that afterwards the Government have recognised that they must also have some control over private limited companies. They can lay down by general or specific order that these companies may not be excluded in regard to the calculation of ten companies. I, therefore, think here in this clause also the same wording as in clause 327(c) should be adopted.

Another point which I have to say is about sub-clause (4) (b) where it is said: "Where the managing agent of the company is itself a company, every person who is a director, the secretaries and treasurers or a manager, of the latter company, and every member thereof who is entitled to exercise not less than twenty per cent, of the total voting power therein"; that means such persons will also be deemed managing agents. Here only the word "exercise" is used whereas in all other places 't is

[Shri C. P. Parikh.] "exercise or control"; "exercise" and "exercise or control" have much difference between them. Now, control is acquired in this way by a person holding shares in his wife's name, in his brother's name, in his own son's name or in his father's name. In all other clauses I find the wording used is "exercise or control" but only in this it is only "exercise". So I say it should be specifically provided here "exercise or control" and then the percentage should be 25 instead of 20 as at present. These are the suggestions that I have to make with regard to my amendments.

Now, I come to Mr. Kishen Chand's amendment. He says that two companies can be managed by a managing agent provided the capital of each is Rs. 2 crores or more; he has also said that he can have five companies the capital of each of which is Rs. 50 lakhs or more. A managing agent according to the first proposition will be able to manage two companies and I can tell him that there are more than ten or twenty—I just cannot give the figure off-hand—which have a capital of more than Rs. 2 crores. Does he mean that the managing agent should manage only two companies and surrender the agency of the rest? Many of the big industries are controlled by managing agents who have sometimes more than five and sometimes ten companies under them. If you place a limit on the capital, besides the number of companies, you will be preventing the industrialisation which is now being done by the big houses in which the public are reposing great confidence. There are some big houses. I won't mention names because if I leave out some, some people will say: Why have you left out this one or that one? I say, there are many managing agency firms in this country—Indian—which are commanding the confidence of the public and I think they should be allowed to manage ten companies without this restriction on capital.

With regard to Mr. Bhupesh Gupta's amendment I oppose it also on the same ground because he says that no person can be a managing agent of more than one company if the capital is over Rs. 5 crores. In one breath he is advocating the industrialisation of the country and at the same he is suggesting such an amendment. I do not see how it can be achieved. Before he moves such an amendment he must realise what capital is required for certain classes of industry. Rs. 5 crores is not enough for many of the industries which we want to develop in this country. If he imposes such restrictions on the managing agents with regard to the capital of the concerns managed, I think he would be going against what he himself has been advocating, that is, that he wants the industrialisation of the country.

SHRI KISHEN CHAND; Mr. Deputy Chairman, I have moved two amendments to clause 332, which says that no person can be managing agent of more than ten companies after 15th August 1960. My first amendment relates to this date. Why has the hon. the Finance Minister or the Joint Select Committee selected the year 1960? I have suggested that this year 1960 should be changed to 1957. It gives these managing agents a period of just two years from now to make up their mind as to which companies they would want to retain and which companies they would surrender. As I have already pointed out, some of the managing agents will play a trick by amalgamating the companies. They will convert the present twenty companies of which they are managing agents into ten companies by amalgamating them, because there is no restriction on amalgamation. By that process they will continue to be the managing agents of the same number of companies as they are at present and yet satisfy the provisions of this clause. When there is this chance of amalgamation, if the period is reduced, the possibility of amalgamation

will become less. That is why I have suggested my first amendment. It is just one argument. I do not say that that is the only argument. There are various other reasons but this will be at least one more safeguard. I think a period of two years will be quite enough for them to make up their mind. They will have just to say of which ten companies they will be managing agents and which companies they will give up. As I said, these managing agents are clever people. They are not going to give their agency so easily. They will try to circumvent the law by following the process of amalgamation and I want to safeguard against such a course as much as possible by reducing the period.

Now, I come to my second amendment. If you read clause 332, first of all there is sub-clause (1) to which I have sent an amendment. Then there are exceptions made in counting the number of companies. Private companies will not be calculated; unlimited companies will not be calculated; and association which do not carry on Business for profit will not be calculated. Besides the recognised ten companies of which they can be managing agents, they can be managing agents of an indefinite number of private companies, an indefinite number of unlimited companies and an indefinite number of associations and partnerships. There is no restriction about these things. When I was moving an amendment about directors, I tried to explain my amendment but, unfortunately, several Members did not follow it. There is some confusion. I have reconciled all eventualities. I would permit a group of persons to be managing agents of ten companies. But what should be the composition as regards the paid-up capital of those ten companies? Under the law as at present they can be managing agents of ten companies each of which may have a paid-up capital of Rs. 25 crores. If you multiply Rs. 25 crores by ten, it comes to Rs. "50 crores and

one managing agent can have control

of companies with a total capital of Rs. 250 crores. I have taken a hypothetical case. Now, on the other side a person can be managing agent of ten companies each of which has a paid-up capital of Rs. 2 lakhs and that will mean a total paid-up capital of Rs. 20 lakhs. Is it fair to put at par a set of managing agents who will control companies with a total paid-up capital of Rs. 20 lakhs and another set of managing agents who will control companies with a total paid-up capital of Rs. 250 crores? It is not right. Sir, these managing agents, apart from profits, have got a good chance of giving patronage, chance of giving employment to their own relatives. If you consider all that, naturally in a big company the chances are more and the chances of directing the industrial policy of the country are also more. Therefore, I want to put in a restriction. They can be managing agents of ten companies, but out of the ten companies, not more than five companies shall have a paid-up capital in excess of fifty lakhs of rupees. That means that they can be managing agents of five companies with a paid-up capital each of fifty lakhs of rupees and the rest will be with less than fifty lakhs. I have put in a further restriction that of the five companies which have got a paid-up capital in excess of fifty lakhs, not more than two companies can have a capital in excess of two crores each. I will give the full picture. A group can be managing agents of two companies, each of which has a capital in excess of two crores—it may be 25 crores or .55 crores—three companies with a capital in excess of 50 lakhs each, and the remaining five companies not in excess of fifty lakhs of rupees. I am not trying to deprive the companies of their managing agency. I do not want concentration of power, concentration of directing the industrial policy of the country into a few hands. Therefore, my amendment is very clear. If you try to misread it and simply say

MR. DEPUTY CHAIRMAN: That will do.

SHRI KISHEN CHAND: Managing agents should not control more than two very big concerns; and they can be managing agents of three medium sized concerns.....

Mte. DEPUTY CHAIRMAN: No repetition.

SHRI KISHEN CHAND: It is a new idea. I am trying to say that I have defined big companies as those with paid-up capital of over two crores.....

M)R. DEPUTY CHAIRMAN-. You have argued that Doint.

SHRI KISHEN CHAND: And, therefore, with this clarification I want to move my amendment.

SHRI BHUPESH GUPTA: I rise in support of this amendment of mine and I want to meet some of the arguments the hon. Member has given. The hon. Mr. Parikh seems to wonder as to how could I not be for managing agency, when I stood for the industrialisation of the country. I wonder what will save Mr. Parikh from an incorrect understanding of the matter! The Finance Minister has saved the managing agency and goodness alone knows what will save him from the fallacies of his own arguments. As far as the Finance Minister is concerned, his position is very clear. The position is as clear as crystal. He has indicated his views very clearly this morning and I am satisfied and I am thankful to him for the candour and frankness with which he spoke. He will retain managing agency up to 1960. Twenty companies, no bar—as to the amount of capital held and all that. Even after 1960 ten companies. That is the

generosity on his part. But I can tell you that within this period they will so arrange their affairs that the reduction in the number would Tie only nominal Combinations and interlocking would take place in such a manner as to nullify the effect of this provision. Otherwise, there would be no reaction to that on the managing agency system.

Now, about the amount, we want to put a restriction as far as the block capital is concerned. It is important for us. He asked me as to what will happen to industrialisation. I say that it is possible, industrialisation is possible without block capital being placed under the managing agents. Are we not having our steel plants in the country without managing agents? Are we not contemplating starting two steel plants and embark on rapid industrialisation in the State's sector for which over a thousand crore of rupees had been earmarked in the Second Five Year Plan without knocking at the door of the managing agents? They have been given certain other quotas, but I am taking here of the quota which has been sanctioned in the public sector for the industrialisation of the country. Even the Second Five Year Plan has rejected the idea of managing agency as far as the industrialisation is concerned. On the contrary, they have introduced some reductions in the organised industries. At least they want to organise production in the private sector in such a way that the public concerns may flourish in the Plan period. The Plan framers have taken this attitude, and it has been, of course, given up in the Companies Bill. Therefore, I say I am not putting across novel ideas here, or new ideas. I have read the documents connected with the Plan-frame. Therefore, do not say for Heaven's sake at least that industrialisation of the country requires those great ones in the managing agency. Even the present Government thinks that industrialisation of the country is possible under its own aegis and that is why it is thinking in terms of expanding the

public sector on the one hand, and on the other of restricting the organised industries in the private sector so that cottage industries can flourish, and also they are able to tap the resources for developing the public sector. Now, these we get from their Plan-frame and other things. But we find that when they deal wit! the Companies Bill everything is given the go-bye that way. I know that compromise is being made at every point. The Finance Minister is making compromise with them. He is in a line of compromise. One surrender after another, one Dunkirk after another he is staging. We know that thing. I say: Why is this surrender? Here we put this restriction. Since you are in such love with the managing agency system, keep it. Have it. Blind love takes a long time. One takes a lot of time to get rid of blind love. Blind love knows no law, no reasons. They commit suicide sometimes. But, nonetheless, they love. Therefore, I say, since you are in love, keep it for two years. Enough time for wise men to think over. Even lovers would think about love affairs if it goes on like that in the blind manner. Keep for two years; after that "no". Then restrict it, as far as the amount of capital held is concerned. I beseech our hon. Finance Minister that if he were to love things, he has better things to love in life than this hated, discredited, infamous managing agency system.

SHRI B. C. GHOSE: Sir, I want to say one word. I would like to invite the hon. the Finance Minister's attention to the amendments moved by Mr. Kishen Chand and Mr. Parikh. The object of the amendments is to reduce the time by which the managing agents have to exercise their option, if they manage more than ten companies, as to which companies they will keep. In this matter, no question of principle is involved. There will be ten companies. The only question is what time should be given to existing companies to exercise that option so that it does not create any difficulty for them. It

is, of course I concede, a matter of judgment. I should like to ask him if two or three years are not sufficient for these companies to exercise that option and also carry on the other necessary corollaries which will follow from that decision. If the time limit be 1957 or 1958, one advantage is this that we shall have some experience as to how the managing agencies will be working; as to how their minds will work before 1960 when their terms will expire.

SHRI RAJENDRA PRATAP SINHA: I will not take a long time. Clause :-;32 says that in future one managing agent should not have under its control more than ten companies. Now, I would like to know from the hon. the Finance Minister, if some companies start to circumvent it by amalgamating—if they have twenty companies, into ten—how he will prohibit it. There are two eventualities. Either the managing agents who have more than ten companies have to surrender or have to amalgamate into ten the twenty companies. What is the intention of the Government? Is it their intention that they should permit them to amalgamate into ten? I do not say that they should be permitted to amalgamate into ten, because then the spirit of this clause will be defeated. In case the hon. the Finance Minister says 'No' and it is their intention and desire to use the provisions of this Bill in such a manner that the managing agents will surrender their rights as managing agents of those ten companies, then I would ask him how he will prevent such eventuality, of amalgamation developing.

DR. W. S. BARLINGAY: I will make one or two observations. I am now referring to clause 322 (2). There it is stated "Where a person holding office as managing agent in more than ten companies before that date fails to comply with sub-section (1) the Central Government may permit him to hold office as managing agent with effect from that date in respect of such of those companies not exceeding ten

[Dr. W. S. Barlingay.] In number, as it may determine." "It" means "the Central Government". Now, my question is why should it not be left to the managing agents themselves to determine which ten companies they may choose. Why should it be left to the Central Government?

SHRI C. D. DESHMUKH: If they do not do, the Central Government has to do. Then, what is the good of asking? We are considering a situation which will only arise if they fail to do so. So that question is easy to answer. Then coming to the other question, I said some time ago that I could not claim that the number ten fixed anything just as the number in the case of directors did not fix anything very definite. Nevertheless, I said that we could claim that it was an indication of our general desire not to see the concentration of economic power. It is a kind of a distant warning signal to people and at various stages, the Central Government comes in with its approval. Certainly, it is bound to come in every case without exception, in the case of a managing agent, secretary or treasurer and so on and so forth. Now, at that time we can take into consideration all the attendant circumstances of the case. In theory, there is nothing to prevent, say, forty companies from amalgamating into ten. On the other hand, those who have gone through the experience of trying to amalgamate companies know that the process is not so easy. So, I have no doubt that in some cases, there might be one or two amalgamations. But that would be no more unfavourable to the country than the expansion of an existing company. I cannot see anything of original evil, so to speak, in a company amalgamating or one company expanding its business in one direction or in many directions. Therefore, we have to judge each case on its merits and particularly each situation on its merits whether we feel that we are faced with concentration of economic power. Then also I had occasion to

point out that the company law is not the only instrument by which we can hope to meet this situation of concentration of economic power. Indeed, more powerful means would lie elsewhere. I refer to physical means, monetary means, credit means and licensing and so on and so forth. There are at least a dozen ways in which we could attack that problem. And one would have to be vigilant all the time and keep on reviewing one's idea. But so far as the next four years are concerned, (1) we should be content with giving an indication of what our general attitude is, and (2) we should be content with creating the least disturbance in the management of companies because, as I said, we shall be in the midst of the implementation of an important stage of our planning. The hon. Member from the Communist Party referred to Government and steel and so on, which was not very relevant to the context, when we talk of the private sector to the extent to which that sector is allowed to exist. And that matter is governed by the Industrial Policy Statement of April, 1948 as reaffirmed last December in the course of a debate on economic power. To refer to steel does not point to the way. Steel will be governed naturally by the judgment which we shall arrive at.

SHRI BHUPESH GUPTA: I referred to the industrialisation scheme proposals under the Second Five Year Plan, which, of course, relies on the public sector.

SHRI C. D. DESHMUKH: I understand that. But the instance was given that of steel. An hon. Member said: If Government can take up two steel plants, why have managing agents? My answer is that certainly in industries which are taken over by the public sector, if the public sector feels it, we do not need managing agents. But it is a *non sequitur* to say that in the private sector which is allowed to exist, there will be no need for managing agents. Whether there will be need or not, we are

prepared to examine constantly and with diligence. At least at that point, the hon. Member has been gracious enough to say that he is now left in no doubt. He understands the situation. Therefore, what I say has reference not to steel or to coal or to the extent to which we wish to take any step. Minerals as you will remember are category No. 1 in that Industrial Policy Statement. But what I say relates to what is not taken over by the public sector. If that is so, then this question of what is provided for in the Plan for industrialisation has no particular significance. There is no attempt to transfer what belongs to the public sector to the private sector and even if there is such an attempt, it will be an exercise in planning and not something that we wish to do with reference to the company law. For instance, it is quite possible,—I give out something here which is not settled yet—take the instance of coal. We are faced with the problem of increasing the total production of coal from, say, 37 million tons to about 60 million tons during the period of the Second Five Year Plan. I believe that the production from the Government collieries accounts for, may be, about 15 per cent, of the total existing production. Now, he would be a very brave man who would say: "Well, there is no reason why during the next four years Government should not take over all the existing coal concerns and raise their own production from 5 million to 60 million tons. But in practice one is faced with a very large number of problems. It may be that the solution would lie somewhere else. That is to say Government would take on a burden which it feels it can discharge. Now, what that figure is I am not going to say, because (a) it is not fixed and (b) it is not very relevant, but it will mean a significant increase in the amount of coal that Government would produce. Now that means that irrespective of the economic policy statement on practical grounds and as long as it suits us, without any kind

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of commitment in respect of nationalisation, we say to those who are managing the coal concerns: We wish you not only to work the mines but on certain fair conditions to put in new money into the development of those mines—mind you—without committing ourselves as to the date of nationalisation; that date will come when the circumstances seem to justify such a decision and it may be that decision may not affect all the units in the industry or may affect certain industries, for instance, mines which are contiguous to the mines which are run by the Government. So it is on these practical lines that these problems will be met.

The broad point that I make is that here there is no connection between what is available in the Plan for industry and what we wish to do in order to regulate the operations of these who will be allowed to run the private sector. We are only concerned with the promoted private sector and we are concerned with the best way of managing that private sector so that the objectives of the Plan may be attained. Now, against that background, I do not think, hon. Members will quarrel over much with our choice of either periods or numbers whether it is 1958 or 1960. I said in the morning that 1960 was better year because that was nearer the end of the First Five Year Plan. Some hon. Members asked why should not people make up their mind

SHRI BHUPESH GUPTA: It should be nearer the beginning of the next Five Year Plan.

SHRI C. D. DESHMUKH: That is right; that is a truism. But as it is, the Five Year Plan which begins in 1956 will end in 1961, and between 31st March 1961 and 15th August 1960 the distance in number of days is one which, I am sure, hon. Member can calculate; it is less than a year.

Now, I was on this point. The hon. Members asked me: Why is it that

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Shri C. D. Deshmukh.] managing agents could not make up their minds? It is not merely a question of making up your mind one fine day and announcing that, "Well, I shall be managing agent of these companies but not of these companies". What happens is—I think I had occasion to mention this when I gave the figures about the number of managing agencies and their holdings; I gave very detailed figures which most hon. Members seem to have forgotten by now—that the choice before managing agents would be to try and withdraw their financial holding in companies which they do not wish to keep, and to add that to their holdings in companies which they wish to retain. Because, those who are in the know of things are aware that this process of trying to drive out one managing agent by another by cornering shares and so on is going on every day, going on very vigorously especially in one part of the country than in other parts. Therefore, most managing agents have realised that if they have a light holding or financial stake in any company, whatever the law may say, they will not be able to keep their ten companies, and therefore, they have to make up their minds as to where they will concentrate their holding. Supposing a managing agent has got 40 companies. This process of taking out capital from 30 companies and trying to put it in 10 companies of his choice is not a process that can be expedited in detail because it will create all kinds of disturbances in the working of these companies, in the control which is available, in the quotations in the market and so on. Therefore, I think the period of four years is not unreasonable for such a fundamental change in financial holdings and stakes in various companies.

As I pointed out, We are concerned with not the whole field of industrialisation but only with those who have these large holdings. Their

number is limited. I read out a few names this morning which included most of the important names—may be there are a few more—but I say when one has dealt with holdings of 30 out of 40 one has dealt with most of these companies. I also pointed out that the largest holdings was not so very large and any fanciful attempt to have a scale of capital—first Rs. 50 lakhs, second Rs. 50 lakhs and so on and so forth—would be a kind of thing which was likely to defeat its own object. What about the future? That objection goes to the root of all this system. In that case ten companies may mean anything in the future. Indeed one company may mean much more than ten companies put together. Then the hon. Members would go to the extent of saying: In that case, the companies should be halved so that half of the company should be managed by managing agent, if it has a capital of ten or twelve crores of rupees. These matters we have to learn a great deal about.

Also in the case of directors, it is not so much the size of operations, it may be the complexity of that particular operation. The capital may be relatively small and yet all the thought and consideration that one has to give to a matter may be exactly the same as in a big company. Indeed, I should not be surprised if hon. Members find that it is easier to run a big company than a small company as, I am sure, they will find that it is more difficult to be a successful member of a small society with resources of Rs. 1 lakh or Rs. 75 thousand—At least I find it so. I am not a member of any registered society but I find it almost as difficult to manage the affairs of a small cooperative society, shall we say, with about Rs. 75 thousand or Rs. 80 thousand. I am Chairman of the Doon School, and their budget is nothing as compared to the budget of a limited company, but I am faced with the problems—increment of this man, increment to that officer, a little expenditure on

ouidings and so on. The time I spend, the mental processes through which I go are almost exactly the same as mental processes which are required in a concern with crores of rupees. The judgments and the general experience have to be the same. Therefore, I think, the House should not concentrate too much attention at this stage, at any rate, on these formal figures as in 1960 we shall have the opportunity of dealing with almost every case and we can take a fair, clearer view based on the merits of each case and think of any of these other means which have been suggested.

Then follow one or two amendments of Shri Parikh. One has already been dealt with. I do not think there is very much in the point that he has made although, it is quite true that in the definition we say "exercise" instead of 'exercise or control'. Here clause 332(4) (b) puts a disqualification on a person as regards controlling the managing agency of the eleventh company. It is only if a person can exercise actually a dominating influence on the company in the managing agency that we should be justified in treating that company as one of which that person should not be a managing agent in addition to other companies. The driving analogy of this is that in any case no harm will be done if we do not introduce the words "or control". That is one part of the amendment. The other part of the amendment I do not accept. It is only a question of judgment whether 20 is the right figure or 25 is the right figure. We are aware that the last thing in our stake to figure is a private limited company. I have not got sufficient statistics of the affairs of private limited companies. I am reluctant to have one more duty added for no very satisfactory reason to the approved duties led on the Government. The point that one has to give a special exemption to private limited companies in order to find out whether they are the sort of companies which are to be excluded or included is, I think, a matter of

detail. That can be left at the moment to take care of itself in the light of the general observations that I have made. Therefore, I oppose all these amendments.

MR. DEPUTY CHAIRMAN: The question is:

88. That at page 172, line 27, for the figure '1960', the figure '1957' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

89. "That at page 172, £., the end of line 28, after the word 'companies' the 'words 'of which not more than five companies have a paid-up total capital each of fifty lakhs of rupees or more or not more than two companies each of which has a capital of two crores of rupees, or more' be added."

The motion was negatived.

SHRI C. P. PARIKH: I could not understand whether the Finance Minister accepts the words "or control" or not.

MR. DEPUTY CHAIRMAN: He is not accepting.

SHRI C. P. PARIKH: Sir, I beg leave to withdraw my amendments Nos. 241 and 242.

*Amendment Nos. 241 and 242 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

281. "That at page 172,—

(i) in line 27, for the figure '1960', the figure '1957' be substituted; and

(ii) in line 28, for the words 'ten companies', the words 'five companies' be substituted."

The motion was negatived.

*For text of amendments, *vide* col. 4904 *supra*

MR. DEPUTY CHAIRMAN: The question is;

282. "That at page 172, after line 28, the following be inserted, namely.—

'Provided that if any person holds office at the same time as the managing agent of more than one company, the number of those companies shall be such that the block capital of such companies shall not in the aggregate exceed five crores of rupees.'

The motion was negatived.

SHRI C. P. PARIKH: Sir, I beg leave to withdraw my *amendment, No. 283.

♦Amendment No. 283 was, by leave, withdrawn,

MR. DEPUTY CHAIRMAN: The question is:

"That clause 332 stand part of the Bill."

The motion was adopted.

Clause 332 was added to the BHJ.

Clauses 333 and 334 were added to the Bill.

New Clause 334A

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

284. "That at page 173, after line 35, the following new clause 334A be inserted, namely:—

'334A. *Tax-evader not to act as managing agent.*— (1) If in respect of—

- (a) any person,
- (b) any firm or any partner thereof,
- (c) any public company or «L:iy director thereof,
- (d) any private company or any member or director thereof,

*For text of amendment, *vide* col. 4904 *supra*.

any Court or tribunal or other authority arrives at a finding that such person, firm or partner thereof, body corporate, director or member thereof, as the case may be, has concealed the particulars or has deliberately furnished inaccurate particulars of such income or if such person, firm or partner, body corporate or director or member thereof has evaded payment of taxes under any law or has been convicted for any offence under any such law, then in cases referred to in clause (a), the individual, in clause (b), the firm as well as each partner thereof, in clause (c), the company or every director thereof, and in clause (d), the company, each director and each member thereof, shall be disqualified for appointment or for acting as managing agent of any company.

(2) This section shall apply notwithstanding any want of jurisdiction in the Court or the tribunal or other authority on account of any technical defect in its constitution or composition.' "

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

MR. DEPUTY CHAIRMAN: The proposed new clause is open for discussion.

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, my amendment seeks to debar any person who is guilty of tax-evasion from continuing as a managing agent. Now, Sir, the other day I found that the hon. the Finance Minister had a fund of sympathy for the tax-evaders. He said that he wanted to adopt the method of persuasion towards them.....

SHRI C. D. DESHMUKH: I am sure I did not say that.

SHRI S. N. MAZUMDAR: I stand corrected. (*Interruption.*) When I said that the Finance Minister wanted to adopt the method of persuasion, the Finance Minister interrupted me»

So I do not know exactly what he has corrected.

SHRI C. D. DESHMUKH: I corrected what you said. I would like the hon. Member to quote my words instead of paraphrasing them. Let him have my speech before him and then quote it.

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SHRI BHUPESH, GUPTA: We inferred that from what you said.

SHRI S. N. MAZUMDAR: Maybe, Sir, I did not put the exact order of words. However, Sir, I say that the tax-evaders should be treated as guilty persons. They are really guilty of embezzlement and of cheating the public exchequer. On a previous occasion, Sir, I raised the question of the publication of the names of the tax-evaders. But here I am not putting that question. All that I say here is that if a person who has been found by any court or tribunal or by any other authority, to have evaded taxes due from him, or concealed particulars or deliberately furnished inaccurate particulars, then he should not be enabled to act as a managing agent. And if he is acting as a managing agent, he will have to resign and he will have to be removed from that position. Therefore, Sir, I find no difficulty in the Government accepting this amendment.

SHRI C. D. DESHMUKH: Sir, I have said that these two questions should not be mixed up. There is no question of sympathy for the tax-evader. Any one who knows the history of the Income-tax Investigation Commission, of the ruling of the Supreme Court after that, of the action taken by us, will certainly refrain from lightly charging us with sympathy for the tax-evader, and I think, it is a patently absurd statement to make that the Finance Minister has sympathy for the tax-evader. If that is so, they ought to agitate some kind of public action for his removal. I should myself be the first

to give my vote for the removal of the Finance Minister who has any sympathy for the tax-evader. But what I am standing for is not mixing up these two issues. I am not aware of any country in which this kind of almost puerile—I am forced to say it, because this matter has been brought up again and again—provision has been sought to be introduced in an Act which has nothing to do with tax-collection. We have got to see whether it is a tax-evasion with genuine errors or deliberate concealment of incomes. Even so, at one time we took the view that it was in the interests of the country to have voluntary disclosures. Now, whatever one's judgment may be about the advisability of that particular campaign, that is another matter, but it does bring out the difference between what is a matter of statute and law, and what is a matter of—shall we say—general and moral disapproval. Now, to the extent to which there is that tax-evasion, arising out of a particular case or out of a particular discovery of an extraordinarily mean action, we have sufficient scope to keep out a managing agent under clause 31. I am not saying that I am here giving a perpetual umbrella to anybody who avoids taxes. That is a matter which is very much in our minds, but there are tax-evasions and tax-evasions. I should say that if one were to apply this rule, not only will managing agents be debarred, but many members of the legal profession also will be debarred from practising in the courts. Many doctors will probably be prohibited from attending to patients. Why take only the managing agents? There are, I think, 8 hundred thousands or about one million assesses. There are hundreds of them who have at some time or the other, been guilty, except the Government servants who cannot do anything because their income-tax is deducted at the source. But anybody else who is free to make a return is always trying to get the better by his wit, and sometimes, the line between tax-avoidance and

LSHri C. D. Deshmukh. I tax-evasion is so thin that the man himself may not be particularly wicked. When he thinks he is avoiding a legal tax, he really is breaking the law. As I said, I have no sympathy for tax-evaders. But the degree of guilt is not so easy to fix as it is in many other cases. You cannot say that he is a man of unsound mind; you cannot say that he has been guilty of an offence involving moral turpitude. He may be guilty of an offence. We even know that in case of simple provisions hon. Members have pleaded that all offences should not be regarded as offences of moral turpitude. Then, what about offences of violence? They may or may not involve moral turpitude. Therefore, it is not necessary to combine or connect these two things here in this Bill. Therefore, to my mind, this matter is irrelevant for the purposes of the company law except to the extent to which I have explained.

MR. DEPUTY CHAIRMAN: The question is:

284. "That at page 173, after line 35, the following new clause 334A be inserted, namely:—

'334A. *Tax-evader not to act as managing agent.*—(1) If in respect of—

- (a) any person,
- (b) any firm or any partner thereof.
- (c) any public company or any director thereof,
- (d) any private company or any member or director thereof, any Court or tribunal or other authority arrives at a finding that such person, firm or partner thereof, body corporate, director or member thereof, as the case may be, has concerned the particulars or has deliberately furnished inaccurate particulars of such income or if such person, firm or

partner, body corporate or director or member thereof has evaded payment of taxes under any law or has been convicted for any offence under any such law, then in cases referred to in clause (a), the individual, in clause (b), the firm as well as each partner thereof, in clause (c), the company or every director thereof, and in clause (d), the company, each director and each member thereof, shall be disqualified for appointment or for acting as managing agent of any company.

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

The motion was negatived.

Clause 335 was added to the Bill.

Clause 336.—Vacation of office on conviction in certain cases

SHRI BHUPESH GUPTA: Sir, I move:

285. "That at page 174, lines 15 to 17, for the words 'is convicted by a Court in India, after the commencement of this Act, of any offence, and sentenced therefore to imprisonment for a period of not less than six months, the words 'is convicted by a Court in India of any offence under this Act or under the Indian Companies Act, 1913, or of any offence involving moral turpitude' be substituted.

(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: Mr. Deputy Chairman, we have heard the hon. the Finance Minister's approach to the question of jurisprudence, and it is very good to get some jurisprudential wisdom from him, apart from

the wisdom that relates to financial matters. But here what I would like him to note is this. I want that the words "is convicted by a Court in India, after the commencement of this Act, of any offence, and sentenced therefor to imprisonment for a period of not less than six months" should be substituted by the words "is convicted by a Court in India of any offence under this Act or under the Indian Companies Act, 1913, or of any offence involving moral turpitude".

Naturally, I attach importance to the words "moral turpitude" and I would not here be concerned much with the period of the sentence. If any one has committed an offence of moral turpitude—we have got some idea as to what offences are called offences involving moral turpitude under the Indian Penal Code and the criminal jurisprudence—such people should be made to quit office if they are at all convicted. I press for this because I find that even if people are apprehended and, in some cases, tried and convicted, they continue to be in responsible positions in the business world and in financial undertakings. The period mentioned here is six months. Supposing one is convicted for five (months). What happens in his case? If I commit murder, I will be hanged or I may be given a sentence of fourteen years; suppose, for the same reason, a man sets convicted for five months, what happens to him? Therefore, this time limit should not be at all here. This should be completely eliminated. The decision should be on the basis of the offence. Big people commit offences but we find that many of them wriggle out somehow or other when they go to a court of law. Very few profiteers and blackmarketeers have been convicted at all. Not to speak of any long sentence if of a rigorous nature. On the other hand, we find the petty people, the small people, being held up and given very harsh punishment.

Such is the position in the country and, therefore, I do not think the provision is at all good; of course, it is good at least they are thinking in terms of compelling some people to vacate. Whether they will vacate or not is a different matter. Once they occupy a place, they continue to remain like that, stay put. The Finance Minister has given enough cover for those people to remain but since you are going to have a provision of this sort, have it the way I have put. As far as moral turpitude is concerned, we have got a definition as to what it means in criminal law; a social definition can be given also. We have not got a common law, I know, but Judges can give such a definition. I say, therefore, that my amendment should be accepted. If the amendment is accepted, the hon. the Finance Minister need not much strain his intelligence and wisdom over a subject with which, I suppose, he is not quite so familiar as with many other subjects, namely, jurisprudence.

SHRI C. D. DESHMUKH: Sir, so far as the personal remarks are concerned, all I can say is that although I have not practised law, I have studied it and had practised it on other people who had committed offences for a large number of years and, therefore, so far as offences and moral turpitude is concerned.....

SHRI BHUPESH GUPTA: The hon. Minister might have forgotten.

SHRI C. D. DESHMUKH:I probably know as much and more, because I am an older man than the hon. Member.

In regard to this particular amendment, of course, it cuts both ways. Maybe the hon. Member has not realised that certain other offences are excluded.

MR. DEPUTY CHAIRMAN: Those offences not involving moral turpitude are excluded.

SHRI C. D. DESHMUKH: Supposing one is sentenced to a term of six months for knocking down somebody. That is not an offence involving moral turpitude.

SHRI BHUPESH GUPTA: I do not want the driving offences.

SHRI C. D. DESHMUKH: Now, the clause /ould have that effect. Supposing we leave out the period and retain only the moral turpitude, then the clause would read somewhat like this: "Anyone convicted of an offence involving moral turpitude shall vacate his office". Now, I am not aware although I admit my knowledge of jurisprudence is not as up to date as that of the hon. Member, of any court denning, when it gives a sentence, that they are offences involving moral turpitude.

SHRX AKBAR ALI KHAN: There is no definition.

SHRI BHUPESH GUPTA: We can define it.

SHRI C. D. DESHMUKH: What will happen is this. Whenever a person is convicted on any account, he has got to consider whether he has committed an offence involving moral turpitude. He has then to consider whether he has to vacate his office of managing agent. You can imagine, Sir, the utter confusion to which this particular clause will lead and I think most Members in this House who are practising law would admit that this is a very imperfect kind of amendment, which does not really give very much evidence of jurisprudence. That is my reason for opposing it.

MR. DEPUTY CHAIRMAN: The question is:

285. "That at page 174, lines 15 to 17, for the words is convicted by a Court in India, after the commencement of this Act, of any offence, and sentenced therefor to Imprisonment for a period of not

less than six months', the words 'is convicted by a Court in India of any offence under this Act or under the Indian Companies Act 1913, or of any offence involving moral turpitude' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 336 stand part of the Bill." The motion was adopted.

Clause 336 was added to the Bill.

Clause 337 was added to the Bill.

Cismse 338.—*Removal for gross negligence or mismanagement*

SHRI BHUPESH GUPTA: Sir, I beg to move:

286. "That at page 174, line 36, the word 'special' be deleted."

(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: Sir, I have only one word to say. Why should there be a special resolution?

SHRI C. D. DESHMUKH: The reasons why the Company Law Committee considered that a special resolution should be prescribed are explained in paragraph 119(3) of its Report which perhaps the hon. Member has not read. Our answer is that we think those reasons are valid.

SHRI BHUPESH GUPTA: If I have not read that, the hon. Minister could tell me what it is.

MR. DEPUTY CHAIRMAN: The question is:

286. "That at page 174, line 36, the word 'special' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause S38 stand part of the Bill."

The motion was adopted.

Clause 338 was added to the Bill.

Clauses 339 to 345 were added to the Bill.

Clause 346.—Changes in constitution of managing agency firm or corporation to be approved by Central Government.

SHRI BHUPESH GUPTA: Sir, I beg to move:

287. "That at page 177, line 17, for the words 'six months', the words 'three months' be substituted."

I also move:

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289. "That at page 177, line 29, after the words 'ownership of shares', the words 'to the extent of twenty per cent, of the shareholdings' be inserted."

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

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

288. "That at page 177, after line 20, the following proviso be inserted, namely:

'Provided that such approval shall not be accorded only in cases where change of such a nature has taken place which has affected or is likely to affect prejudicially the affairs of the company which is managed by the managing agents.'"

I also move:

328. "That at page 177, lines 29-30, after the words 'in the body corporate' the words "being transferred to persons who are not the heirs of the transferor' be inserted."

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

85 RSD—9

SHRI BHUPESH GUPTA: By my first amendment I want to reduce the time from six months to three months. Three months is enough for any efficient Government to do it. It is not necessary to have six months.

I now come to the other amendment. The hon. Minister must be knowing these things by heart now, even if I had not read certain portions of the Company Law Committee's Report. My second amendment reads as follows:

"That at page 177, line 29, after the words 'ownership of shares', the words 'to the extent of twenty per cent, of the shareholdings' be inserted."

5 P.M.

I need not speak much on it because whatever I wish to say is stated here. Maybe that he will find some flaw in it. Anyhow that is the idea and whatever I wish to say is stated here. What I say is that at page 177, line 29, after the words "ownership of shares" the words "to the extent of twenty per cent, of the shareholdings" be inserted. This is what I want to say. The *Explanation* says:

"For the purposes aforesaid, a change in the constitution of a body corporate means—

* *

(c) any change in the ownership of shares in the body corporate or in the case of a body corporate not having a share capital, any change in its membership."

Now, I want to strengthen the position here, that it should be not merely a share but 20 per cent, of the shareholding. Otherwise, a lot of things take place without reflecting the position of the shareholding in the company. Therefore, it should be related to the shareholding. These are my amendments and I hope they will be considered by the Government.

SHRI C. P. PARIKH: Sir, my amendment is No. 328 in which I say that if the shares are transferred to persons who are not the heirs of the transferor, then the Government may interfere but when shares are transferred to heirs, I think permission should be given and it should not be considered a change in the constitution.

As regards amendment No. 288, I say that there should not be any misapprehension in the minds of the people if we add this clause:

"Provided that such approval shall not be accorded only in cases where change of such a nature has taken place which has affected or is likely to affect prejudicially the affairs of the company which is managed by the managing agents."

I think it is self-explanatory.

SHRI C. D. DESHMUKH: As regards amendment No. 287 as to whether it should be three months or six months, it is again a matter of judgment and if we have to be put on the mettle, so to speak, in the newly organised Department, I would much rather begin with a longer period and then come on to a shorter period in the light of experience rather than start with a shorter period and then get into difficulties. That is why I am not able to accept the amendment of Shri Gupta.

Then, I come to amendment No. 288. The amendment seeks to provide that where change in the constitution of a managing agency is of such a nature that it will affect or is likely to affect adversely the affairs of the company, the change shall not be approved by the Central Government. It is hardly necessary to lay this down as this is the aim of the whole provision of clause 346. Further, this is one of the matters which is required to be referred compulsorily to the Advisory Commission. Therefore, I am sure that the right course will be followed.

Then I come to amendment No. 289. I really don't understand why the hon. Member has put it at 20 per cent. It does not seem to be in line with his general philosophy. It is conceivable that in some cases a change in the ownership of shares to a lesser extent than 20 per cent, of the shareholding may change the balance of power and transfer the control to a different group. That is why we have left it in that general form.

Then, I come to the last amendment—No. 328. The effect of this amendment would be that no approval of the Central Government as required under the provisions of clause 346 will be necessary for continuing in office a managing agency company through changes in its constitution may have taken place as a result of changes in the ownership of its share owing to the death of the original holder of the shares which have passed to the heirs of the holder. One result of the amendment may well be that on the death of the person holding shares sufficient for control, the managing agency company, or his son or heir will succeed to the control without Government's permission or knowledge. This is contrary to the principle underlying clause 344 which prohibits heritable managing agencies. It is conceivable that the change in the ownership of a few shares may upset the balance of power as far as the control of a company is concerned. It is, therefore, desirable that such changes should continue to require the approval of the Central Government.

MR. DEPUTY CHAIRMAN: I will put the amendments to vote.

SHRI BHUPESH GUPTA: Sir, I beg to withdraw my amendments Nos. 287 and 289.

♦Amendments Nos. 287 and 289 were, by leave, withdrawn.

*For text of amendments. *vide* col. 4933 *supra*.

SHRI C. P. PARIKH: Sir, I beg to withdraw amendments Nos. 288 and 328.

•Amendments Nos. 288 and 328 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 346 stand part of the Bill."

The motion was adopted.

Clause 346 was added to the Bill.

Clause 347 was added to the Bill.

Clause 348.—Remuneration of managing agent ordinarily not to exceed 10 per cent, of net profits

SHRI KISHEN CHAND: Sir, I move:

90. "That at page 178, lines 28 and 29, for the words 'ten per cent, of the net profits of the company for that financial year' the following be substituted, namely:—

'ten per cent., eight and a half per cent, or seven per cent, of the net profits of the company depending on whether the total paid up capital is below five lakhs of rupees, below fifty lakhs of rupees or above fifty lakhs of rupees respectively, for that financial year.'"

SHRI B. C. GHOSE: Sir, I move:

160. "That at page 178, line 28, for the words 'ten per cent.', the words 'seven and a half per cent.' be substituted."

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

243. "That at page 178, lines 27 to 29, for the words 'any sum in excess of ten per cent, of the net profits of the company for that financial year', the words 'during » financial year any sum in excess of ten per cent, of the net profits

*For text of amendments, *vide* col. 4933 *supra*.

of the company up to twenty lakhs of rupees and for every eight lakhs above that, the rate shall come down by one and a quarter per cent, till the final rate of remuneration comes down to five per cent. Companies which have not gone into production for ten years will continue to draw at the rate of ten per cent.' be substituted."

SHRI BHUPESH GUPTA: Sir, I move:

290. "That at page 178, line 28, for the words 'ten per cent', the words 'six per cent' be substituted."

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

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

SHRI KISHEN CHAND: Sir, the heading of clause 348 reads: "Remuneration of managing agent ordinarily not to exceed 10 per cent, of net profits." As stated in the very heading and in the subsequent part of it, the remuneration will not exceed a sum of 10 per cent, of the net profits. Of course, that clause covers remuneration from 1 per cent, up to 10 per cent. When we have fixed an overall figure of 11 per cent, for all the expenses and as has been pointed out by several hon. Members that there will be managers, etc.. there should be some remuneration kept for managers etc. especially when in a big company their number will be very large. Therefore, the margin between 11 per cent, and the remuneration paid to the managing agent should be substantial. If you keep the managing agents remuneration up to a limit of 10 per cent, naturally the managing agents will try to get the maximum amount. If you have fixed their remuneration at 10 per cent, and you want to keep an overall figure of 11 per cent, the result will be that the difference of 1 per cent, not being sufficient to cover the remuneration of managers, some alterations will be made in the

[Shri Kishen Chand.] nomenclature of manager and they will be given some other name and their salary secured from some other heading. So in order to avoid that type of alteration and defeating the purpose of this clause, I have suggested that the remuneration should be on a sliding scale. Shri B. C. Ghose will explain a little later as he has suggested 7½ per cent, over-all figure. There is no difference in principle because I have suggested a figure of 10 per cent., 8½ per cent, and 7 per cent. That means it goes down to a figure below his figure. He has taken an average figure of 7½ per cent. While I consider that in a small company the need of managers is very nominal. The managing agents perform the entire duties and, therefore, if the managing agents get 10 per cent., it is possible that in the remaining 1 per cent, the other expenses will be met. But in the case of medium sized companies, the number of managers will increase and, therefore, provision will have to be made for their remuneration. So I have suggested a figure of 8½ per cent, leaving a margin of 24 per cent, for other expenses like that of manager, etc. In a very big company even a remuneration of 7 per cent, is enough. The hon. Member was giving figures of Tatas and pointed out that their managing agency commission is only 5 per cent, of the net profits or even less than that. Well, that is an argument in my favour. In the case of big companies this limit will be very reasonable. In case of companies with profit more than Rs. 50 lakhs, the agents may be satisfied with even less. The Tatas will be satisfied with 5 per cent. There may be companies even bigger than the Tatas who may be satisfied with less than 5 per cent. So I have recommended for keeping the remuneration in consonance with the paid-up capital so that the management may be efficient and reasonably good.

With these words, Sir, I commend my amendment for the acceptance of the House.

SHRI B. C. GHOSE: Sir, I have already given the reasons why I moved the amendment and I would not like to elaborate on them again. I may just recount them here in brief.

Firstly, most companies are not affected by this commission based on percentage, because they will come under the minimum remuneration clause. Their profits will not be sufficient to enable them to earn sufficiently from this commission.

Secondly, we were given the figure of 775 companies with profits of more than Rs. 5 lakhs. But not all of them are managed by managing agents, only some of them will be managed by managing agents, and it is only for them that this remuneration clause has any significance. And if we reduce the percentage to seven and a half, it will not create any hardship so far as most of those companies are concerned.

Thirdly, in foreign countries, this managerial remuneration probably varies from less than one to three and a half per cent. So, if you provide for seven and a half per cent, that should be quite a decent figure.

Fourthly, as my hon. friend Mr. Kishen Chand has just now pointed out, some companies do accept lower commissions. The Tatas accept 7½ per cent, and so on. Of course, the Finance Minister took all that into consideration when he said that if we provided for an overall figure of 10 per cent, the average managerial remuneration would probably be 8 per cent. If you provide for 7½ per cent, then probably the average would be about 6½ per cent, and that would certainly be more desirable than the figure suggested in the Bill.

These, Sir, are the main reasons why I suggested a figure lower than 10 per cent.

SHRI BHUPESH GUPTA: Sir, in my amendment I have suggested that the percentage should be 6 per cent.

I think it was inadvertence that made me fix it as 6 per cent, for I feel it should be only 4 per cent. Anyway, now that it has been mentioned as 6 per cent., let it stand.

Sir, this is a very important clause which must be very seriously gone into, because we are dealing with the question of remuneration for the managing agent on the basis of net profit. By now we have got some idea of the huge amounts that managing agencies in our country earn. My hon. friend Mr. Parikh always gives us certain inner secrets of the business world. He said that the Tatas got about Rs. 33 lakhs or so. Similarly, he named other big **concerns** whose remunerations every year exceeded or varied between 2·5 to 3 millions. He gave us certain **other** names. There are many managing agents in this country who get **more** than Rs. 10 lakhs out of their managing agency business. I say this is an absolutely impermissible thing. I say it is impermissible because it is not necessary at all that we should guarantee by the law such high remunerations for these managing agencies. The hon. Mr. Ghose referred to.....

SHRI B. C. GHOSE: Not "hon. Mr. Ghose" but please say "my hon. friend Mr. Ghose".

SHRI BHUPESH GUPTA: Very well. My hon. friend, colleague, guide and inspirer Mr. Ghose, just now mentioned about certain foreign countries and I would here like to draw the attention of the House to the rates of remunerations that are being given by certain well known concerns in the world. For instance, the Anglo Iranian Oil Co. Ltd. used to give ■ 30 per cent, as managerial remuneration. The Dunlop Rubber Co. had a percentage of :91 of the paid-up capital as managerial remuneration. The Imperial Chemical Industries had a percentage of -15. The P. & O. Steam Navigation's figure was "25 per cent; for 1952. The Unilever in 1953 had 11-60 per cent. This is the company which

gave a very high remuneration and I think their counterparts, the Unilevers here being one of the biggest monopolists concerns and our men being ambitious here they want to imitate the worst case in England. Then, I come to the International Nickel Co. with -81 per cent, for the year 1954. In 1954 the Ford Motor had -49 per cent. And in 1954 the F. W. Woolworth—those who have been to England will know this concern very well—had a percentage of 1-23. J. & P. Coats Limited—another British Company had 1-65 per cent, in 1952. Then Vickers Limited had 3·77 per cent, which is a very big monopolistic concern. The Electrical and Musical Industries had 2-26 per cent, in 1954.

I have here cited a number of illustrations where the percentage of remuneration is less than 1 per cent. But in our country we find that even now it is being fixed at 10 per cent. This is too high. On 10 per cent, basis what will be the amount? Take for instance the Tatas. We have not been told what their net profits come to. The remuneration will be a huge amount. So also in the cases of the Birlas, the Dalmias and all of them. They would be getting lakhs and lakhs of rupees every year as remuneration for their managing agencies.

We are opposed to this arrangement for two reasons. Firstly, we do not like the funds of the Public companies or the industrial undertakings to be dissipated in that manner. You may say, since the shareholders have sanctioned it, why do you object? I would say that the shareholders do not sanction such things. They are bullied into such decisions. Placed as they are, they have no other go. I say, let us legislate and make it possible for the shareholders to assert themselves. In any case, let us bring down the percentage.

Secondly, I understand that about ⁷¹ to 10 crore of rupees are distributed annually by way of managerial remuneration. I always speak sub-

[Shri Bhupesh Gupta.]

ject to correction and I would like to be corrected in such matters by my hon. friend—on the capitalist side, Mr. Parikh, as far as figures are concerned. But this is what I find from whatever material is in my possession, that the managerial remuneration every year comes to about Rs. 7i to Rs. 10 crores- It may be more, for much of the figures are not shown. Therefore, . I consider that such huge sums of money should not be placed in the hands of those people about whom I do not want to talk much now. The real point is: How is this money spent? The managing afeents are free to spend their remuneration just as they like. We are told that they make charities. But we know that they do not make charities. Some of them might do it, but what is the charity that they do? I gave some examples. We know what the Bombay and Ahmeda-bad mill-owners are doing. In Calcutta at the time of the general elections the managing agents there spent a lot of money as oharity, on a particular party. The Congress Party in his case. This money is not used for constructive purposes for th? development of our economy. That n my main complaint. Money is put in those hands which believe in speculation, people who believe in frittering away Government securities, people who believe in doing all kinds of reckless businesses. We are not prepared to place the country's wealth in those hands which are absolutely soiled by now. I, therefore, say the amount should be reduced. Even if you reduce the percentage to 6 per cent., enormous sums of money will still be in th*> hands of these managing agents. I have particularly in mind Andrew Yule and other concerns. They make enormou: sums of money. Take again the Imperial Tobacco Company. Mr. Parikh gave that figure yesterday. Therefore, it is essential that this should be brought down. I cannot understand why the Finance Minister would not accept this. We refer to

the United Kingdom when it suits us. When it does not suit, us, we do not refer to them. We go by what has come to us from the British imperialists who set this standard for managerial remuneration. For efficient management it is not necessary to provide for this kind of high percentage in our industrial and financial undertakings. You will have a steel plant. Shall we say Rourkela? Probably your manager will be getting Rs. 4,000 per month; or Rs. 48,000 a year. If we are there, we would pay them very much less. As against that see how much Tatas are getting for their steel plant in Jamshedpur. It is several lakhs of rupees. Therefore, the whole idea stands condemned. Mr. Deputy Chairman, I would make a request to the Government through you, if the Government is amenable to such requests, if the Government will give up its idea of pampering the managing' agents in that manner because the more you feed them, the more you would be whetting their appetite for more" money. Therefore, this kind of policy has got to be given up—the policy of appeasement should go. You have done" it all through these clauses. At least when you have come to the financial clauses you should restrict the remuneration. I have given you certain figures that will tell you as to how it is possible and if these gentlemen of the managing agencj concerns cannot work at a lower remuneration, let them quit and go wherever they want to go. We do not want them. We will tell them, "very well, you quit. Government will show as to how industry has to be run. It can be run through managing directors or somebody else. They will get on with the work." Therefore, I say that you should not surrender to their blackmail every time a clause is taken up. You have given enough concessions to them, but now in this clause their money-making power has got to be curbed and the funds utilized for the development of the country. Therefore, it stands to reason that their remuneration has to be drastically cut, since you have

decided to retain the managing agency system.

SHRI C. P. PARIKH- Sir, before discussing my amendment. I will say some words on the amendment of Mr. Kishen Chand.

MR. DEPUTY CHAIRMAN: You may leave it to the hon. Minister.

SHRI C. P. PARIKH: I will give you my opinions on that.

MR. DEPUTY CHAIRMAN: But be brief.

SHRI C. P. PARIKH: I shall try to be as brief as I can. We have to be clear on certain points. Mr. Kishen Chand said that the commission should be based on the paid-up capital. I think it is very wrong because paid-up capital may earn more or earn less sometimes. Rs. 50 lakhs paid-up capital may earn less than Rs. 10 lakhs paid-up capital. Therefore, it is no use penalising in this way. You can have lesser commission to managing agents after it has accrued but not before that. Until the commission has accrued it is no use penalising in this way. I have accordingly proposed a sliding scale that when remuneration goes over Rs. 20 lakhs, then for every Rs. 8 lakhs the rate of commission should be reduced by one and a quarter per cent, till it is 5 per cent. The reason is this: I will quote figures of the Commission given to certain companies:

Tata Iron and SteelRs. 35 lakhs.

SHRI SHRIYANS PRASAD JAIN: What will be their net commission after this Bill comes into being?

SHRI B. C. GHOSE: It will be much more.

SHRI C. P. PARIKH:

Associated Cement	... Rs. 33 lakhs
Delhi Cloth Mills Rs. 21 lakhs
Calico Mills	... Rs. 22 lakhs

MR- DEPUTY CHAIRMAN: You have given all these figures earlier. They are on record.

SHRI C. P. PARIKH: When I speak on my amendment it is very necessary that I should give these figures:

Scindia Steam

Navigation	...	Rs. 15 lakhs.
Wimco	...	Rs. 12 lakhs.
Madura Mills	...	Rs. 12 lakhs.
Bombay Burma	...	Rs. 10 lakhs.
Ambika MiUs	...	Rs. 10 lakhs.
Arvid~ Mills	...	Rs. 10 lakhs.
Rohtas Industry	...	Rs. 10 lakhs.
Jajajeera	...	'Rs. 10 lakhs.

In all it comes to Rs. 2 crores. These are paid by certain companies. Now, there are public limited companies which are managing agency companies and they are receiving their remuneration from many companies. They are the agents of many companies, more than one. It is necessary to understand what remuneration they are receiving and what profits they are making. In addition to being the managing agents of many companies, they are carrying on other activities for which additional profits accrue to them. I will give you the figures:

Martin Burn	...Rs. 45 lakhs.
Jardine Handerson	..Rs. 44 lakhs,
Killick Industries	...Rs. 42 lakhs
Dunlop Rubber Co....	Rs. 34 lakhs.
Gillander Arbuthnot...	Rs. 29 lakhs.
Macnill & Barry	.,R<s. 29 lakhs.
Shaw Wallace	...Rs. 22 lakhs.

These are public limited companies who are managing agents also. They get their profits not only from their managing agency commission but also from other activities which they are carrying on. I have, therefore, proposed a sliding scale which will not harm any company. I can understand why the Finance Minister will not accept this sliding scale, because he thinks that revenue will be lost by adopting this sliding scale. He

[Shri C. P. Parikh.] wants the managing agents to be so many tax collectors because Income Tax section 23A which was amended during the last Budget Session, specifically mentions that in the case of those companies which have paid-up capital and reserves, if the reserves exceed the paid-up capital, they have to distribute 100 per cent, of their profits; if it does not exceed, then 60 per cent. Therefore, these people have become so many tax collectors for the Government. But what I am suggesting here is that Government should not initially allow them to take so much of profit. It should be according to a sliding scale such as that I have mentioned, because Government allows them to take this profit and then asks them to distribute 100 per cent, of this. This way, unnecessarily they become liable to reproach, abuse and criticism. Such criticism may be avoided that way. Naturally, the Finance Minister is not going to lose much, but the managing agency system will be a little above reproach and on that account, Sir, the sliding scale, according to me, should be adopted. Whether he adopts the sliding scale or whether he adopts any other system, the tax revenues will be nearly the same but if the sliding scale is adopted the managing agency system will be free from abuse. The managing agents have got into disrepute that they are charging too much commission while they are dividing hundred per cent, of their profits, and when they divide like this the profits of those who have earned individually as dividend, the super-tax payable by each individual will be to the extent of eight annas. So by way of income-tax and super-tax these persons are paying 13 annas or 14 annas in the rupee as taxation. As Mr. Bhupesh Gupta and other Members have said, they are simply abusing their position. By charging more commission they are mere tax-collectors for the State. In order that I may not be misunderstood, I want to make the position clear. You first allow them to charge more and then

abuse them for the amount they are receiving. Instead of that, allow them less in the initial stage and that argument should be understood by all those who understand this method of taking commission on a sliding scale as well as the income-tax and supertax which will be payable otherwise.

MR. DEPUTY CHAIRMAN: Yes, Mr. Doshi. Please be very brief.

SHRI LALCHAND HIRACHAND DOSHI: This idea of reducing the commission of managing agents starts on the assumption that everybody is going to get ten per cent, and every year. Sir, experience shows that the managing agent very often does not get anything. My friend here was quoting some of the figures that the managing agents got and he mentioned the name of Scindia, where the Scindia Company gave to their managing agents Rs. 15 lakhs. The impression that is likely to be created in this House is that Scindia Company has been giving that commission to their managing agents year after year. Sir, if you look to the history of Scindia Company, you will find that there are several years where no commission was paid at all, not even the minimum of fifty thousand rupees provided for in this Bill, and the managing agents have carried on their business.

SHRI BHUPESH GUPTA: Total; how much did they get since its inception?

SHRI LALCHAND HIRACHAND DOSHI: I wish you had asked me that question earlier and I could have given you the total figure, but out of ten years at least there were three or four years when they did not make any profits at all, not because they had bungled but because the circumstances of their business were such that they were unable to make any profit. Sir, after all they are working for the company; the company has agreed or the shareholders have found it desirable to give them this,

and I have always mentioned that the managing agent does not retain all this profit and has to pay a substantial amount through income-tax. So that idea that somebody is becoming too rich and too suddenly does not exist at all. The idea in providing this commission is that the managing agent gets an incentive, let us say that he is money-minded, and, therefore, he feels happy that when he gets more money.....

SHRI BHUPESH GUPTA: That we know.

SHRI LALCHAND HIRACHAND DOSHI: After all he is parting with that money later on in the form of taxes. All the same it is his consideration as to whether he will give it in charity or whether he will give it to some other things whereby he can help in the development of the industry Sir, ten per cent, is from profits and, therefore, it ought to be taken into consideration, but as long as the company is making more and more profits, why should that percentage be denied to him? Well, the present tendency has been to decry making profits. Well, those people are the people who cannot make profits and naturally, because they cannot float any companies and live happily by other methods. But here is an economic organisation which wants to make profit and for making that profit they have appointed certain managers whom they are paying only out of profits and not anything as part of expenses. Therefore, Sir, it is a very sound principle and that is a reasonable proportion of those profits. And now the Government have decided to make it only ten per cent, and nothing more and that too after providing for a variety of things that they have enumerated in clause 349 where no less than 13 or 15 items have been provided for deducting as expenses out of the profits and certain taxes also have been provided for deduction out of the profits. Therefore, Sir, when ultimately all this provision has been made, the manag-

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ing agent would certainly be justified in personally putting his own fortunes in that company and secondly in running that company efficiently all through that period and, therefore, Sir, any idea of reducing that profit by legal action would not be desirable. Of course, when he feels that he is really gaining in the long run he himself will offer to reduce that. He has got to manage it over a number of years and, therefore, it is necessary that he provides something for the bad year that is to come and for that reason it would be justifiable and this proportion of ten per cent, is very reasonable.

MR. DEPUTY CHAIRMAN: What have you got to say?

SHRI KANHAIYALAL D. VAIDYA: I have got to say something on this.

MR. DEPUTY CHAIRMAN: Take two minutes.

SHRI KANHAIYALAL D. VAIDYA: I request that at least five minutes be allowed.

MR. DEPUTY CHAIRMAN: Make it short.

श्री कन्हैयालाल दौ० वैद्य : उपसभापति महोदय, माननीय दौषी ने जो कुछ कहा उम्र के बाद मंरा कहना बहुत आसान हो जाता है। उन्होंने अपनी बात को सदन के सामने रखा। लेकिन मैं सदन के सामने यह रखना चाहता हूँ कि इस देश की सरकार ने पंचवर्षीय योजना में मूल सिद्धांत यह रखा है :

"A high standard of living of the public at large and equal and better distribution of national wealth."

इस सिद्धांत को लेकर हमारी सरकार चल रही है। किन्तु हमारे यहां जो मनीजिंग एजेंसी सिस्टम है, जो उसकी खर्च की पद्धति है और जिस प्रकार के आंकड़ें माननीय मंत्री ने दिये हैं, मैं उनके सम्बन्ध में समय के अभाव के कारण इस समय कुछ कहना नहीं चाहूंगा

[श्री कन्हैयालाल दॉ० बँच.]

और केवल इतना ही निवेदन करूंगा कि जिन जिन बंस्टर्न कंट्रीज में यह सिस्टम प्रचलित है वहां के मुकाबले में हमारा देश में खर्चा वहीं ज्यादा है। यदि इस सिस्टम को लेकर आप चलते हैं कि देश की जनता का कल्याण हो और देश की जनता को आवश्यक माल सस्ता दें तो यह आपका फर्ज हो जाता है कि मैनेजिंग एजेंसी सिस्टम के जो बड़े बड़े खर्च हैं उनको आप कम करें। विरोधी पक्ष के कुछ माननीय सदस्यों ने इस बात का जिक्र किया है कि कम्पनी वाले क्या करते हैं। कल भी जब इसकी चर्चा चल रही थी तो इस बात का उल्लेख हुआ था कि इन कम्पनी वालों ने करोड़ों रुपया गांधी फंड में दिया। मैं आपसे यह निवेदन करूंगा कि इस सदन को और इस देश को भालूम होना चाहिये कि इन लोगों ने पांच छः करोड़ रुपया फंड में दिया लेकिन डेढ़ दो अरब रुपया इस देश की जनता का लूट लिया। जो इनके पास चार महीने का बचा कपड़ा था उस पर २० सैंकड़ा कीमत बढ़ा कर तथा फ्री मार्केट में २५ पर सेंट की इनको बचने की छूट मिल गई। इसके अतिरिक्त ५० रु० प्रति टन स्टील पर भाव बढ़ गये। शक्कर में भी दही हुआ। इससे इनको लाखों करोड़ों का लाभ हो गया।

श्री ज० रा० कपूर : आपने छूट क्यों दी ?

श्री कन्हैयालाल दॉ० बँच : यह तो सरकार पर है कि सरकार ने क्यों छूट दी। यह माननीय अर्थ मंत्री के सोचने की बात है। कल माननीय मंत्री ने यह कहा था कि हमारा देश के लिये कुछ समय तक मैनेजिंग एजेंसी सिस्टम की बहुत आवश्यकता है। चरित्र का प्रश्न उठाने पर उन्होंने कहा था हमें यहां इस पर नहीं सोचना है। लेकिन मैं उनका ध्यान इस सदन के चैयरमैन महोदय, माननीय श्री राधाकृष्णन्, के उन शब्दों की ओर दिलाता हूँ जो उन्होंने विनीता भावे की जयंती के अवसर पर कहे थे कि इस देश को चरित्र की आवश्यकता है। उनके शब्द ये थे :

"It is the obligation of this generation to serve the country and the world which has become their sacred home. If India has to become a great nation its people must develop their character. We have to build men and women of good character. These are the qualities we are called upon to develop."

किन्तु जैसा मैंने उदाहरण दिया हमारा देश में जो एंजीपीत है वे करोड़ों रुपया फंडों में देते हैं और उसके पश्चात् अरबों रुपया कमा लेते हैं। उनका एक ही उद्देश्य है :

तामीर हैं, खराब हैं और तीरथ हज्ज भी होते हैं,
यां खून के धब्बे दामन से ये दोलत बाले धोते हैं।

SHRI M. C. SHAH: Mr. Deputy Chairman, I oppose all the amendments moved by my friends.

Firstly, my friend Mr. Ghose said that it might be brought down to 7J per cent. He had advocated that view in the Joint Select Committee and he has put that point of view in his minute of dissent also but the Joint Select Committee came to the conclusion that 10 per cent, was reasonable. Previously, the Company Law Committee had recommended 12i per cent. At that time there was only a loose definition of "net profits". What was to be deducted was not certain. It was According to the whims of the managing agents. Some deducted depreciation, some deducted this and some deducted that. Now by this definition in clause 349 we have made it clear what will be deducted and what the net profits will be. We feel, therefore, that this ten per cent, is a reasonable remuneration. At the same time, this is the maximum. When the company is being formed, the shareholders who are going to invest in the shares of the company will be given to understand that this will be the remuneration of the managing agents and if the investing public find that this ten per cent, is higher than what it ought to be,

then there is no prohibition to fix up a lower percentage. That 10 per cent, is the maximum limit and that is reasonable. My friend Mr. Bhupesh Gupta says that we are appeasing the managing agents.

SHRI M. GOVINDA REDDY: No; pampering.

SHRI M. C. SHAH: Yes; pampering the managing agents. We are not pampering the managing agents; we are not appeasing the managing agents. If he goes through all the clauses in this Companies Bill he will find that it is not at all convenient to the managing agents. We have put checks and counter-checks; we have brought down their income to a great extent and as a matter of fact this is one of the greatest improvements in the company law management. We have already discussed that matter when we discussed the 11 per cent, over all managerial cost.

My hon. friend Mr. Parikh wanted to impress upon the House that the Government allowed this 10 per cent, because the Government wanted them to be tax collectors. It is absurd to say that the Government allows this ten per cent, in order that these people may be tax collectors I do not think that can be the motive of the Government. It is nothing but absurd, I should say, to suggest that the Government are allowing 10 per cent, in order that they may be tax collectors.

SHRI B. C. GHOSE: Permanent settlement.

SHRI M. C. SHAH: It is not a permanent settlement; nothing of the kind. As a matter of fact, if there are more profits, naturally this will come down to 7½ per cent, or 5 per cent. Therefore, it is not necessary to have the tapering formula as was suggested by him. We have considered this from all aspects. If you want these business undertakings to be run by the industrialists or by the managing agents or by the managing direc-

tors or by the directors or by the managers, we must give them reasonable remuneration and, therefore, we have put this 10 per cent. He cited some figures. All those are known to us. He himself mentioned them once earlier and today also he has mentioned those figures I should say that though he has supported the managing agency system to be continued, he has gallantly fought for imposing more and more restrictions on the managing agents and he should not be disappointed if his efforts have not proved successful. I feel that this is a very reasonable remuneration and we expect that slowly and slowly the remuneration will go down. Our idea is that the companies will more and more come to be managed by the managing directors, directors, secretaries and treasurers. The managing agents will take note of the sentiments expressed here in the House and I am sure that in their own interests they will see that the remuneration to be taken is brought down slowly and slowly. And we have evidence; we find in the new formations the companies are managed by managing directors and we expect that gradually the managing agency system will give place to secretaries and treasurers where the percentage will be 7½ per cent. Therefore, I am sorry that I cannot accept any of the amendments.

MR. DEPUTY CHAIRMAN: The question is:

90. "That at page 178, lines 28 and 29, for the words 'ten per cent, of the net profits of the company for that financial year' the following be substituted, namely:—

'ten per cent., eight and a half per cent, or seven per cent, at the net profits of the company depending on whether the total paid up capital is below five lakhs of rupees, below fifty lakhs of rupees or above fifty lakhs of rupees respectively, for that financial year.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

160. "That at page 178, line 28, for the words 'ten per cent.' the words 'seven and a half per cent.' be substituted."

The motion was negatived.

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

SHRI C. P. PARIKH: I withdraw it, Sir. *ji-Amendment No. 243 was, by le*ve, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

290. "That at page 178, line 28, for the words 'ten per cent.' the words 'six per cent.' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 348 stand part of the Bill."

The motion 'was adopted.

Clause 348 was added to the Bill.

Clause 349.—Determination of net profits

SHRI LALCHAND HIRACHAND DOSHI: Sir, I move:

161. "That at page 179, lines 17 and 18 be deleted."

I also move:

162. "That at page 179, lines 19 to 21 be deleted."

I also move:

163. "That at page 179, after line 36, the following proviso be insert- 'ed, namely:—

'Provided that no such loss shall be so taken into account in determining the remuneration of a managing agent, as ha» occurred

♦For text of amendment, *vide* cols. 4937-4938 *supra*.

during a period in which the company was not managed by the managing agent whose remuneration is under consideration."

I also move:

164. "That at page 180, lines 1-2, the words 'not falling under clauses (d) and (e) of sub-section (4)' be deleted."

SHRI BHUPESH GUPTA: Sir, I move:

291. "That at page 178, lines 41-42, for the words 'unless and except in so far as the Central Government otherwise directs' the words 'if it is sanctioned by a special resolution of the company and approved by the Central Government' be substituted."

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

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

292. "That at page 179, line 12 be deleted."

SHRI BHUPESH GUPTA: Sir, I move:

293. "That at page 179, for lines 17-18, the following be substituted, namely:—

'(d) any tax payable to the Central Government, the State Government and any local authority;'. "

I also move;

294. "That at pages 179 and 180, lines 45-46 and 1-2, respectively, be deleted."

I also move;

295. "That at page 180, at the end of line 5, after the word and figure 'sub-section (4)' the words 'except when such payments have to be made because of default or negligence of the managing agent' 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 LALCHAND HIRACHAND DOSHI: My amendment No. 161 says that the words "any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits" should be deleted. It is unfair to deduct such taxes from the total profits because after all the managing agent, when he gets any profits, is going to be taxed again. If such taxes are deducted, it will be very hard on him. Take for example the Excess Profits Tax that was levied. It was levied at such a high rate that ultimately the concerns got very little profit. Therefore, such a general provision covering any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits is not a fair one. The same is the case with sub-clause (e) where it is said; "any tax on business profits imposed for special reasons or in special circumstances and notified by the Central Government in this behalf." That should not be. The managing agents are going to pay taxes afterwards in the normal course. Therefore, such things should not be deducted while computing the managing agency remuneration.

My third amendment provides that no such loss shall be taken into account in determining the remuneration of a managing agent as has occurred during the period in which the company was not managed by the managing agent whose remuneration is under consideration. This is a fair thing to do. After all, it is somebody else who has bungled the affairs of the company and a person who comes afterwards and who has improved the affairs of the company should not be loaded with the loss due to the past management. This would not be fair. Therefore, in fairness to the person who comes and improves the affairs of the company, the previous losses ought not to be deducted.

I hope the Government will accept all my amendments.

SHRI BHUPESH GUPTA: Sir, this is, as you know, paid on the basis of *net* profits and the net profits in our country are calculated in a very wrong way. Certain deductions which ought to be made are not made at the time of such calculation before the remuneration is given to the managing agents. For instance, we feel that depreciation allowances and the development rebate which some companies might get should be deducted before determining the net profits for the purpose of managerial remuneration. A lot of things happen in our companies which enable them to make the calculation on the basis of an inflated figure. All my amendments are directed to prevent it. It is only after all these deductions are made that the percentage will have to be calculated as to how much the managing agent should get. The present practice enables them to get a much higher sum than they would have otherwise got had it not been for the fact that some essential deductions like depreciation deductions and other things are not made. This is the main point underlying all my amendment to this particular clause. Now, I think, the whole thing calls for a little improvement, even if you accept the principle of paying remuneration, on two counts. One, you are paying a high percentage; and secondly, you are making the calculation favourable to them, so that the high percentage is fixed on a higher figure of net profits. I, therefore, suggest that my amendments be accepted with a view to preventing what I call simple fraud on companies' finances.

SHRI C. P. PARIKH: Sir, my amendment is a very simple one. I want to delete the words "directors' remuneration" while computing sums to be deducted, because it is on the lines of clause 198. It also says that the remuneration of the directors shall not be deducted. I do not know

[Shri C. P. Parikh.] how different principles are adopted in clause 198 and in clause 349.

SHRI M. C. SHAH: I cannot accept any of the amendments. Directors' remuneration is a charge on the profits and that must be deducted when the managing agents' net remuneration is computed. They cannot have it both ways.

And, now, so far as Mr. Lalchand Hirachand Doshi's amendments are concerned, I think, he must be satisfied that we have agreed to ten per cent, of the net profits and he should not try to enlarge the field of that ten per cent, by omitting some of these items as he wants to. The Company Law Committee has recommended and we have accepted it and I do not think there is any justification whatsoever for enlarging the field of net remuneration by omitting some of the items.

MR. DEPUTY CHAIRMAN: Mr. Doshi, do you press your amendments?

SHRI LALCHAND HIRACHAND DOSHI: No, Sir.

♦Amendments Nos. 161, 162, 163, and 164 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: Do you press your amendments, Mr. Bhupesh Gupta?

SHRI BHUPESH GUPTA: Yes, Sir.

MR. DEPUTY CHAIRMAN: The question is:

291. "That at page 178, lines 41-42, for the words 'unless and except in so far as the Central Government otherwise directs' the words 'if it is sanctioned by a special resolution of the company and approved by the Central Government' be substituted."

The motion was negatived.

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

SHRI C. P. PARIKH: I withdraw.

♦Amendment No. 292 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

293. "That at page 179, for lines 17-18, the following be substituted, namely: —

'(d) any tax payable to the Central Government, the State Government and any local authority;'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

294. "That at pages 179 and 180, lines 45-46 and 1-2, respectively, be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

295. "That at page 180, at the end of Tine 5, after the word and figure 'sub-section (4)', the words 'except when such payments have to be made because of "default or negligence of the managing agent' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause' 349 stand part of the Bill."

The motion was adopted.

Clause 349 was added to the Bill.

Clause 350.—Ascertainment of depreciation

SHRI BHUPESH GUPTA: Sir, I move:

296. "That at page 180, line 13, the word 'not' be deleted."

297. "That at page 180, line 15, the word 'not' be deleted."

•For text of amendments, vide cols. 4955-4956 *supra*.

298. "That at page 180, lines 16 to 20 be deleted." (The amendments also stood in the name of Shri S. N. Mazumdar.)

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

SHRI BHUPESH GUPTA: If you want to adjourn the House today at six o'clock, there will be remarks. Otherwise, not, because I think this is the point where we can stop today.....

MR. DEPUTY CHAIRMAN: No.

SHRI BHUPESH GUPTA: Unless you want to continue.

MR. DEPUTY CHAIRMAN: We will close at six.

SHRI BHUPESH GUPTA: Subclause (b) reads:

"shall not include any special, initial or other depreciation or any development rebate, whether allowable under that Act or otherwise;"

We want to delete the word "not" so that it shall include when you make the depreciation, etc. Similarly, "not" should be deleted in sub-clause (c). It should also be changed in the opposite direction. In respect of these two amendments, we feel that this is also another device whereby the companies abuse and keep more money to themselves.

We also want the proviso to be deleted. The whole proviso naturally has to go.

SHRI M. C. SHAH: I cannot accept these amendments. With regard to amendments Nos. 296 and 297, the present provision follows the redraft of section 87C (2) by the Company Law Committee at page 365, first para, of its Report. There is no good reason for departing from the recommendation of the Committee.

Regarding amendment No. 298, it seeks to omit the proviso to clause 350 which provides for the arrears of depreciation being taken into account in the first financial year after the commencement of the new Act. This provision is desirable and so it should be retained.

MR. DEPUTY CHAIRMAN: The question is:

296. "That at page 180, line 12, the word 'not' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

297. "That at page 180, line 15, the word 'not' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

298. "That at page 180, lines 18 to 20 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 350 stand part of the Bill."

The motion was adopted.

Clause 350 was added to the Bill.

Clause 351 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now, there are two messages.

6 P.M.

MESSAGES FROM THE LOK SABHA

I. THE INDUSTRIAL DISPUTES (BANKING COMPANIES) DECISION BILL, 1955

II. THE PRIZE COMPETITIONS BILL, 1955

SECRETARY: I have to report to the House two messages received from the Lok Sabha, signed by the Secre-