

Another thing that I wish to say is this. We want to maintain the good name and dignity of this House. Everyone of us is interested in that as much as I am. I do not want it to be said that sometimes these discussions suggest that we are not behaving like serious, responsible Members of the Parliament but rather like irresponsible professional agitators. That impression even all Members of this House, to whatever side they may belong, should avoid. We must be careful and preserve our good name and our dignity. That is what I am anxious about. Now we go on to the next item of business.

SHRI BHUPESH GUPTA (West Bengal): May I make a submission on that?

MR. CHAIRMAN: I do not want to enter into it, I said. There was another thing, Mr. Bhupesh Gupta. The Deputy Chairman, if he had been in the Chair and you had raised it, would have had an opportunity to state his position.

SHRI BHUPESH GUPTA: I was very sorry. I intended to raise it with him. At the first chance I got I raised it.

SHRI H. C. MATHUR (Rajasthan): Apart from that may I submit something about what you have stated just now?

MR. CHAIRMAN: About the Bill, we originally allowed 50 hours for this. Then the Opposition Members came to me—as you will remember—and said that they would finish it by Wednesday evening. You remember that?

SHRI V. K. DHAGE (Hyderabad): Yes, Sir.

MR. CHAIRMAN: Now, I have given you these additional five hours today, that is, you will go on till six o'clock. But the way in which the discussions have taken place make me feel that we have overspent our time on some parts leaving a good deal

behind. I am proposing to apply what is called the guillotine at 3-30 P.M. and the rest of the clauses which are unconsidered will be put. I hope Members both on my left and on my right will exercise discrimination and will not press all amendments but use these two or three hours available to them for pressing amendments which are of real importance. With that I put.....

SHRI B. C. GHOSE (West Bengal): Sir, there is one unhappy thing on which I would like to say something. I want to say two things. First, about the time, we agreed to 50 hours but, you remember, I was present at the meeting and I stated that it would, probably, not be possible. We knew that there was some flexibility and that the time might be extended.

Secondly, I do not like the use of the word 'guillotine' in regard to Bills. It might give an impression that we pass Bills without giving adequate attention to all the clauses of the Bill. We ourselves agree that we shall finish it within a certain time. If we do not want to take 2½ hours for the third reading, we shall take more on the clauses.

MR. CHAIRMAN: That I do not mind. All stages must be over by six o'clock.

#### THE COMPANIES BILL, 1955— continued

#### Clause 352.—*Payment of additional remuneration*

MR. CHAIRMAN: Amendment No. 299—Mr. Bhupesh Gupta, you move?

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

299. "That at page 180, at the end of line 38, after the words 'public interest', the words 'after giving the shareholders an opportunity of being heard' be inserted."

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

[Shri Bhupesh Gupta.]

Personally, I would not like to move some of the amendments because it seems that my participation, our participation in the debate had not been liked by some people. Therefore I say at least for one hour from now, we would not participate in this debate. I cast no reflection on anybody except that we have not been able to bring ourselves to a position when our participation in the debate is appreciated. We felt that every time we.....

MR. CHAIRMAN: That will do. May I tell you, Mr. Bhupesh Gupta, that your group has taken nearly 10 hours out of this 28, and you cannot complain that your group has not been given sufficient hearing?

SHRI BHUPESH GUPTA: I did not say that.

MR. CHAIRMAN: I can tell you that if you look at the amount of time which you and Mr. Mazumdar have taken, it will come to about 10 hours out of 28 which is nearly a third. How can you then say that you were stifled or you were not allowed to give expression to your views?

SHRI BHUPESH GUPTA: I did not say 'that you have not given me time. All that I said was that at times we felt that we were being unnecessarily interrupted, not by hon. Members, but unfortunately by someone else.

MR. CHAIRMAN: Look! Again?

SHRI BHUPESH GUPTA: Let this Bill be passed without our participation.

MR. CHAIRMAN: If you look at the interruptions, you will discover that the interruptions from your side have been as many as from the other side. I do not think that interruptions have been the monopoly of either the one or the other side.

SHRI BHUPESH GUPTA: I did not say that side. We felt that the incumbent of the Chair at that time was unnecessarily interrupting. We feel

aggrieved about this matter and therefore we do not want to participate.

SHRI H. P. SAKSENA (Uttar Pradesh): When Mr. Bhupesh Gupta speaks we feel spellbound. We listen to him most attentively and appreciatively and it is wrong on his part to say that there has been any lack of appreciation on our part.

SHRI S. N. MAZUMDAR (West Bengal): On a point of explanation, Sir. Mr. Bhupesh Gupta said the other day that he wanted something to be discussed in the Chamber with the Chair but as that was not possible, so certain points were raised. We felt that we would not move many of the amendments but would concentrate on the main amendments but as we found that co-operation from our side was not being appreciated.....

MR. CHAIRMAN: I repudiate that suggestion; we really appreciate that and you have no idea, as Mr. Saksena said just now, how we listen with attention to Mr. Bhupesh Gupta and I have no doubt that Mr. Deshmukh also appreciates what he says.

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

MR. CHAIRMAN: Now, amendment No. 329.

SHRI B. C. GHOSE (West Bengal): Sir, I move:

329. "That at page 180, line 35, for the words and figures 'section 198 and 348', the words and figures 'sub-section (1) of section 198 and section 348' be substituted."

MR. CHAIRMAN: The clause and the two amendments are before the House for discussion. Shri Bhupesh Gupta. You have moved it but are not speaking on it.

SHRI B. C. GHOSE: I think there has been a misunderstanding. I wish my friends had not taken the decision that they will not participate for an

hour. I believe that what you said has been misunderstood and what he said has been misunderstood. I must say I am very thankful to the Communist Party for having studied this Bill very thoroughly and had it not been for them, we would not have had such a thorough discussion on the Bill in this House. I do again appeal to my friend to reconsider his decision, as you, Sir, have done, and participate in the discussion.

MR. CHAIRMAN: I hope that I am wiser today than I was yesterday.

SHRI B. C. GHOSE: And I believe my friend will be wiser this moment than he was a moment earlier.

MR. CHAIRMAN: He will be all right. He is a child in many matters. I know that.

SHRI B. C. GHOSE: Sir. I was impelled to send in this amendment because of certain observations which were made by the hon. Minister for Revenue and Civil Expenditure in the course of the discussion on, I believe, the 24th. Now, Sir .....

SHRI C. D. DESHMUKH: His intention is that Rs. 50,000 for the managing agent should not be exceeded whatever happens. Is it not?

SHRI B. C. GHOSE: I am going to read out what he said. That is probably quite true. As the hon. Minister now explains.....

SHRI C. D. DESHMUKH: I am asking if that is the hon. Member's intention that in no case should the amount of Rs. 50,000 be exceeded.

SHRI B. C. GHOSE: Yes.

SHRI C. D. DESHMUKH: If so, I hope to be able to point out that his amendment is not also going to secure it.

SHRI B. C. GHOSE: If some other amendment will secure it and if the Finance Minister agrees with the principle, I will be willing.....

SHRI C. D. DESHMUKH: I understand that. But the stand that I take is that no amendment is required and yet it will secure the thing he has in view. If we were to accept his amendment there will be an inconsistency between clause 352 and clause 198 (4). What clause 198(4) secures is that Rs. 50,000 shall be given to managing agents and others but what the proviso provides is that Rs. 50,000 may be exceeded in the case of monthly remuneration but the proviso is not available to the managing agents. Now, Rs. 50,000 itself may involve the raising of the 10 or 11 per cent, as the case may be. If that is so, the very act of paying Rs. 50,000 implies that no further provision is required. But, for instance, if there is no profit previously, you cannot offer a percentage automatically. Zero multiplied by 10 per cent, or 11 per cent, or 100 per cent, just gives zero. Therefore we have provided a limit of Rs. 50,000. If Rs. 50,000 itself is not in issue but the issue is below Rs. 50,000 then clause 352 will come into operation. Therefore it is not necessary to limit 198 to 198(1).

SHRI B. C. GHOSE: As 198 is now worded, if the Government is agreeable that even if there was a special resolution and also Government approval, the managing agent's remuneration cannot be increased over Rs. 50,000, then I do not press my amendment.

MR. CHAIRMAN: The question is:

299. "That at page 180, at the end of line 38, after the words 'public interest', the words 'after giving the shareholders an opportunity of being heard' be inserted."

The motion was negatived.

♦Amendment No. 329 was, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 352 stand part of the P/H"

The motion was adopted.

•For text of amendment vide col 5040 supra.

[Mr. Chairman.]

Clause 352 was added to the Bill. Clauses 353 to 359 were added to the Bill.

Clause 360 (*Contracts between managing agent or associate and company for the sale of/ purchase of goods or the supply of/ services, etc.*)

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

307. "That at page 183, lines 13-14, for the words 'any contract being', the words 'all contracts which may be' be substituted."

308. "That at page 183, for lines 22-23, the following be substituted, namely: —

'(a) be valid for a period of fifteen months and will provide that all contracts will be entered into according to the directions laid down by the Board of directors and will be subject to sanction at the next directors' meeting, and'."

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

SHRI C. P. PARIKH: Mr. Chairman, my amendments are arising out of the difficulty that the industry will experience on account of this clause because it is mentioned here that no company shall enter into a contract unless by a special resolution and the words are "approve of any contract being entered into." So, every contract, even if it is with an associate of the managing agent, has to be previously approved by the company according to this phraseology. I say it is necessary to exercise control over directors as regards entering into contracts with managing agents and associates. And general meeting's sanction even by a special resolution is necessary. I admit these two principles. But it often happens that entering into a contract with the associate of a managing agent is very important and it may also be in the interests of the company, because as regards prices, as

regards others he may be able to enter into the contract in a better way. My whole point is this. The special resolution may enunciate on what terms the contracts will be entered into and the directions may be given to the directors that on certain lines the contract with the associate of its managing agent should be approved by the directors. It should also be laid down that the contracts after being entered into will be approved and confirmed at the directors' meeting. As regards entering into contracts with associates, the contracts may be every month, twice a month and it would be in the interests of the company to do that even though he is an associate. The difficulty is that if such contracts are disallowed, then the company will enter into contracts indirectly. The associates will enter into contracts with A, B and C. These indirect methods are not desirable in company management and this should not be encouraged. In order that company directors may not enter into indirect arrangements, it is necessary to come boldly before the general meeting, get a special resolution saying that we shall enter into contracts with a managing agency or associates on such and such terms, as long as the market rates and all other conditions are reasonable. That may be a general condition. Then they may authorise the directors afterwards—the directors may authorise the managing agents or managers to enter into such contracts on such and such condition which may be laid down by them. And these contracts may be subsequently approved by them. This is very important for the ordinary and smooth running of a concern. Otherwise, many difficulties will arise and many benefits which will otherwise accrue to the company will be lost.

The point was raised some time back about investments. As regards investments they can wait for six months. The company can invest their moneys in other securities or securities which can remain untouched for a short time. But as regards contracts, they have to be decided in a

very short time as to whether the contract is in the interests of the company or not. I think if such a confidence is put in the Board of directors after passing a resolution in the general meeting, it would meet the case. The only point is that for the words "contract proposed to be entered into" I have suggested the words "all contracts will be entered into".

In regard to amendment No. 307, I have said for the words "any contract being" the words "all contracts which may be" be substituted.

As regards amendment No. 308, I "have made it very clear that I do not want the period of three years even, ■as Mr. Doshi has said. I say the period should be only fifteen months because after every fifteen months a general meeting is held and a special resolution can be passed. I have specially put down fifteen months so that the -wishes of the general meeting will be respected. Therefore, I have said: "be Valid for a period of fifteen months and will provide that all contracts will be entered into according to the directions laid down by the Board of directors and will be subject to sanction at the next directors' meeting.". I think because this is a practical way of working in the companies, I have put this amendment and I hope the Finance Minister will see his way to accepting it if there is no difficulty.

SHRI C. D. DESHMUKH: Sir, as a "businessman the hon. Member presumably knows the difficulties, but on the Select Committee there were many businessmen and they have generally accepted the scheme which has been put forward by the Select Committee. Now, these are among the few sections which would be regarded as intended to stop a rampant abuse in regard to buying and selling commissions. And it is possible that we are being a little stricter than in certain other matters where we merely generally apprehend the possibility of abuse. Therefore, I think we shall be justified in being rigorous in the beginning and then relaxing in the

light of experience, rather than being slack to begin with and then relaxing afterwards. I understand that the hon. Member does not want an *ex post facto* sanction. But what he wants is a general kind of sanction including directions and guidance for the Board of directors who should then manage the details of the transaction which is in question, i doubt if at a special meeting or by a special resolution, it would be possible to give directions or guidance of a general nature on matters which, for their decision, might call for statement of particulars in regard to a particular transaction. And we consider it unsafe to adopt the scheme which is suggested by the hon. Member. I would rather adhere to the present somewhat admittedly rigorous scheme which has been put forward by the Select Committee, which was recommended by the Expert Committee.

SHRI C. P. PARIKH: Sir, i beg leave to withdraw these amendments.

\* Amendments Nos. 307 and 308 were, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 360 stand part of the Bill."

The motion was adopted.

Clause 360 was added to the Bill.

Clauses 361 to 366 were added to the Bill.

#### *Proposed New Clause 366A*

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

173. "That at page 185, after line 23, the following new clause 366A be inserted, namely:—

'366A. *Damages for wrongful termination of office.*—(1) Nothing contained in sections 365 and 366 shall prejudice or restrict the right of a managing agent who

\*For text of amendments vide col. 5043 *supra*.

[Shri Lalchand Hirachand Doshi.] has been wrongfully dismissed or whose office has been wrongfully terminated to claim damages from the company in a Court of Law.

(2) No payment shall be made by a company, by way of damages to its managing agent for wrongful dismissal or wrongful termination of office, unless a Court of Law has held either that the dismissal or termination was wrongful or that the payment proposed and the amount thereof are reasonable in all the circumstances of the case."

Sir, what is proposed in this additional clause is that, if the managing agents' services are terminated or they are wrongfully dismissed, they should not be debarred from claiming any damages under clauses 365 and 366. If their services are terminated by the decision of the court, one can understand it. But if, due to the working of the Act, if groups arise in the companies' management and a certain action is taken whereby naturally the managing agents have to leave, naturally they should be compensated. And it is suggested by this amendment that in the case of wrongful dismissal, they should not be debarred from claiming any damages.

SHRI C. D. DESHMUKH: I would like to ask the hon. Member a question. Is it clear there there is not already available any general law, a remedy in this respect? Is there anything in this Act which prevents a party from going to court for compensation for wrongful dismissal?

SHRI LALCHAND HIRACHAND DOSHI: The idea is that, according to clauses 365 and 366, they may be prevented and this clause 366A makes it clear that nothing contained in clauses 365 and 366 should debar them from claiming damage. This is a mere clarification in 366A.

SHRI C. D. DESHMUKH: In that case, I do not think the amendment is

[ necessary. Clause 365 prohibits payment of compensation for loss of office in certain cases, which cases are clearly defined in those sub-clauses (a), (b), (c), (d), (e), (f), (g) and (h). Therefore, if there is compensation in any other case, then the general remedies available to parties are open to them in a court of law. And nothing, in this law prevents or would prevent them from going to a court of law and getting the compensation.

As regards clause 366, I think that is a general application. In other words, the limit of compensation for loss of office, no matter in whatever way it is brought out, is absolute and if the intention of the hon. Member is that it should be open to a court to give compensation in excess of the limit provided in clause 366, then that position is not acceptable to us, because we wish to put an absolute limit namely, the remuneration which he would have earned if he had been in office for the unexpired residue of his term or for three years whichever is less, the compensation payable for loss of office in whatever manner it might have been brought about. Therefore, I cannot accept this amendment.

SHRI LALCHAND HIRACHAND DOSHI: Sir, I beg leave to withdraw this amendment.

♦Amendment No. 173 was, by leave-withdrawn.

Clauses 367 and 368 were added to-the Bill.

*Clause 369.—Loans to managing agent*

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

311. "That at page 186, line 13, for the words 'twenty thousand rupees', the words 'fifty thousand rupees' be substituted."

In clause 369, it is mentioned that for the purpose of facilitating the company's business, the managing.

•For text of amendment *vide* cols. 5046-47 *supra*.

agent will be entitled to hold in his name in one or more of the current accounts,—in his name also and in the current account also. These two provisos are also subject to the third proviso—"to limits previously approved by the directors of the company." All these three conditions are there. The limit as put down is "twenty thousand rupees" and it should be "fifty thousand" in order that the working of the company may be carried on to the advantage of the company. It may be said that these amounts may be adequate in the idea of one man or other. Many companies have a volume of business of such a nature that it will be impossible for them to have transactions, if the limit is put down as "twenty thousand" because one may require fifty thousand or more. Therefore, I am asking the hon. Finance Minister to consider this matter.

SHRI C. D. DESHMUKH: I have not had previous discussion with the hon. Member in regard to the sufficiency of twenty thousand or the inadequacy of fifty thousand. The figure "twenty thousand" has been considered by a large number of people at various stages and they have accepted it as a practicable figure. It may be that, in actual practice, you will find that neither twenty thousand nor fifty thousand is sufficient. If you do want to make a change, then I imagine you must go to lakhs. And, therefore, I would prefer to retain the present limit bearing in mind what the hon. Member has said and if we do find that this would be irksome or inconvenient that the amounts cannot be replenished quickly from time to time and therefore this provision comes in the way of the transaction of business, we shall take a very early opportunity of coming forward with an amendment which will not be necessarily limited to fifty thousand but it will be something based on actual experience.

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

\*Amendment No. 311 was by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 369 stand part of the Bill."

The motion was adopted.

Clause 369 was added to the Bill.

*Clause 370.—Loans etc. to companies under the same management*

SHRI C. P. PARIKH: Sir, 1 move:

248. "That at page 186, line 37, after the word 'directors', the words 'or relatives of directors' be inserted."

249. "That at page 186, line 39, after the word 'directors', the words 'or relatives of directors' be inserted."

250. "That at page 186, after line 39, the following be inserted, namely:—

'(iii) if one body corporate is accustomed to act in accordance with the directions or instructions of any one or more of the directors or managing agent of the other body corporate.' "

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

SHRI C. P. PARIKH: My reasons are that this represents the loans to companies under the same management and I will refer to clause 372 as regards also the investment by the companies, because as regards clause 372 also this definition has to be applied when investments are made. Therefore, I say that it should be very clear as regards loans and investments on which account most of the interlocking takes place in the company. We should impose such restrictions that no advantage is taken of because there has been a lot of abuses in the past on account of interlocking of funds and investments and that

•For text of amendment vide col. j 5048 *supra*.

[Shri C. P. Parikh.] should be arrested to a considerable degree in the larger interests of the industrial community. From this standpoint, I have moved here my amendment No. 248.

As regards clause 370, in line 37, it says, "if a majority of the directors of the one body constitute, or at any time within the six months immediately preceding constituted, a majority of the directors of the other body " Now, one director may be the father in one body and in the other place there may be a son and the relatives. This intci locking takes place and on "this account this amendment is brought here. In order that it may not be abused and may be rigorously observed in the interest of the loans and the investments it is necessary, Sir, that director's relatives should be there because the control is exercised also by relatives because in the case of law, husband and wife and probably sister or son are all different but they are exercising control as a director. Therefore, majority directors of •on<sub>e</sub> body as regards the majority of directorship these relationships should not be there.

Then, Sir, further my amendment 250 says:—

"If one body corporate is accustomed to act in accordance with the directions or instructions ol any one or more of the directors ir managing agent of the other body corporate."

Because I find and the Finance Minister will have found that in many case persons do not desire to remain as directors and they appoint their nominees. I know of companies which are controlled by directors who are remaining outside and for which the provision is there that though the director is not on the Board he will be considered director because he is controlling. On that account restriction may be put in order that the words "accustomed to act" which is appearing in about six or seven places where the Finance Minister has thought fit to plug the loophole

and therefore the amendment may be put as sub-clause (hi). This latitude given to the industry should not be allowed in order that if it is abused by some body, some persons, the whole industrial community does not go into disrepute on that account.

SHRI C. D. DESHMUKH: Sir, something has been said for the amendments by the mover, but in all these matters it is a question how far one would go in order to plug loopholes which are either visible or have been pointed out or are suspected. Now, to the extent to which our experience shows that loopholes have existed, we have tried to plug them. It is possible to extend the period of our apprehensions and to try to provide against all kinds of contingencies but in a matter like this, where it is a question of utilising the funds of one company in another company, may be for legitimate purposes, it is again a matter where you draw the line and when that director and relative makes it in this company, it might make it very difficult to transact the kind of legitimate business in favour of which the hon. Member spoke, when he spoke on the previous amendment. Therefore, here again my reply would be that we shall watch the situation, we shall know a great deal more about the facts, especially in regard to the third matter where one body corporate is accustomed to act in accordance with the directions or instructions of any one or more of the directors. That is now a question of the same management. So far as the formal arrangements are concerned he has now conceded that it may be necessary for Central Government to take notice of these cases and then prohibit them. That brings him very much near to my point of view that we shall be watching the situation in accordance with the general powers which have been vested in us and that if we do find that there is abuse which requires to be rectified, we shall take the necessary action. For the moment I would ask Mr. Parikh not to press the amendment.



SHRI C. P. PARIKH: Sir, I beg permission to withdraw my amendments.

•Amendments Nos. 248, 249. and 250 were, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 370 stand part of the Bill."

The motion was adopted.

Clause 370 was added to the Bill.

Clause 371 was added to the Bill.

*Clause 372.—Purchase by company of shares, etc. of other companies in same group*

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

174. "That at page 188, lines 29 to 32 be deleted."

175. "That at page 188, after line 36, the following be inserted, namely: —

'(bb) to an investment company, that is to say, to a company whose principal business is the acquisition of shares, stock, debentures or other securities;'"

SHR: [ C. P. PARIKH: Sir, i be<? to move:

251. "That at page 187, line 30, after the word 'subscribed', the words 'and paid up' be inserted."

252. "That at page 187, line 33, after the word 'subscribed', the words 'and paid up' be inserted."

Sir, I also move:

316. "That at page 188, at the end of line 36, after the word 'company', the following be inserted, namely: —

'or unless it is specifically exempted by the Central Government by a general or special order.'"

♦For text of amendments *vide* col. 5050 *supra*.

MR. CHAIRMAN: The clause and the amendments are before the House.

SHRI LALCHAND HIRACHAND DOSHI: Sir, the effect of the present clause is to prevent a company from, investing in another company in the same group beyond certain limits except with the sanction of a special resolution. The clause is now applied also to investments by an investment company (that is to say a company whose principal business is the acquisition of shares, stock-debentures or other securities), though the present Act exempts such companies. The Bhabha Committee had recommended the withdrawal of exemption, but in para 139 where this recommendation is made, I do not find any reason made out for the recommendation. The committee do not refer to any abuses arising out of the present exemption, nor have they opposed the exemption on principle.

I believe that it is an investment company's job to invest, and that it should be allowed to do so with reasonable freedom. In its manifold transaction of purchases and sales, such a company may exceed the limits provided by the clause, and it will be difficult for it to carry on its business efficiently if it were required to obtain prior approval of each such transaction by an ordinary resolution plus approval of the Central Government. This will involve considerable delays, during which profitable opportunities will be lost. There is little distinction of principle between their business and the banking and insurance business which have been exempted from the operation of this clause. I. therefore, urge that investment companies be exempted from the operation of this clause.

SHRI C. P. PARIKH: Sir, my amendments are very simple. They are self-explanatory because I say:

"That after the word 'subscribed' the words 'and paid up' be added."

Because in the subscribed capital many times the capital is *not* ca

[Shri C. P. Parikh.] up or is called up to the extent of 50 per cent. Many of the companies have actually called up to the extent of 50 per cent. So in this calculation 100 per cent will be accounted. The intention of the framers of this Bill is to have subscribed and paid up capital. So what is called subscribed intends paid up capital also. I think it will be giving double the amount on that account is only 50 per cent. The words "paid up capital" are not used in line 30 after "subscribed capital", which I have mentioned.

Now, Sir, with regard to amendment No. 316, this clause shall not apply to a private company.- I have put the amendment in this way. In clause 327 the Finance Minister has made the application of certain clauses to private companies by saying that "unless the Central Government, by general or special order, specifically exempt the private company". He may not or may accept the proposal which I have put down but I have given the alternative suggestion where the paid up capital of the company is Rs. 5 lakhs or Rs. 10 lakhs, and especially in the manufacturing concern, it must be laid down that it will apply to such private companies as have a paid up capital of Rs. 5 lakhs or Rs. 10 lakhs, unless they are exempted by any of the three alternatives. This is because I think the investment of the companies should be so regulated that there is no chance of abuse especially by those persons who are controlling them. I will repeat that nine families, as has been pointed out, are holding 600 directorships and 20 further families might be holding 400 directorships. So all these considerations should be there that even the private companies which have a paid up capital of Rs. 5 lakhs or Rs. 10 lakhs, especially if they are manufacturing concerns, should not be allowed to have their own ways in the matters.

SHRI C. D. DESHMUKH: In regard to his amendment, Shri Doshi says that the provision is based on the recommendations of the Bhabha Com-

mittee. He complains that proper reasons have not been given. It is possible that in every case detailed reasons have not been stated but the fact remains that the scheme had been considered and found to be acceptable. My own difficulty in this matter is that there are investment companies. It is quite true that if we have genuine investment companies which are really not concerned with any other groups, then there is no reason why one should place a restriction of their operation. To my knowledge there are few such investment companies. On the other hand, the larger number of investment companies, so far in this country, consist of investment companies which are concerned with some particular big industrial group. I am daily dealing with some case or the other where one concern has placed its reserves, which are very substantial in so far as the investment company is concerned, either in the form of preference shares or in the form of loans, and that investment company then has not been doing anything with them. In other words, they have put that money into Government securities. Now the exact implication of that is not always clear. But it does show the necessity of regulating the transactions of the so-called investment companies. So unless the situation clears up in regard to the establishment of genuine investment companies, I think it would be unsafe to accept the amendment of Shri Doshi, which in theory, I say, is unexceptionable.

Now in regard to the amendment of Shri Parikh, I will say that one can always improve things. What he points out is that the so-called 20 per cent. may be something quite different when you take the subscribed and the paid-up capital. Now here again we have adopted a scheme which has been recommended by the Company Law Committee. It is possible that if they had taken both the capitals, not only the subscribed capital, they might have put a different percentage. But the general object was to regulate inter-company investments within

certain statutory limits. These limits are in a sense experimental, and many cases will come to Government where those limits are to be exceeded. So, I think we have sufficient safeguards. And then there is a further safeguard, that is to say, in future, disclosures will be required of all inter-company investments under subclauses (5) and (6). At the present moment, I think this safeguard should suffice, but as in other cases, we shall have to keep the situation under observation. That is a point which has been made by the hon. Member in various places. It is really a difference in the basic philosophy, so to speak. His contention is that whereas the present scheme of the law tends to leave the private limited companies, except of a certain sort, to their own devices except for certain modicum of ethical conduct, he knows of many where perhaps abuses might spring up, and where regulation is necessary. Nevertheless, the fact remains that, they guide the fortunes of a very small number of shareholders. Each private company cannot have more than 50 shareholders. And at this moment, -when there is so much work going to be thrown on the Central Administration, we hardly like to take on the work in connection with the regulation of the affairs of private limited companies, because that will be the meaning of the amendment which has been suggested by the hon. Member. Every time the Central Government will have to make up its mind whether it is going to exempt that private limited company or not. A stage may come when we may have to go into the affairs of the private limited companies, but at the moment I think we have enough on our hands. That is the reason. Sir, why I am reluctant to accept the amendment put forward by the hon. Member.

SHRI LALCHAND HIRACHAND DOSHI: While withdrawing my amendments, I am afraid I find that the Finance Minister is taking the attitude of a suspicious husband all the time thinking that the wife has not.....

MR. CHAIRMAN: All that he says is that the position will be kept under observation, and if at any time he finds anything necessary, he will come forward himself.

SHRI C. D. DESHMUKH: I made a factual statement that to my knowledge the kind of investment companies that we have are very much tied-up investment companies rather than other kinds of investment companies in regard to which the observations made by the hon. Members will be very appropriate. It is not a question of suspicion.

SHRI LALCHAND HIRACHAND DOSHI: Sir, I beg leave to withdraw my amendments.

\*Amendments Nos. 174 and 175 were, by leave, withdrawn.

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

♦Amendments Nos. 251, 252 and 316 were, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 372 stand part of the Bill."

The motion was adopted.

Clause 372 was added to the Bill.

Clauses 373 to 377 were added to the Bill.

Clause 378.—Appointment of secretaries and treasurers

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

363. "That at page 191, at the end of line 7, after the words 'and treasurers', the words 'and provided further that technicians with prescribed degrees or diplomas have twenty-five per cent, share or shares in the constitution of the firm or body corporate' be inserted."

•For text of amendments vide col. 5053 supra.

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

SHRI C. P. PARIKH: Mr. Chairman, I had already advanced my arguments with regard to this amendment. I think I am tempted to bring in this amendment on account of the new situation which is tried to be created with regard to the secretaries and treasurers. I therefore want that the words "and provided further that technicians with prescribed degrees or diplomas have twenty-five per cent, share or shares in the constitution of the firm or body corporate" should be added here.

SHRI CD. DESHMUKH: Sir, I also have given certain arguments in opposition to the scheme. I have a certain amount of sympathy with technicians, especially those who are holding degrees or diplomas and so on. But I said that that is a problem which has to be taken care of at another level. And merely because one wants to encourage them and to improve their prospects, it is not right that the law should take the first opportunity of putting them in directorates, putting them in managing agencies, and all that, and not only putting them therein, but also prescribing the percentage of holding which they should have. That seems to be an artificial way of securing bliss for technicians. My opinion is, Sir, that a matter like this should sail itself under its own steer rather than by force of legislation. If after all there is something in a degree or a diploma, and something in the ability and the talent which a technician brings to bear to the job in hand, then naturally people ought to clamour for his services and take such people in according to the needs of each industrial enterprise. That would be a more natural way of proceeding than for the statute to incorporate such provisions in a law of this kind.

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

\* Amendment No. 363 was, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That clause 378 stand part of the Bill."

The motion was adopted.

Clause 378 was added to the Bill.

Clause 379 was added to the Bill.

*Clause 380.—Sections 324, 330 and 332 not to apply*

PHXI KISHEN CHAND (Hyderabad): Sir, I move:

92. "That at page 191, at the end of line 26, after the word 'treasurers', the words 'but such secretaries and treasurers shall not act as such for more than five companies inclusive of companies of which they are managing agents' be added."

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

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

176 "That at page 191, lines 25-26, for the figures and word "324, 330-and 332", the figures and word "324 and 330" be substituted."

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

9HRI KISHEN CHAND: Mr. Chairman, this clause exempts secretaries and treasurers from the obligation of clauses 324, 330 and 332. I have no-objection as far as clauses 324 and 330 are concerned, because clause 324 deals with the issuing of notification-specifying certain classes of industries which shall not have managing agents. That is really not applicable to secretaries and treasurers. Then clause 330<sup>1</sup> also is not applicable to them. But clause 332 restricts the number of the companies, in which one managing agent can operate, to ten. Here, Sir, we are instituting a new system.

\*For text of amendment, *vide* col, 5058 *supra*.

[MR. DEPUTY CHAIRMAN in the Chair.]

1. P.M.

When we are instituting a new method of managing companies, we must carefully examine whether it will be advisable to leave the field absolutely open so that one set of secretaries and treasurers can take office with any number of companies. There is no restriction on the managing agents themselves becoming secretaries and treasurers of some other companies. As I pointed out when the clause about managing agents was being discussed, managing agents can become managing agents of ten companies and they can also become secretaries and treasurers of any number of companies, even one hundred companies. The hon. the Finance Minister wants to restrict and control the operation of the managing agents, but so far as secretaries and treasurers are concerned, he does not put any limit. Secretaries and treasurers are really employees of the company and, as he said, they are under the control of the Board of directors; as such I do not think it advisable to allow a large number of companies to be operated by one set of secretaries and treasurers. In this connection, I may point out that, when we were discussing the question of auditors, the hon. the Finance Minister tried to make out a fine distinction between the two types of operations. He said that so far as the managing agents were concerned, it was a question of getting power and therefore he wanted to restrict them, while in the case of auditors, they could employ any number of subordinates to look after any number of companies and so there was no need to put any restriction on them. Sir, I do not agree with this type of argument. I personally think that, when we are building up a new type of economy, when our objective is really dispersal of economic operations, to concentrate power in a few hands in the case of secretaries and treasurers is not correct. I submit that the secretaries and treasurers will slowly and gradually come to occupy the place of managing agents and the present

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abuses of the managing agents will be once more repeated in case of secretaries and treasurers. It is not a good policy to first pass an enactment and then promise this House that later on, when abuses are found the Government will be bringing forward an amending Bill. It is obvious that, if you permit secretaries and treasurers to control any number of companies, naturally it will lead to abuses. My amendment says that after the word "treasurers", the words "but such secretaries and treasurers shall not act as such for more than 5 companies inclusive of companies of which they are managing agents" should be added. I want to restrict the number of companies including companies of which they are managing agents. I want to limit the number to five and the reason is simple and plain. I want more dispersal of management of companies.

SHRI B. C. GHOSE: Sir, with due deference to the Finance Minister it appears to me that it does not appear logical not to place certain restrictions on the secretaries and treasurers in regard to the companies that they manage, when such restrictions have been placed in regard to the companies which managing agents and also managing directors may manage. I hope the Finance Minister will not say it against me that I have not mentioned it in my Minute of Dissent. That is quite true. But the validity of the point still, I think, remains. The first point which arises is as to why a limit has been placed on the companies which managing agents may manage. The argument which the Finance Minister advanced, with which we had agreed, was that we should try to prevent concentration of economic power and wealth. That is why a limitation has been placed on the companies which managing agents may be permitted to manage. The question arises as to whether there could be no concentration in that sense where secretaries and treasurer are involved. The only reason that I could find from his speeches in support of his contention was that the secretaries and treasurers cannot appoint directions *ex officio* as managing agents

*a-ra*

[Shri B. C. Ghose.] do on the Board of the companies. But that does not appear to be sufficient reason for saying that in one case there is concentration while in the other there is no concentration because there is no *ex officio* appointment of directors. As a matter of fact, businessmen have also not accepted, if I may say so, that proposition, because I see that *A financial journal* writes in the following terms:

"It means that....."—

That is after this Bill will have been passed—

".... safe course for type of managing agents referred to here will be not amalgamation of the companies under their management into big concerns in order to reduce the number of managed companies to the limit specified in law—a course which many are said to be contemplating—but adoption of the new system of secretaries and treasurers, a system which Mr. Deshmukh insists, despite all arguments to the contrary and curiously enough will not result in concentration of economic power, and is quite in consonance with the socialistic pattern of society."

This shows that even those who are the advocates of businessmen do not accept the argument which has been advanced by the Finance Minister.

SHRI C. D. DESHMUKH: Which journal is this?

SHRI B. C. GHOSE: *Commerce* of the 27th August 1955. This is what it says. The Finance Minister may say that it is a question of judgment. Surely this is a question of judgment, and I do not think it is correct to say that secretaries and treasurers can manage any number of companies simply because they will not appoint directors, and that there will be no concentration of economic power in that case, particularly when managing agents can have as many secretaryships and treasurerhips in addition •>\* they like.

Now the next question which is relevant in this connection, I believe, is in regard to the capacity of people to manage. I think that is the *raison d'être* of putting a limit on the number of companies that managing directors may manage. We have provided that a managing director shall not manage more than two companies. Obviously it is because it is thought that if they manage more companies, they would not be able to do it efficiently.

SHRI C. D. DESHMUKH: I never said that. It was on the ground of concentration of economic power.

SHRI B. C. GHOSE: On the same ground.....

SHRI C. D. DESHMUKH: Not on the ground of capacity to manage.

SHRI B. C. GHOSE: This is with regard to managing directors and not managing agents.

SHRI C. D. DESHMUKH: I thought you were referring to managing agents.

SHRI B. C. GHOSE: The reason why we have limited the number of companies which managing directors may manage is certainly on account of the consideration that they will not be able to manage properly and efficiently more than two companies. Now, what will be the difference let us say, between a managing director and secretaries and treasurers. Two persons, I am sure, can constitute a firm of secretaries and treasurers. Ghose and Bose Company is a firm of treasurers and secretaries. There is one Ghose and there is one Bose. The two together will be able to manage any number of companies but if Ghose were independently a managing director and Bose were independently a managing director, between themselves they could not have managed more than four companies but if they combine as a firm of secretaries and treasurers, there will be no limit which the Finance Minister has put on them to manage companies. That also appeared to me to be illogical for

this reason because if we feel that the firm can manage any number of companies; then would it be legitimate to say that an individual would be unable to manage more than two companies, particularly when it is our idea to encourage alternative forms of management and of the possible alternatives, certainly a managing director would be preferable to secretaries and treasurers, and secretaries and treasurers preferable to managing agents. Therefore it appears to me that to have no provisions in regard to the companies which secretaries and treasurers may be permitted to manage, is not a logical proposition in view of the provision that we have made in regard to managing agents and managing directors.

SHRI C. D. DESHMUKH: Sir, It is obvious that Shri Ghose has, at any rate, read what I have said on this subject but I don't think he has referred to all the arguments that I used then and I think it is necessary that I should place some of them before this House. We are dealing here with a complex situation which has to take care (a) of the future developments and (b) of the present management of companies.

Now, In regard to future management, if that had been the sole issue, may be, I might have said "Well, ten is as good a limit as anything. You might adopt that", although that does not mean that I accept the arguments which have been put forward by Shri Ghose. It is quite true that so far as an individual is concerned, he has only a limited amount of energy and experience and it is not unreasonable to say that we do not expect him to look after more than two companies.

Now, if you go to Ghose and Bose, then being only two, you might certainly say that four is all right but we are not dealing only with individuals or with firms. We may be dealing with private limited companies. What is more, we may be dealing with body corporates. In regard to body corporates, there is no way of finding out by an arithmetical exercise based on

individual experiences, as to how many companies a body corporate can manage.

SHRI B. C. GHOSE: I might say that I suggested twenty.

SHRI C. D. DESHMUKH: I say even twenty is not necessarily the physical limit of what a body corporate may manage. That follows obviously, if we are only on the ground of capacity, from the fact that today managing agents—not secretaries and treasurers because we have only 16 treasurers and secretaries probably—but there are managing agents who, we know, are managing in some cases very efficiently a large number of companies including 40. If that is so, if certain body corporates and private limited companies can today manage without abuse and without inefficiency a number of companies up to 40, how are we justified in putting a limit of 20? That brings me to my next point that it is not capacity that we are talking of when we are talking of individuals but the question of the concentration of economic power. My proposition is that so far as managing agents are concerned, there is a real danger of concentration of economic power, patronage, so on and so forth because by agreement they have a significant part to play in the direction of the policy of a company and that scheme will continue to the extent we are going to allow it to continue. In the case of secretaries and treasurers, the definition itself differs very substantially from that of the managing agents. They can be classed only with the managers, managing directors, *i.e.*, they have no special contact with the company as a whole. They can only derive their power from the Board of Directors and the general body of shareholders not by virtue of contracts like interchange of sovereignty so to speak. Now in that case, I cannot see what concentration of economic power there could be any more than in the case of managing directors. He is the servant, in every sense of the word, of the company which engages his services. The only difference is that

[Shri C. D. Deshmukh.] . they are a body corporate, and there-fore they are able to look after the affairs of not only A but B, C, D and whatever it may be. Now it is not as if I am suggesting that 40 or 50 companies is a very good number but we are here considering what is going to happen to the management of these companies which accounts for according to figures, about one-third of the paid-up capital in this country.

SHRI B. C. GHOSE: The number is not very great—it is 20. If we had 10 more, it would cover practically all companies.

SHRI C. D. DESHMUKH: What I say is, the names of the managing agents that I read out one day—about 15 or 20—these big twenty managing agency houses are managing a very large number of co

mpanies between themselves accounting for, as far as I remember, I said about one-third of the total paid-up capital of the country. Take a single case. I will ask Members here to rid their minds of any prejudices based on nationality and so on or whether it is an Indian firm or British firm or whether it is any other firm. Let us not consider it here. Let us consider it as the case of a number of units being looked after by a particular managing agent. That is why I don't want to give the names because I see Mr. Gupta has come back now and he might have something to say about it. Let us take the case of just the physical facts of the situation. Take a number of tea gardens. In one case that I gave there were 13 tea gardens or 20 gardens being managed. Now in accordance with our general policy we say that so far as managing agencies are concerned, we are now giving you a kind of a symbolic token of what we think is a dangerous kind of number where we feel that there is every prospect of economic power being concentrated. Therefore we frown on that. Therefore, as I said the other day, it will be for the managing "agent now to consider what he will do. Well, I said and I think this "Commerce" or whatever that journal is, has admitted that

amalgamations are not a very practical way of getting over this difficulty and it is not intended that t

hey should be forced to do so. Our solution is a direct and honest one. We say to the managing agent "Well now you choose the ten companies—tea companies in this particular case—which you wish to manage. What you will have to do is, in order to ensure that you continue to have some kind of voice in the management of these companies, in order that you may secure the responsibility of financing them, you might transfer your financial stake in some of these other companies, withdraw it from other companies and put it in these companies. These ten companies will be under your management. You possibly will have 40 per cent stake in that company and you have to look after the affairs of these companies including the financing in a particular manner." Now that leaves about another 7 or 8 companies or whatever the number may be. What do you do? Do you have a law which forces them to abandon these companies although the tea gardens may have been managed by them for the last 10 years and they might have been serving them in the most effective way? Do we say that—and for whose good—we have certain theories and philosophies about possible concentration of economic power, we have certain arithmetical formulas in regard to the number of companies which a body corporate can manage and therefore we say you shall abandon these gardens and let the Boards of directors who are, mind you unequal to the task of managing them because *ex hypothesi*, they are being managed by the managing agents *si* the moment. What does the country get, I fail to understand, by forcing them into that position? Why not reconcile yourself to this position that it would be better that they might continue to manage them as secretaries and treasurers provided each case comes before the Government before the final decision is taken.

SHRI B. C. GHOSE: May I ask one question? What is the problem before us? How many companies really have



/more than ten companies? And if we permitted fifteen more secretaryships, how many companies really would be adversely affected, even if we accepted all the arguments of the Finance Minister?

SHRI C. D. DESHMUKH: i don't know but I think there will be about 100 companies, with a capital of about a hundred crores.

SHRI B. C. GHOSE: Not paia-up capital. Anyway, there may be ten to fifteen secretaryships along with the managing agencies. But even under the scheme that I have proposed, there will be 20 to 25 concerns which they would be managing either as managing agents or as secretaries and treasurers? When they can thus manage 20 to 25 companies, what will be the effect on the existing scheme? Do I understand the Finance Minister as wanting to limit the managing agencies to ten but allow them to manage any number of companies as secretaries and treasurers?

SHRI C. D. DESHMUKH: In that case this amendment is hardly worth making, for one can have ten managing agencies and twenty more concerns as secretaries and treasurers.

SHRI B. C. GHOSE: You are fixing the number of managing agencies. Why not fix that they can have another ten or fifteen only as secretaries and treasurers?

SHRI C. D. DESHMUKH: There I may say the hon. Member is trying cheese-paring, so to say, not directly tackling the problem. And then 't is very arbitrary too. In this particular case, suppose it is 20, certainly that particular instance will be met by what Mr. Ghose suggested, ten companies as managing agents and another ten companies as secretary and treasurer. Andrew Yules managed fifty companies or so. You see in the matter of tea, jute and coal, it is being run effectively and efficiently today. Why should they be disturbed merely on these theoretical considerations?

Now, i return to my main point. Provided that we have a look in, in all these cases—and no one can be a secretary or treasurer today without our examining the case—

SHRI B. C. GHOSE: But the same argument applies to the managing agents also.

SHRI C. D. DESHMUKH: But then for the next four years no managing agent need come to us. Supposing people wish to make their arrangements from now to August, 19fj0, they may work in advance so to say. After all, the intention of the Act is that we should be free to say, "Let us examine your affairs." We should be able to see how many concerns they are managing and in what way. There is no reason why the Government's power in this respect should be limited to only a limited number of companies. In the case of Andrew Yule—I do not like to mention names, but in order to illustrate a point sometimes I have to—and this name has already been mentioned, I think and it was said that they manage or managed some forty or fifty concerns. Am I not to consider after the twenty companies have been chosen and selected, how the remaining 30 companies are going to be managed? What is it that we gain by forcing them to abandon these 30 or 40 companies that they may be able to manage as secretaries or treasurers? What is it that we fear? In the case of these big managing agencies, there is not even the suspicion of abuse though occasionally there may be instance of something small going wrong, like the number of Indian directors not being sufficient or sufficient number of Indians not being employed in particular grades and so on. Otherwise, even from all the literature which bears on the abuses of the managing agency system there has not been any mention that the managing agency of these companies has been bad. If that be so, I do not see any reason why Government and the country should take the risk of dissociating these long established managements from a number of concerns in important industries, like

[Shri C. D. Deshmukh.] jute, tea and coal. Now, coal is basic to our economy. Jute and tea are very important from the point of view of export. I say that the cost that we pay for any doctrinaire or theoretical consideration is far too much and it is far outweighed by the advantages that you may get if people subject to our supervision, carried on the work which in the past they have been carrying on effectively.

SHRI S. N. MAZUMDAR: May I take it, Sir, from the reference of the hon. Finance Minister to coal, that the Government have already decided, against the nationalisation of the coal industry, after this period from 1948 had expired?

SHRI C. D. DESHMUKH: The hon. Members go<sup>1</sup> so often in and out of the House that I do not know whether they heard the remarks I made here with regard to coal yesterday, I cannot go on repeating what I said. I said everything with regard to Government's plans about it.

SHRI AKBAR ALI KHAN (Hyderabad): Sir, I want a clarification.

MR. DEPUTY CHAIRMAN: No, no. I am putting the amendment.

The question is:

92. "That at page 191, at the end of line 26, after the word 'treasurers' the words 'but such Secretaries and treasurers shall not act as such for more than five companies inclusive of companies of which they are managing agents' be added."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

176. "That at page 191, lines 25-26 for the figures and word '324, 330 and 332' the figures and word '324 and 330' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 380 stand part of the Bill."

The motion was adopted.

Clause 380 was added to the Bill.

*Proposed New Clause 380A*

MR. DEPUTY CHAIRMAN: Do you move your new clause 380A, Mr. Ghose?

SHRI B. C. GHOSE: It falls through, obviously.

*Clause 381.—Section. 348 to apply subject to a modification*

SHRI KISHEN CHAND: Sir, I move:

93. "That at page 191,—

(i) in line 29, for the words 'ten per cent.', the words 'ten per cent., eight and a half per cent. or seven per cent., be substituted;

and

(ii) in line 30, for the words 'seven and a half per cent.', the words 'seven and a half per cent, or six and a quarter per cent, or five per cent.' be substituted."

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

178. "That at page 191, line 30, for the words 'seven and a half per cent', the words 'six and a quarter per cent.' be substituted."

SHRI BHUPESH GUPTA: Sir, I move:

334. "That at page 191, line 30, for the words 'seven and a half per cent.', the words 'five per cent.\* be substituted."

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

SHRI KISHEN CHAND: Sir, as will be seen, my amendment has two parts but part (i) now goes away because I anticipated at that time that the words "ten per cent." should be changed. But that alteration is not valid now. That ten per cent. will

remain there. Only the second part of my amendment is applicable, namely that for the words "seven and a half per cent." the words "seven and a half per cent, or six and a quarter per cent, or five per cent" shall be substituted. Of course, all the arguments have been given already in the course of the discussion on the managing agents. My fundamental idea is that there should be a distinction made between small, medium sized and big companies. There is no need to repeat the arguments. To my mind it is very essential that when you are fixing an upper limit it should be as near the actual figure as you want it in practice. There is no point in keeping the figure at 7½ per cent, and sanctioning only 4 per cent, or 5 per cent. Therefore I have sent in this amendment and I have moved it. I recommend it for the acceptance of the House.

MR. DEPUTY CHAIRMAN: Mr. Ghose, do you want to speak on your amendment?

SHRI B. C. GHOSE: No, Sir.

SHRI BHUPESH GUPTA: We have moved an amendment to bring down the percentage here. This clause 381 here lays it down that the secretaries and treasurers will get seven and a half per cent, of the net annual profits. We want it to be 5 per cent, instead of 7½ per cent. We were not in a position to participate in the earlier discussion and so I do not know exactly what had been said with regard to the earlier provisions.

Coming now to this particular point, we feel that the appointment of treasurers and secretaries in place of managing agencies is wholly unjustified. I heard the Finance Minister giving certain reasons why this provision should be retained; but I am not convinced. But since he is determined to retain this office for the management of the business, I think that the remuneration here should be reduced to 5 per cent. According to us even that is a big sum, a big percentage. But under the circumstances we would ask the Government to accept it. I

would, however, like to draw the attention of the House to the rates at which companies are making profits I will give only one example.

I give this example but I do not suggest that every company is making profits at this rate. Since the managing agents are really drawing very high remuneration and since some of the managing agents will give place to secretaries and treasurers, the same approach will remain. As has been pointed out by various business organisations, by having the secretaries and treasurers the situation is not materially affected. The managing agency system will, more or less, remain in the shape of secretaries and treasurers. I quote the case of the Titaghur Paper Mills which is managed by a British firm of managing agents. For the year ending 31st March, 1955, this concern gave a commission of 4-25 lakhs to the managing agents. Even this figure relates only to six months. If secretaries and treasurers were to be appointed, they would, more or less, get the same amount of commission as is paid to a managing agent. This is what has been said about this firm:

"The most outstanding-feature is the transfer of nearly a quarter of a crore of rupees to the reserves, an amount higher than even the transfers made from out of the profits for the six months ended 30th September, 1953."

All these things have taken place and if this provision were to remain, it would again mean lots of money being placed in the hands of those people who will come and take over from the managing agents under different garbs but essentially carrying the same legacy and tradition. Therefore, I suggest that this amendment be accepted.

THE MINISTER FOR REVENUE AND CIVIL EXPENDITURE (SHRI M. C. SHAH): Sir, I cannot accept the amendment for the reason that we have already considered this point in connection with clauses 198 and 348.

[Shri M. C. Shall.] Our scheme is that the managing agency system should be slowly and slowly exterminated. Instead of managing agents we propose to have secretaries and treasurers or managing directors or managers. In that scheme, we have provided 10 per cent, for the managing agents, 7½ per cent, for secretaries and treasurers and 5 per cent, for the managing directors. These figures are reasonable and I think we should accept the figure that we have provided for the secretaries and treasurers.

MR. DEPUTY CHAIRMAN: The question is:

93. "That at page 191,—

(i) in line 29, for the words 'ten per cent.', the words 'ten per cent.; eight and a half per cent, or seven per cent.' be substituted, and

(ii) in line 30, for the words seven and a half per cent, the words 'seven and a half per cent, or six and a quarter per cent, or five per cent.' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is;

178. "That at page 191, line 30, for the words 'seven and a half per cent.', the words 'six and a quarter per cent.' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

334. "That at page 191, line 30, for the word 'seven and a half per cent.', the words 'five per cent.' be substituted."

The motion was negatived:

MR. DEPUTY CHAIRMAN: The question is:

"That clause 381 stand part of the Bill."

The motion was adopted.

Clause 381 was added to the Bill.

Clauses 382 to 385 were added to the Bill.

*Clause 386.—Number of companies of which a person may be appointed manager*

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

255. "That at page 193, lines 2-3, for the words 'No company shall, after the commencement of this Act', the words 'After the commencement of this Act, no company which has a managing agent or secretaries and treasurers shall appoint or employ any person as manager except by a resolution of a general meeting and by approval of the Central Government, and no company shall' be substituted."

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

SHRI C. P. PARIKH: Sir, this amendment is regarding the appointment of managers. As the term is understood at present, it is very difficult to define managers. According to the definition in clause 2, the manager is a person who has the management of the whole, or substantially the whole, of the affairs of a company. It will be very difficult, according to this definition, to define as to who exactly is a manager and who is not. Complications are bound to arise because this term has been used in many clauses relating to remuneration, etc. Therefore I say that a manager can be appointed first in a general meeting and this appointment should also have the approval of the Central Government. My amendment says that "After the commencement of this Act no company which has a managing agent or secretaries and treasurers shall appoint or employ any person as manager except by a resolution of a general meeting and by approval of the Central Government. In all other cases, managers can be appointed by the Board of directors but where there are managing agents or secretaries and treasurers, I say, the sanction of Government is necessary as well as of

as of the general meeting. So long as there are managing agents, they are supposed to be controlling the concern. The same holds good in relation to the secretaries and treasurers also. Where these people want persons other than themselves also to be included for purposes of managing the concern, they must approach the general meeting and have the appointment confirmed; after that they should obtain the sanction of the Government. These companies should also be in a position to know as to who can be called a manager and who cannot. So long as the present definition of the word manager continues to be as it is, it is very difficult for any one to define exactly and this would, in the actual working of a company, create considerable difficulties. There would be borderline cases and even the courts will take some time to ascertain whether a particular person, under such circumstances, was a manager or not. There will be appeals on that decision too; in order that litigation may be avoided, I am suggesting this amendment. This amendment is necessary in order to clarify the situation; otherwise, in spite of the assurance given by the hon. Minister, it would be very difficult for anybody to say that such and such a person is a manager for the purposes of this clause. Then too, that man's judgment will not always be correct. Opinions are bound to differ and that will lead to lots of litigations. In order that a concern may run smoothly and properly, it is necessary that such a provision should be there. Some cases of managing agents or secretaries and treasurers asking for the appointment of managers will be few and that being so, it will be very easy for Government to decide the case and grant approval in suitable cases.

SHRI M. C. SHAH: Sir, I am unable to agree to the amendment. I am thankful to Mr. Parikh for suggesting that we will be able to get out of difficulties by accepting his amendment. We do not propose to have "bis additional power and would like to have"

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freedom to remain with the companies themselves. We do not propose to disturb that arrangement.

So far as remuneration is concerned, the overall managerial remuneration has been fixed. If they want more money, or if they find this overall maximum insufficient, then they can come to the Government under clause 198. It is open to the companies to choose their own course of action.

As regards definition, the definition is very clear. My hon. friend has all along been thinking of all those difficulties in his mind as to who will become a manager. He should wait and see whether there is any difficulty.

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

♦Amendment No. 255 Was, by leave, withdrawn.

Clause 386 was added to the Bill.

*Clause 387.—Remuneration of manager*

SHRI KISHEN CHAND: Sir, I move:

94. "That at page 193, after line 36, the following proviso be inserted namely:—

"Provided that no manager shall be paid in excess of three thousand rupees; per month inclusive of all allowances but he may be given an allowance in lieu of house and conveyance up to one thousand rupees in cities with population in excess of ten lakhs"

SHRI BHUPESH GUPTA: Sir, I move:

338. "That at page 193, line 34, for the word 'five' the word 'two' 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.

\*For text of amendment vide col. 176 *supra*.

SHRI KISHEN CHAND: Mr. Deputy Chairman, in this clause relating to remuneration of manager H is stated "subject to the provision of section 198". That of course is an overriding section; nobody can get more than eleven per cent, of the net profits. Subject to that overriding clause "the manager of a company may receive remuneration either by way of a monthly payment, or by way of a specified percentage, not exceeding five, of the net profits of the company." Well, there is no limit to the monthly payment and Sir, as I pointed out, there are small companies and big companies and in big companies eleven per cent, can be a very high amount, and even five per cent, of the net profits can be a very high amount. As was pointed out by certain hon. Members, certain companies were making profits of Rs. 50 lakhs, and 5 per cent, of that will come to Rs. 2½ lakhs, working out to nearly Rs. 22,000 a month, and that can be the remuneration of a manager, I remember Sir, about two Sessions back, when the hon. the Prime Minister came to know that certain banking companies were paying their general managers Rs. 7,000 or Rs. 10,000 a month he felt that it was very unfair, to pay Rs. 7,000 or Rs. 10,000 a month to anybody in a country where the per capita income was about Rs. 265 a year. Therefore when the discussion was going on in the Lok Sabha, certain hon. Members pointed out and the Finance Minister stated that if the figure was somewhere near Rs. 3,000 a month, he can consider it. So I have sent in this amendment to that effect. Of course this applies to very big companies. Small companies cannot afford to pay Rs. 3,000; they will be paying about Rs. 500 or Rs. 600. at the most Rs. 1,000 to the manager, but in the case of very big companies I have suggested that no manager shall be paid in excess of Rs. 3,000 per month inclusive of all allowances but he may be given an allowance in lieu of house and conveyance up to one thousand rupees in cities with population in excess of ten lakhs. This may look a very big figure Rs.

3,000 and Rs. 1,000, but this additional Rs. 1,000 is for house and conveyance allowance in very big cities. But, Sir, this figure is sometimes reduced by the indirect method of giving all sorts of facilities. Supposing the salary was fixed at Rs. 1,500 free of income-tax, people do not realize that the latter is better. Here out of the Rs. 3,000 and Rs. 1,000, i.e., Rs. 4,000, Rs. 1,400 will be taken away by way of income-tax leaving him only Rs. 2,600 and from this he will have to pay for a house in a big city and Rs. 600 or Rs. 700 for keeping a car. These things will go away and leave him only Rs. 1,500 a month. So on paper the salary may look a big figure. Of course according to the Karachi Resolution we ask for a maximum salary of Rs. 500 or Rs. 1,000 a month. But specifically compared to the present high salaries paid to managers which in certain cases goes up to Rs. 10,000 a month. I have suggested a maximum salary of Rs. 3,000 per month inclusive of all allowances, and in the case of a big city if house and conveyance are not provided then an additional allowance may be given. I have nothing further to say.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, my amendment again relates to the percentage that is to be given as salary to the manager. Now the hon. Mr. Kishen Chand has pointed out how much a manager might get in the case of a company which makes a profit of Rs. 50 lakhs a year, and we have been told in this House that there are companies in the country which make a profit of between Rs. 40 and 50 lakhs and if these things are kept in view, one can easily understand as to the huge amount the manager will draw by way of salary. We are opposed to such things. I do not know why the Government should not have taken this opportunity here to fix the salary or to direct the fixation of salary in conformity with some of the principles which they themselves are trying to lay down. I read the reports of various commissions and I also

read the report of the Taxation Enquiry Commission and all that. There we find that it is suggested that the disparity in the incomes should be narrowed as far as possible. I was particularly interested to read the draft outlines of the Plan Frame: and there also it is stated by Prof. Mahalanobis, one of the members, I believe, of the Planning Commission that there should be reduction in the existing salaries. Sir, it has been found necessary by the planners and some members of the Government also that, with a view to implement the second Five Year Plan and especially to find resources, it would be necessary to reduce the salaries and economise on the scope of administration of Government and non-official institutions. Also it is necessary for promoting certain social ethics, this reduction of salaries. Now you cannot have the purchasing power of the people growing until and unless the disparities in the incomes is reduced steadily. Now one might say that if the money goes to these people as salaries, that will also increase the purchasing power of the people. We reject such argument because when the money falls into the hands of the very rich people, very high salaried people, it means a part of the money becomes idle; it is not going into circulation or consumption that way, that is to say, they save this money and use it as they like. If such moneys fall into the hands of the working people, naturally it goes into consumption because, as we know, large sections of the working people of our country live in conditions of great want and their daily necessities are not met from what they get. Therefore, even from that angle, it is necessary to reduce the salary.

Now, this question of manager is much talked of. We are familiar with the managers of various concerns. We have in mind the large number of concerns where we find that the managers are given Rs. 4,000, its. 5,000 and Rs. 6,000 a month and I think at one time Tatas gave Rs. 10,000 a month to the manager of their steel company in Jamshedpur. Similarly very high salaries are being

given by the British concerns to their managers in various units of industry or commercial undertakings in Calcutta. I do not know exactly how much money is taken away by that sort of thing. It is necessary sometimes, I believe, to calculate such things and find out the total number of people earning salaries over and above Rs. 2,000 and how much actually between them they are getting. The Government should have done such a thing, but it has fixed that the salaries should not exceed five per cent, of the net profits, and I tell you the net profits again are calculated without making certain deductions. If these deductions were made, the net profit would be less and the percentage on the net profits would give smaller sums. But in our scheme of things, as it obtains to-day, net profits are calculated without certain deduction; this inflates the quantum of salary drawn even under a given percentage. Now, we have been told by the leaders of the Congress Party here -s well as elsewhere that they do not like this idea of high salaries and we have also been told that efforts were being made to see that they are brought within reasonable limits but when we come to the brass tacks we find no indications of such a thing in practice and I can tell you that these managers are not such people as are indispensable in our concerns so much so that without them we cannot run the industries. Sir, I agree that the managerial staff has to be there and various people will occupy various positions in the managerial staff but why must we have a manager who is so highly paid when the overwhelming majority of our industries are struggling hard to find their feet? It sets a bad example which enables the profiteering and exploiting classes to take away a large part of the gains or profits of the company and use them just as they like. Therefore even from the broader economic angle it is not one thing which one can support. Take for instance the case of a company which earns a net profit of, say, Rs. 1 lakh. The manager can get up to Rs. 4,000 Der month

[Shri Bhupesh Gupta.] as salary. Just imagine a company aing Rs. 1 lakh as nei profit and its manager being in a position to get up to the extent of Rs. 4,0001 - or so as monthly salary. I think this unwholesome tradition of high sai°ries r»g paid to a number of bureaucrats is being carried forward in the extreme in such business undertakings and industrial concerns of our country. You are giving so much to the managers when the workers and employees of the companies are denied even the lowest living wage, This yawning social injustice which jeopardises the country's progress and that stands as a living example of something which is repulsive to all conscience and which is bad from every angle of social approach has to be opposed. Now, as you know, even in the Government undertakings high salaries are being paid but in the private undertakings apart from salaries, allowances and various other amenities are given with the result that we make a lord of every manager while we make a pauper of every worker. I think that such an approach has to be given the go-by. The time has come when the Government must make up its mind and give up such practice. After all, this requires a little amount of blunt speaking because when we pressed in other clauses that certain standards should be laid down with regard to what the workers should get by way of bonus and wages, they were rejected but when he comes to the question of managers, the favourite ones of the capitalist class, the monopolists the Government is bounteously giving these high salaries. Whatever may happen in the country, however much our people may suffer, whatever may happen to our industries and industrial undertakings, these protectors at the top, the managers, must get their pound of flesh. If this were to be seen by Shy lock, I say, even he would blush in shame. The time has come for the Government when they are legislating to tell us frankly what they are driving at by this sort of provision. If it is their contention

that unless and until such high salaries are given to the managers, no managers will be found in the count-try, then let them tell us. We can understand that position. But we know that out of the employees and experts will be forthcoming men who will be prepared to serve the concern at a much lower salary than this. We have found it happening in many There was a time when the Congress. Party and the Congress leaders themselves spoke in this strain. At that time we know that they were also being called agitators by the British. Today when we press their point of view, when we echo those things and remind them of the pledges that have got to be fulfilled in the national interest, we are given names but even at the risk of being given names I call upon the Government to explain what justification there is to make a provision for such a colossal robbery of the company's funds under the name of providing for the remuneration of the manager. Therefore I submit that my amendment may be accepted. I have proposed that all these should be brought down to two per cent. Two per cent, will be enough. In case any good manager is in difficulties, the Government can consider the case but I think what I have suggested is reasonable. I am making this suggestion not exclusively from the point of view of my ideology but from the point of view of the existing realities of our own economic life. It is possible to find men to run our industries on a much smaller salary. It is possible to find people who will be contented with smaller salaries and allowances than these people who are being' pampered day in and day out and who are not really serving the interests of the country. You are developing a kind of caste, the caste of the highly paid Mks. We havt already a highly paid bureaucracy the legacy of which hangs heavily upon us. We need not create another highly paid bureaucracy in the business and commercial world of our country. 11 u-oulrt be only setting a bad example -rid it would mean squandering



te wealth of the people and it would lead to results which none of us desires. I know that many hon. Members on that side of the House would at least share my sentiments in the matter because it was they who popularised this idea before. Now the time has come for them to recall their past utterances remember that they owe an obligation to the country to translate some of their professions into the facts of life. Here is an occasion when they can translate them into the facts of life.

*Sam* M. C. SHAH: Mr. Deputy Chairman, I oppose the amendments of my friend, Mr. Kishen Chand, as well as of my friend, Mr. Bhupesh Gupta. Mr. Kishen Chand advocated a maximum remuneration of Rs. 3,000 and he said that it was more than enough while my friend, Mr. Bhupesh Gupta, with his eloquence, went into the larger field and his target of attack was the manager. He does not want the managing agents: they are robbers. He does not want the secretaries and treasurers; they are robbers. Now, he says that the managers are also robbers.

SHRI BHUPESH GUPTA: I said that payment of high salary is robbery on the company finances.

SHRI M. C. SHAH: Instead of restricting himself to the question under consideration he roamed into bigger question of policy. Mr. Kishen Chand said that the remuneration should be fixed at Rs. 3,000. As long as the question of salaries of the private sector and public sector are not settled, I do not think that it will be wise to place a limit of Rs. 3,000 on the salaries of managers. As far as the companies are concerned, it may depend upon the size of the company, upon the business of the company and upon the ability and talent that the company wants to have in the field of managerial administration and I do not think we will be justified in limiting the salaries of managers at present as long as the salaries throughout all the sectors.

Both private and public, have not been tackled. Then my friend, Mr. Bhupesh Gupta, says that the workers are not paid enough wages, bonus, etc., and, therefore, the managers also should not be paid high salaries. It is a question between the employers and the employees, and the unions are strong enough to get fair wages and fair bonus. To link up these two together is not correct. We have got managing agents, secretaries, treasurers, managing directors, etc., As I have already stated more than once, if there is no managing agency, there may be secretaries and treasurers; if there are no secretaries and treasurers, there may be managing directors managing the companies; or there may be managers. Therefore it is that this 5 per cent, has been proposed. At the same time we should not lose sight of the fact that we have already provided in clause 198 for an over-all managerial cost and therefore whatever we pay to the manager will have to be fitted into the general scheme in clause 198. Therefore, I think, the amendments are not proper and are not justified and they must be rejected. 2 P.M.

MR. DEPUTY CHAIRMAN: The question is:

94. "That at page 193, after line 36, the following proviso be inserted, namely:-

"Provided that no manager shall be paid in excess of three thousand rupees per month inclusive of all allowances but he may be given an allowance in lieu of house and conveyance up to one thousand rupees in cities with population in excess of ten lakhs."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

336. "That at page 193, line 34, for the word 'five', the word 'two' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 387 stand part of the Bill."

The motion was adopted.

Clause 387 was added to the Bill.

Clauses 388 to 406 were added to the Bill.

SHRI SHRIYANS PRASAD JAIN (Bombay): Sir, I want to speak on clause 407.

MR. DEPUTY CHAIRMAN: There is no amendment. Is it necessary?

SHRI SHRIYANS PRASAD JAIN: It is an important clause.

DR. W. S. BARLINGAY (Madhya Pradesh): Sir, I want to make a little observation with regard to clause 402.

MR. DEPUTY CHAIRMAN: No. I have already put it to the House.

*Clause 407.—Consequences of termination or modification of certain agreements*

SHRI SHRIYANS PRASAD JAIN: Sir, I would like to draw the attention of the hon. Finance Minister to clause 407 which deals with the consequences of termination or modification of certain agreements. When any modifications take place by an order of a Court, the managing agents and the other directors are disqualified from becoming a director or managing agent without the leave of the Court for a period of five years. I have no quarrel with that. But I would like to draw the attention of the House that they have included the "associate" as well, not only at the time of a particular act but even after the event has taken place. As I have already said when I was speaking on the definition of an "associate" that the associate may not be aware of it when he becomes an associate of another company. Therefore, it will not be proper to include the "associate" in this clause, though it has been conceded he can be appointed with the leave of the Court.

as managing agent, secretary and treasurer, or manager, as the case may be. Why include an "associate" when he is not a party to any fraud or any breach of agreement or for anything else that has happened in the case of the managing agent. If he is knowingly guilty and has done any breach of contract, I can understand that and he may be included. But here in this case he is not aware of what the managing agent has done. What is his fault? Why should he be penalised? It has been mentioned here "an associate of such managing agent" and "or subsequently". Now, the event has taken place early and the managing agent becomes an "associate" later on. The particular person becomes an associate later on. He is not a party to anything at the time or even afterwards. Why should he be debarred simply by virtue of his relation, by virtue of his being an "associate", from being acting as the managing agent, secretary and treasurer, or manager of the company, though it has been stated that it can be done with the permission of the Court. Why bring in the Court so far as the "associate" is concerned when he is not guilty of any breach of agreement. I would, therefore, like to request my friend, the hon. Finance Minister, that he may kindly consider this and kindly exclude the word "associate" and also particularly the words "or subsequently" so that difficulties may not arise in the case of "associates".

SHRI M. C. SHAH: I do not think it is justifiable. There is no amendment. And if there is any difficulty, as the Finance Minister has already stated, we will consider that later on on getting experience.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 407 stand part of the Bill."

The motion was adopted.

Clause 407 was added to the Bill.

Clauses 408 to 417 were added to the Bill.

Clause 418.—*Provisions* applicable to provident *funds of employees*

SHRI B. M. GUPTE (Bombay): Sir, I move:

256. "That at page 208, line 38, after the words 'Post Office Savings Bank', the words 'or the scheduled Bank' be inserted."

257. "That at page 208, lines 41 to 46 be deleted."

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

320. "That at page 208, line 35, after the words 'or any class or' its employees', the words 'it shall be constituted into a trust, and' be inserted."

323. "That at page 209, line 13, for the words 'referred to', the word 'specified' be substituted."

325. "That at page 209,—

(i) in line 17, the words laid on the company by this section' be deleted; and

(ii) in line 18, the words 'instead of by the company' be deleted."

(The amendments also stood in the name of Shri Rajendra Pratap Sinha.)

SHRI P. T. LEUVA (Bombay): Sir, I move:

321. "That at page 206, line 37, after the words 'such fund', the words 'shall be held in trust for the benefit of such employees in the names of trustees designated for the purpose by such authority and in such manner as may be prescribed, and' be inserted."

322. "That at page 209, lines 12-13, for the words 'Where a separate trust has been created by a company with respect to any provident fund referred to in sub-section (D)', the words 'Where a provident fund such as is referred to in sub-section (I) has been consti-

tuted by a company' be substituted."

324. "That at page 209, lines 16 to 18, the words 'but in other respects, the obligations laid on the company by this section shall devolve on the trustees and shall be discharged by them instead of by the company' be deleted."

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

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, the first amendment of mine seeks to make it compulsory for the provident fund money of the employees held by the company to be made into an absolute trust. It has been provided in this Bill that this money may be deposited in trust securities, but that does not serve the purpose for which this amendment has been moved. It is my contention that the employers make use of the provident fund money of the employees and thereby the employees stand the risk of losing all their savings. It is a contention supported by facts. I shall quote only one instance. A company managing a paper "Searchlight" in Bihar not only made use of the provident fund of many of the employees, but also used to make use of the money paid as incometax by its employees. The employees used to pay incometax and they thought that these sums were deposited in the proper place. But after some time they got notices from the incometax department and then they found out the whole thing. Now, Sir, the clause as it stands does not do away with the power of the employers to utilise the employees' provident fund money, because if the employer is allowed to deposit this money in trust securities, he can raise a loan on that. And if he can raise a loan on these trust securities, then in case of failure, in case of his going into liquidation or winding up, his creditors have a claim on that money, which they should not have in any case, because it is the money out of the hard earned income of the poor employees put

[Shri S. N. Mazumdar..] in the fund, in trust, for use at a later period when they retire from service or when they are disabled. That is why I have moved here that it should be constituted into a trust. The other amendments are actually consequential amendments because if this amendment of mine is accepted, then some amendments will have to be made into the latter clause.

SHRI B. M. GUPTE: My first amendment seeks to permit the provident fund being kept in the Scheduled Banks as also in the Postal Savings Banks. Under the clause, it can be put only in the Postal Savings Bank. In that case, it will be inconvenient for depositors. There are restrictions. Suppose one thousand rupees are to be withdrawn then 15 days' notice has to be given. Therefore it is not convenient. Transactions of the provident fund are not few and far between. Loans have to be given and, payment has to be made from time to time and therefore, it will not be convenient to have Postal Savings Bank alone as the proper place to deposit the funds. I, therefore, submit that there is no reason why Scheduled Banks should be prohibited to accept these funds. They are big banks in themselves. They handle large sums and are under the strict supervision of the Reserve Bank. Restricted permission is given under the proviso to sub-clause (1), but that is practically useless because, as far as I understand, the Postal Authorities have removed the ceiling on deposits. So, there is no question of funds being kept over that ceiling and the proviso will practically become inoperative. Therefore, if permission is to be given, it should be given in full and not in a restricted form.

As far as my second amendment is concerned, it seeks to meet the point which I have just referred to, because, when there is no ceiling, there is no question of there being any excess over that so the proviso should be deleted. I, therefore, submit that my amendments should be accepted.

SHRI P. T. LEUVA: Sir, my amendments practically want to bring out the spirit which is in that of my hon. friend, Mr. Mazumdar. In order to appreciate my point, it is necessary to understand the reason why the provident fund is created? It is because the dependants of the workers may be provided for in case a person dies or if a person retires, he should be given some sort of help in the days of his retirement. You will see that the majority of workers are not entitled to any pension and as such the provident fund is established for the purpose of giving them something to fall back upon in case of need. In order that this objective may be realised, it is necessary that the money which is being\* collected as provident fund must be secure against any action either of the managing agent or of the workers themselves.

Now, according to the clause as it stands, the provision is the money could be deposited in the Post Office Savings Banks or they might be invested in securities.

Now, another thing is that there should be a separate trust. The question is why should there be a compulsory and separate trust as has been suggested by me. Mr. Mazumdar referred to one incident where the money belonging to the employees was utilised by the company. I know of a company where a sum of eight lakhs of rupees have been drawn from the provident fund of the employees. It can be very well said that the management might require that amount for a temporary purpose. Where is the guarantee that the money would not be lost altogether? You must realise one thing that the provident fund is not only the contribution of the management, but also includes the contribution of the workers. The workers earn that money by their own labours. That money belongs to them and according to the Provident Fund Act also, if a worker is dismissed, he is entitled to his own. Now, it passes my comprehension that a company should uti-

lise the money belonging to its workers. I can understand if the company utilises, in case of necessity, its part of contribution. But it is rather illogical and unjust that the money of the workers who have already earned and put it in the provident fund should be utilised, by permitting them to invest either in a bank or in the securities. It amounts to this that the money belonging to the workers have been taken by the managing agents. I do not know whether the management will give any in on the loan drawn by them from the provident fund. It is surprising indeed that such a provision should exist at all. It has been made voluntary to-day that companies can establish a separate fund. My only objection is why not make it compulsory. Let every company which establishes a provident fund, always create a separate trust so that all the employees can be safe and secure. I do not know what is the objection in accepting my amendment. It may be said that the managing agents who will utilise the money to the disadvantage or to the detriment of the interests of the workers, might be prosecuted. Prosecution in a criminal court is no protection to a worker who has lost his money. A managing agent who has taken money to the tune of ten thousand rupees might go to jail for five years. But what is the advantage to the worker who has already lost his ten thousand rupees? How is he going to get that money?

Another question is that provident fund is now being established under the awards of various industrial tribunals. Therefore, the question of whether the companies would be discouraged from establishing provident fund or not will have not validity whatsoever. It has become an industrial dispute. Therefore, practically in every industry, there is provident fund. It is not merely on the sweet will of the industry. I would, therefore, suggest that the hon. Finance Minister should accept these amendments and protect the interests of the workers. They are not asking for 82 RSD—6.

anything more than what they are entitled to, because they themselves contribute half share to the provident fund. On that amount interest accrues and therefore, the share of the workers might be more than the share of the employers themselves. This is very essential for the protection of the workers.

SHRI M. C. SHAH: Mr. Deputy Chairman, the amendments of my friends, Mr. Leuva and Mr. Mazumdar are same. We are in sympathy with the objective mentioned in the amendments. But we are not in a position immediately to accept the amendments. All these questions were considered in 1936 by the Select Committee. Then they had come to a definite decision which was in the old Companies Act and which has been incorporated in the present Act. But, as my friends, Mr. Leuva and Mr. Mazumdar have pointed out, there may be certain difficulties and risks that the workers may have to suffer. But I can assure both the hon. Members that, without thoroughly examining the question, we cannot accept the amendments. After the Act comes into operation, we will examine the case. But we cannot accept the amendments now, but the moment we come to a conclusion, we will bring in an amending bill and just have that provision inserted.

With regard to my friend, Mr. Gupte, so far as the limit in the savings banks is concerned, you can only just deposit up to a certain limit. He said that the limit has been lifted. So far as my information goes, that is not so. Therefore, we have provided the Postal Savings Banks or securities.

SHRI B. M. GUPTE: Sir, I beg leave to withdraw my amendments.

\*Amendments Nos. 256 and 257 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

\*For text of amendments *vide* col. 5089 *supra*.

[Mr. Deputy Chairman.] 320. "That at page 208, line 35, after the words 'or any class of its employees', the words 'it shall be constituted into a trust, and be inserted."

The motion was negatived.

SHRI P. T. LEUVA: In view of the assurance, I am prepared to withdraw.

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

MR. DEPUTY CHAIRMAN: The question is:

321. "That at page 208, line 37, after the words 'such fund', the words 'shall be held in trust for the benefit of such employees in the names of trustees designated for the purpose by such authority and in such manner as may be prescribed and' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

323. "That at page 209, line 13, for the words 'referred to', the word 'specified' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Amendments 322 and 324 are consequential.

MR. DEPUTY CHAIRMAN: The question is:

325. "That at page 209,—

(i) in line 17, the words 'laid on the company by this section' be deleted; and

(ii) in line 18 the words instead of by the company' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 418 stand part of the Bill."

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The motion was adopted.

Clause 418 was added to the Bill.

Clauses 419 to 440 were added to the Bill.

*Clause 441.—Commencement of winding up by Court*

SHRI V. S. SARWATE (Madhya Bharat): Sir, I beg to move:

180. "That at page 216, line 6, for the words 'the passing of the resolution', the words 'the notification in the Official Gazette or a local newspaper of the passing of the resolution' be substituted."

181. "That at page 216, lines 11-12, for the words 'the presentation of the petition for the winding up', the words 'the notification by the Court in the Official Gazette and a local newspaper of the presentation of the petition for the winding up' be substituted."

Mr. Deputy Chairman, the object of Clause 441 is that when winding up commences the company should not be able to carry on business or enter into contracts or operate. Now, as the clause stands, at present it sometimes happens that winding up of the company begins from the date of the presentation of the petition or the passing of the resolution in the case of winding up. Sir, the public comes to know when the presentation and the application is notified in the Gazette, or in the case of winding up the resolution is notified in some papers. Therefore, there is always some lag between the date of winding up and the passing of the resolution or the presentation of the application in the court and its notification in the papers. So during this interval sometimes it does happen that the company carries on business, it borrows, and the third party suffers because they have not the necessary knowledge. Now the innocent parties suffer, because of certain lag of time. I have conducted such cases in courts in my own time. Therefore, I have

suggested that instead of the winding up proceedings beginning from the date of the passing of resolution it should begin from the date the resolution is notified in the paper, it may be in the Official Gazette or in the local paper. In the case of the presentation of the petition to the court, it should be on the date of the notification by the court in an Official Gazette. This is in the interest of innocent persons so that they do not suffer. I am sure when I bring these cases to the notice of the Finance Minister my amendment will commend itself to him. If this simple amendment is accepted, I am sure, they will not suffer.

SHRI M. C. SHAH: Sir, the present Clause 441 is based on the existing section 204 of the Indian Companies' Act and section 229 of the English Companies' Act. Under the scheme embodied in the provisions of clauses 439 to 443 a petition for winding up can be proceeded with after reasonable notice to the interests affected thereby. If the petition is accepted, a certified copy of winding up order is filed with the Registrar who shall notify in the Official Gazette that certain order had been made. This clause, as I said, exists in the present existing Act and I believe, the Central Government have received no complaint or no difficulty has arisen. Therefore, we do not think that it will be justified to change the present Act which has worked very well for all these years.

SHRI V. S. SARWATE: Sir, I beg permission of the House to withdraw my amendment.

\*Amendments No. 180 and 181 were by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 441 stand part of the Bill."

The motion was adopted.

\*For text of amendments *vide* col. 5096  
supun

Clause 441 was added to the Bill.

Clauses 442 to 529 were added to the Bill.

*Clause 530.—Preferential payment\**

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

326. "That at page 244, line 33, for the words 'one thousand rupees\*', the words 'two thousand rupees' be substituted."

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

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, the clause is again in connection with the employees provident fund. It has been provided here that if the employee misuses the employees' provident fund money he will be punishable with a fine which may extend to Rs. 500. I think, in view of the fact that the hon. Finance Minister has not found it possible to accept my earlier amendment, he should accept this because a fine of Rs. 500 is nothing for these persons who squander away the employees' provident fund money and betray the trust imposed in them.

SHRI M. C. SHAH: There is no question of penalty.

SHRI S. N. MAZUMDAR: I am sorry. It is not a question of penalty it is a question of ceiling of wages and preferential payments. When a company goes into liquidation, Sir, it has been accepted that in case of a company going into liquidation the wages due to the employees will get a preferential payment, but the ceiling in the Bill has been put at Rs. 1,000. I think this ceiling is too low; it should be at least Rs. 2,000. Now when the question has already been accepted it is a question of amount. A difference of Rs. 1,000 may not be much to big people and may not be so much to Mr. Shah, but for these unfortunate employees who due to no fault of their find

[Shri S. N. Mazumdar.] themselves in a condition that the concern in which they are working has gone into liquidation this difference of Rs. 1,000 is very considerable. That Is Why I have suggested in my amendment that the ceiling for the wages which are to be treated for preferential payment should be raised from Rs. 1,000 to Rs. 2,000.

SHRI M. C. SHAH: We have considered this question very carefully. The sum of Rs. 1,000 to which priority has to be given under clause (b) of sub-section (1) clause 530 is quite sufficient and a reasonable one. It may be perhaps eight months' pay or something like that of the employee. I think it is quite sufficient.

MR. DEPUTY CHAIRMAN: The question is:

326. "That at page 244, line 33, for the words 'one thousand rupees', the words 'two thousand rupees' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 530 stand part of the Bill."

The motion was adopted.

Clause 530 was added to the Bill.

Clauses 531 to 590 were added to the Bill.

*Clause 591.—Application of sections 592 to 602 to foreign companies*

SHRI BHUPESH GUPTA: Sir I beg to move:

337. "That at page 274, lines 7-8, after the words 'foreign companies', the words 'public or private,' be inserted."

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

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

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, this is a chapter which deals with the companies incorporated outside India. And the subsequent clause relates to certain documents that are to be delivered to the Registrar provided such companies carry on business in our country. Here I want that these provisions should apply to all foreign companies irrespective of the fact whether they are public or private. The idea is that if a company is operating in this country, which is incorporated outside, then that company should not be exempted from the obligations under these provisions.....

SHRI M. C. SHAH: I may clarify the position that this includes both, public and private companies, and "foreign companies" means foreign companies, public and private.

SHRI BHUPESH GUPTA: If that is so, I beg leave to withdraw my amendment.

\*Amendment No. 337 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 591 stand part of the Bill."

The motion was adopted.

Clause 591 was added to the Bill.

Clauses 592 and 593 were added to the Bill.

*Clause 594.—Accounts of foreign company*

SHRI BHUPESH GUPTA: Sir, I beg to move:

338. "That at page 276, at the end of line 3, after the word 'Registrar', the words 'after they are properly audited and so certified by the auditors' be inserted."

\*For text of amendment vide col. 5099 *supra*.



339. "That at page 276, lines 4 to 8 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.

SHRI BHUPESH GUPTA: Now, Sir, this clause relates to the accounts of foreign companies. Here I would attach a little importance to this subject for the simple reason that the foreign companies have not at all been amenable to submitting their accounts and papers to the authorities of the Government. It has been found out from the past experience, and it is true even today, that influential foreign concerns in this country hide innumerable facts from the Government and from those authorities which are empowered to look into their matters. Sir, as you know, in many cases the papers that are shown call for verification, and until and unless we are in a position to look into other papers connected with those papers that are shown, it is not always possible to discern the truth. In this art, Sir, they have become pastmasters. The foreign companies are quite perfect in the art of concealing certain facts from the Government. Therefore, Sir, I would like this clause to be slightly amended.

The amendment runs as follows: —

"That at page 276, at the end of line 3, after the word 'Registrar', the words 'after they are properly audited and so certified by the auditors' be inserted."

I want the Government to accept this amendment, because sometimes the foreign companies take a cover under the Act and say that their companies are registered abroad, and for that reason they are under no obligation to place the materials before the examining authorities duly audited and certified. And these papers are sometimes fictitious papers. You are probably aware, Sir, that it has not been possible for the Government— even today that is the case— to get

from them proper statements telling the authorities as to how many Indian officers are employed in the higher categories and what their salaries are, and so on. And we know very well, Sir, that whenever we ask for such statements from the Government, the Government plead their inability to supply that information to us, and whatever particulars they present to Parliament are found to be incomplete on their own admission. The reason is that the foreign companies are absolutely hostile to such requests, and they generally do not like to divulge some elementary facts about the affairs of their concerns. From our experience in the trade union movement in Calcutta, and in its neighbourhood, where we have got a large number of foreign industrial and commercial undertakings operating, we have come to the conclusion that the more they feel that the Government might impose restrictions, the greater has been their ability to hide facts from the Government. Therefore I say, Sir, that whatever material comes from them should be properly verified, and in this case, such material should be duly audited and certified before it is placed before the Government. Now one might ask: What about the auditors? We take it that the auditors appointed in our country would be Indians, and the Indians would look after the national interests of the people and would not permit any foreign concern to play a trick on the Government in matters that are germane to such examination of accounts and all that. Therefore I say, Sir, that all the material that is supplied should be certified by the auditors, and we are not at all prepared to accept anything for granted until and unless everything is duly certified and competently gone into by the authorities in whom we have got faith.

Then, Sir, the other amendment that I have moved reads as follows: —

"That at page 276, lines 4 to 8 be deleted."

You will find, Sir, that there is a proviso in this clause saying

[Shri Bhupesh Gupta.] "Provided that the Central Government may, by notification in the Official Gazette, direct that, in the case of any foreign company or class of foreign company the requirements of clause (a) shall not apply or shall apply subject to such exceptions and modifications as may be specified in the notification." That is to say, the Government also wants to retain certain powers in its hands for exempting, whenever it thinks fit, certain foreign concerns from fulfilling the obligations under this clause. I would like the hon. Minister to explain why these powers are being taken by the Government, because I have my suspicion about all that.

Sir, it is very well known that a number of foreign firms in this country have made it known that they are not prepared to submit full accounts to the authorities. Then, Sir, there are certain other firms which are looking forward to fresh investment in India, like the Standard Vacuum Oil Company which, of course, has already started functioning in this country. Such companies are naturally interested in keeping a provision of this sort, so that the Government can, if and when it thinks fit, exempt them from such obligations. We are not prepared to empower the Government to the advantage of the foreign concerns. If the Government wants to have certain powers in its hands, we are prepared, as I have already stated time and again in this House, to give it those powers, provided such powers are utilised unilaterally to the advantage of India and the Indian interests in business. Here, Sir, the Government is keeping this proviso, precisely because it has in mind that large number of undertakings in this country who might demand exemption from the provisions of this clause, and who would, I dare say, be duly given such exemption by this Government because we find that this Government is very much accommodating as far as the foreign interests are concerned. When even they make demands, they con-

cede those demands. Whenever they make unreasonable claims, they submit to such claims. That is why, in order to keep the road open for such kind of compromise, accommodation and, if I may say so, colourable deals, the Government is having a provision for exemptions here. I would ask the Minister who is to reply to the debate to give satisfaction to the House as to why he thinks it necessary that an exemption should be made, when he has formulated a whole chapter for getting such accounts, papers and documents from foreign concerns. He may say that the Government will not use this power of exemption and that it will remain only on paper. If it is so, then why not delete it? Accept our suggestion; if you are going to have this power of exemption, then in that case we would like to know what the probable cases are where you will be giving exemption, what the reasoning is behind it, which companies you have in mind, what the foreign companies are to whom you will be under an obligation to give exemption. Sir, it is most regrettable that whenever a Bill makes reference to certain foreign concerns, it does not take account of past experiences and also our future objective inasmuch as we want our industrial concerns and commercial undertakings in the country to progressively become free from the malpractices, machinations and the tentacles of foreign interests. Sir, therefore, I say that that the Government should not take this power. If you retain this clause, it will embolden a large number of foreign concerns in India to demand exemptions and as I know and as every Member on the other side of the House also knows, they are financially well entrenched and they have got a big pull with certain elements in the administration and with that pull they will try to make an exception of the rule rather than the rule an exception. That is what will happen. Therefore, Sir, we are opposed to this scheme of exemptions being provided in this particular clause. We are not for arming the Government to carry on this accommodation and compromise with

foreign capital. We shall rather give them power to completely eliminate such interests from the public life of our country and especially from the economy of our land.

SHRI H. P. SAKSENA: Sir, I oppose the amendment and in doing so I would invite the hon. Member to move a vote of Censure against the Government, if he does not trust it. It is open to him to move the vote of censure or a vote of no-confidence against the Government.

SHRI M. C. SHAH: Sir, in the first instance, I will invite the attention of Mr. Bhupesh Gupta and other hon. Members of this House to the fact that section 410 of the English Act provides for exemptions which will work to the advantage of Indian companies operating in England or in the English colonies. It stands to reason, therefore, that we should give reciprocal treatment to these foreign companies. Otherwise our own Indian national companies operating in England and in the British colonies will suffer. At the same time, while Government are taking these powers, they will use them only when there are strong reasons to use them. At the same time, as my friend, Mr. Sikaena, just now said, Government are accountable to both Houses of Parliament. Naturally, Government should be trusted to use these powers only whenever they are in the interests of our country.

I will explain further. Whereas the normal rule is that foreign companies are subject to exactly the same requirements as domestic companies, particularly as regards accounts and disclosures of matters under the domestic law which might not be disclosed under the foreign law, in some circumstances, however, rigid insistence on this rule might be inconvenient and there might be awkward repercussions for Indian Companies operating abroad. For this reason, power is given in this clause to make exceptions, *e.g.*, in the case of an

overseas company with only a nominal place of business in India, as for example, a place of business where only a share registration office is maintained. Clearly, nothing is to be gained by insisting on the submission of a company's documents in such a case. Indeed, in such a case to insist on the submission of the documents mentioned in this clause might provoke retaliatory action against Indian companies operating abroad, as for example, in Pakistan, Ceylon, the Far East and the Middle East. The question has, therefore, to be viewed from the standpoint of reciprocity. Therefore, we have taken this power.

Now, Sir, with regard to the other amendment which says that after the word "Registrar" the words "after they are properly audited and so certified by the auditors" may be inserted, he does not mention here whether it should be by Indian auditors or foreign auditors. The accounts of a foreign company can be audited only by the auditors in the country of the company's domicile. Thus, the accounts of a foreign company registered in England can only be audited by an auditor appointed by the foreign country. Sub-clause (1) of clause 594 makes it quite clear that the documents which have to be delivered to the Registrar under sub-clause 1(b) should be "such documents as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting." This provision in sub-clause (1) will fully meet the object of the movers of the amendment. It is not understood why the amendment has been moved.

I, therefore, think that both the amendments are unnecessary and should be voted down.

MR. DEPUTY CHAIRMAN: The question is:

338. "That at page 276, at the end of line 3, after the word 'Registrar', the words 'after they are

properly audited and so certified by the auditors' be inserted."

The motion was negated.

MR. DEPUTY CHAIRMAN: The question is:

339. "That at page 276, lines 4 to 8 be deleted."

The motion was negated.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 594 stand part of the Bill."

The motion was adopted.

Clause 594 was added to the Bill.

Clause 595 was added to the Bill.

Proposed New clauses 595A, 595B and 595C

SHRI BHUPESH GUPTA: Sir, I move:

340. "That at page 276, after line 44, the following new clauses 595A, 595B and 595C be inserted, namely:—

'595A. All books and documents of the foreign company to be open to inspection.—(!) The books and documents of the foreign companies shall be kept in their registered offices in India, and shall be open, during business hours, to the inspection of the employees without charge.

(2) If any inspection required under sub-section (1) is refused, every officer of the company shall be punishable with fine which may extend to fifty thousand rupees or imprisonment for a term which may extend to five years, or both, and the cancellation of the company's rights to conduct business in India.

595B. Central Government to have the right to appoint auditors to the foreign company.— (!) Notwithstanding anything contained in this Act or any other Act or In any agreement with

the foreign company, the Central Government shall, on a complaint from any employee of, or from any person connected with, the company, or *suo motu*, appoint auditors to the foreign company.

(2) The auditor appointed under sub-section (!) shall have access to all the books and documents of the company.

(3) If the company refuses to make available to the auditor any books or documents which he requires in exercise of his powers under sub-section (2), the company and every officer of the company shall be punishable with fine which may extend to fifty thousand rupees, or imprisonment which may extend to five years, or both, and the cancellation of the company's rights to conduct business in India.

595C. Central Government to have the right to investigate the affairs of the foreign company.— (!) Notwithstanding anything contained in this Act or any other Act or in any agreement with the foreign company, the Central Government shall on a complaint from any employee of, or from any person connected with, the company, or *suo motu*, appoint competent persons to investigate the affairs of any such company and to report thereon in such manner as the Central Government may direct.

(2) The inspector appointed under sub-section (!) shall have access to all books and documents of the company.

(3) If the company refuses to make available to the inspector any books or documents which he requires for the purpose of his investigation, the company and every officer of the company shall be punishable with fine which may extend to fifty thousand rupees, or imprisonment which may extend to five years, or both.

and the cancellation of the company's rights to conduct business in India.'."

(The amendment also stood in the names of Messrs. S. N. Mazumdar, Abdur Rezzak Khan, and K. L. Nara-simham.)

MR. DEPUTY CHAIRMAN: The amendment suggesting the addition of these new clauses is now open for discussion.

SHRI BHUPESH GUPTA: Sir, clause 595 refers to certain obligations imposed on foreign companies. We want to widen them. That is the idea behind this amendment for the addition of three new clauses after clause 595. I will give the reasons why books and documents of the foreign companies should be open for inspection. It is said here, "the books and documents of the foreign companies shall be kept in their registered office in India, and shall be open, during business hours, to the inspection of the employees without charge". It might sound radical as to how we are asking the foreign companies to keep their books open to inspection by their employees. It might seem an extra-ordinary measure compared to the Indian companies but as I told you, and we had made this point clear that we would like the employees of the companies to be on guard in respect of certain things that their bosses indulge in. We feel that this should be there. It is no use telling us that they keep their books abroad—overseas, in England, just because they are incorporated there. This is their position. We are aware of it. At the same time it is also known that those books which are prepared there are not out of nothing, do not drop from the skies over England. These materials are prepared here out of the business transactions and the work of the companies and undertakings and then they are sent abroad and thus records are kept there. Therefore the source is here. We are not dealing with the companies or branches that exist outside

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India. If a company functions here or operates here, it must have its records and accounts and other papers irrespective of whether the company's head office is in London or in Washington or in Wall Street, New York. It does not matter at all. Therefore we say that such material should be placed at the disposal of the employees for inspection. I would urge upon the Government to take such a course if only for the reason that most of the things are concealed from them and that they have no mean? of finding out things in time when they require to find out such things. I can tell you from the experience of the Calcutta Tramways Company that when the matter came up before the Tribunal, the company said that they had got no papers here to be gone into and that if they had such papers here, the tribunal could look into them. We demanded that such papers should be, in that case, brought from England. Later on we found that the judge was a little sympathetic in this matter because he knew that he could not go into this question without looking into certain material facts and documents. Naturally, he suggested that the papers should be brought from England if it were so. Then what happened? Within a few days, the papers were submitted but we had knowledge that these papers were in company's safes in Calcutta and they were not telling the truth. They submitted these papers saying that they had got them from England because the judge had required them but we found out from the Union as to who actually passed this to whom and how the paper travelled from the Company's safe to the adjudicator. We found it out. Of course having got that knowledge, we pressed for it and we got it. Now these things are not kept for inspection. So I say these people have to be kept under some vigilance. Hon. Mr. Rak-sena will say that if I say such things, I have got no confidence in the Government and that it is a vote of no-confidence etc.

SHRI H. P. SAKSENA: Not in this case.

SHRI BHUPESH GUPTA: It is well known that I don't have confidence in this Government but if I don't come with a vote of no-confidence, it is for the simple reason that I will not win in that vote of no-confidence here. If we had that strength, I would have confronted you with votes of no-confidence almost every day. If our strength were balanced somewhat, we would have brought you face to face with that. May be, some time, some day you will be facing a situation like that from this side of the House. That is for the people.....

SHRI M. C. SHAH: Question.

SHRI H. P. SAKSENA: I will join you then.

SHRI BHUPESH GUPTA: I should be very happy to welcome such a forthright and simple person in the ranks of the Opposition Benches as hon. Mr. Saksena. It is a pity that he is not with us. Now, it is not a question of confidence or no-confidence. All that I am trying to impress upon the Government is that the Government of the day must arm itself against some malpractices and evasions on the part of the foreign concerns. I do not care which Government sits as long as it is an Indian Government because I think that certain fundamental Indian interests are there to be protected by a Government—no matter which party forms that Government. I take this view. I therefore say that you must make it obligatory for them to keep it there and you have got in that case an access to such matters and you shall be, as you know very well, kept informed of the developments and posted with the facts of such concerns which are very essential even to formulate the policy. Then I say:

"If any inspection required under sub-section (i) is refused, every officer of the company shall be punishable with fine which may extend to fifty thousand rupees or imprisonment for a term which may

extend to five years, or both, and the cancellation of the company's\* rights to conduct business in India."

You might say that I am talking like a convicting magistrate. Not at all. I say that Rs. 50,000 is nothing for a foreign concern in the country. They can fork out this cash at any time. We see how they spend money in the horse races in Calcutta. It is nothing for them. Therefore even if they commit such a crime, they can easily get away by paying Rs. 50,000 but what we want is, we want to make a penal provision. Sometimes these gentlemen must go to jail. Jail is not the thing which is meant only for you in the past or for us in the present. Jail should be meant also for them. If they do such things, if they violate the law of the land, or function in a way against the interests of the country and the nation, it is in our inherent right—and we should exercise that right—to send such people to prison and they should have some taste of prison. They have had taste of the Viceregal Lodge and all that is pompous and full of wealth in India. I think some of them—these cheats I call them, should be given some taste of Indian prisons, as, I know, they are violating the laws of the land and it is to our great misfortune that the Government does not raise its little finger against them when they dare to defy the laws of the land. I therefore say, accept the provision of five years.....

SHRI AKBAR ALI KHAN: We don't want to be vindictive.

SHRI BHUPESH GUPTA: I can understand the heart flowing with abundant generosity of the hon. Member from Hyderabad. But I can tell him that it is not a question of being vindictive. It is a question of punishing offenders. If you have an Indian Penal Code where we provide for capital punishment, life transportation and other things and if you have a law in the country which enables you to detain people without trial, then jolly well you should have a law in your country which

you to put such people in jail—foreigners when they not only exploit the country but defy your laws and perpetrate all sorts of crime or fraud in running these companies. As far as generosity is concerned, let it flow in other directions. Because the working classes, the peasants and others ask for your generosity and they are denied. Then they ask for bread, they get stones and the Englishmen, when they don't ask for anything, you feed them sumptuously with roast chicken. Next I say—Central Government to have the right to appoint auditors to the foreign company. The hon. Minister will kindly hear that when I raised that point, he said the auditor will be appointed there in any case by them and he would be a foreigner. I gave this amendment to give you the power to appoint an auditor, that foreign companies' auditors would be appointed by the Central Government and it should not be left to the concerns to appoint their auditors. We cannot accept such a proposition at all because there is no guarantee that they will do the right things. On the contrary there is every reason to believe that the foreign auditors in a foreign company will try to hide the things and will cheat the Government and the public. If they are making money and cheating the public and exploiting the people, do you think that the auditors from London will come here to be good Samaritans and do you a good turn by divulging the tricks of their own nationals and of their own class? I don't live in such a fool's paradise. If anybody chooses to live there, I would ask him not to enter into such a place. This is all that I say. Therefore I want to give the Government power to appoint the auditor. No English Company or British Company should be examined by an auditor other than an Indian auditor. And such ~~such~~ auditors should be appointed by Government, because that is one of the ways in which we can ensure that our national interest is guaranteed against malpractices, and we say.

"If the company refuses to make available to the auditor any books or documents which he requires in exercise of his powers under sub section (2), the company and every officer of the company shall be punishable with fine....."

That again relates to the penal clause and I need not dilate on that point, for it has already been spoken on.

Then in clause 595C we say:

*"Central Government to have the right to Investigate the affairs of the foreign company"*

This I consider a very important provision. And let me say here, Sir, that if I had been drafting the Company Law, free from unholy and impious influences of the British, I would have certainly made that provision here, that you should have the right to investigate into the affairs of these foreign concerns. The provision is:

"Notwithstanding anything contained in this Act or any other Act or in any agreement."

You see, we have mentioned "agreement" for we do not want them to flaunt any agreement at us. We have guarded against that. So we say:

"in any agreement with the foreign company the Central Government shall, on a complaint ....."

MR. DEPUTY CHAIRMAN: The hon. Member need not read out the whole thing. It has been distributed to all.

SHRI H. P. SAKSENA: Yes, it is here in our hands.

SHRI BHUPESH GUPTA: Yes, Sir,—

".....complaint from any employee of. or from any person connected with, the company, or *suo motu* appoint competent persons to investigate the affairs of any such

[Shri Bhupesh Gupta.] company and to report thereon in such manner as the Central Government may direct."

This again is an important thing. You have not got the power to investigate into their affairs. They can take cover under the fact that they are incorporated abroad. Therefore, I say there should be a positive provision of the law to enable this investigation into their affairs. I say that a lot of bad things are going on there. You may think nothing is wrong in the kingdom of Denmark, in the world of British capital. But a lot of wrong things are going on and all manner of malpractices are being indulged in, for cheating the employees, for cheating the workers, for cheating the shareholders, for cheating the public exchequer. When you advance the plea of Indianisation, what they do is something amazing. They ask the Indians, "Well, you are now getting Rs. 400 I shall pay you Rs. 500. Be satisfied with that, but sign on the company's books that you are getting Rs. 800. Income-tax and such other things will be made up." These things are going on. We have been told by the very people that they had been approached with such proposals. These things you can never find out until and unless you go deeper into the companies' affairs and investigate their doings. Therefore, I say that the power to investigate into them should be assumed by the Government. We can undertake to place before Government lot of materials for very wholesome investigations into the affairs of some of their concerns in Calcutta and I know if Government carry out the investigation, they would be thankful to us for furnishing them with such materials. After all even in respect of Indian concerns, we have seen how the demand of the employee? of the Bharat Insurance Company have proved to be right. They have been right in demanding an investigation. As far as the British concerns go we do not want them to be exempt from such investigations and.....

.....;

SHRI SHRIYANS PRASAD JAIN: May I point out to my hon. friend clause 615 and ask him whether that would not cover his point? Whatever object he has, will, I think, be met by that provision.

SHRI BHUPESH GUPTA: If it is covered, then it should be followed by action. No use having good ideas without suitable actions. Many hon. Members on the other side also have good ideas, but what is the use?

SHRI SHRIYANS PRASAD JAIN: I have no quarrel with my hon. friend with his ideas, but I was only drawing his attention to clause 615 which I think meets his object.

SHRI BHUPESH GUPTA: Well, I would like to know from the hon. Minister if it covers my point.

SHRI M. C. SHAH: Let the hon. Member go on and finish his speech. Then I will give my reply.

SHRI BHUPESH GUPTA: But if it covers my point, then I need not dilate on it. I will withdraw my amendment. But let the hon. Minister give a categorical assurance that that clause 615 enables Government to undertake such investigations. But it does not cover my point, as far as I can understand it. But if you think it does, please say so, that you have the power to investigate into these companies. Then I undertake to get in touch with those connected with those concerns and by day after tomorrow I shall get the materials from Calcutta and submit it to you.

MR. DEPUTY CHAIRMAN: You may leave that alone and proceed further, Mr. Gupta.

SHRI BHUPESH GUPTA: But I want to hear from the Minister. If it is covered, then I will not press my amendment. I have nothing more to say if the hon. Minister says that it is covered. We should be satisfied whether it is covered and how.



SHRI AKBAR ALI KHAN: May I just answer.....

Mk. DEPUTY CHAIRMAN: Not necessary, the Minister will reply.

SHRI M. C. SHAH: Mr. Deputy Chairman, I have heard with rapt attention to what is perhaps the hundredth speech of my hon. friend Mr. Gupta on this matter of the foreign companies during these last ten days or so.

SHRI BHUPESH GUPTA: Have I made one hundred speeches?

SHRI M. C. SHAH: I am not disturbed by the speeches. Mr. Gupta expressed the desire or said that if he were in a position to formulate the Company Law he would have seen that all these things are not there. But fortunately for the country and unfortunately for my hon. friend Mr. Gupta .....

SHRI BHUPESH GUPTA: And fortunately for the British.

SHRI M. C. SHAH: He is not in such a position and perhaps for years to come that situation is not going to *come*. So he must rest satisfied with his expression of hatred of foreign companies, particularly of British companies. He has shown hatred of the British companies, but he seems to be in love with the British language—English—and he always tries to bring out his hatred in such fine language .....

SHRI BHUPESH GUPTA: Yes, I love Shakespeare, Morris, and Burns.

SHRI M. C. SHAH: And he tries to bring forth that hatred in the very best English. That is good for him and there is perhaps some hope of some improvement because he has such love for the English language.

Now, so far as the amendments are concerned, I am afraid they are misconceived. Perhaps my hon. friend Mr. Gupta has not gone through the whole scheme of the Companies Law

Bill. He should remember that under clause 209 the company has to keep at its registered office the books and documents of the company. There is also clause 603 which provides that clause 209 shall apply to foreign companies to the extent that they are required to keep at their particular place of business in India books of accounts referred to under that clause with respect to money received and expended, sales and purchases made and assets and liabilities incurred in the course of or in relation to the business in India.

So far as one part of his amendment is concerned, I can say that it is misconceived.

Since the registered office of a company will only be in a foreign country, the accounts of that company can be open to inspection only in that country. To insist on the maintenance of duplicate books and accounts at the place of business of a foreign company would be tantamount to discouraging such a company from establishing places of business in India. No provision exists in the U.K. Act or in any other country's Act and there is no good reason why we should deviate from the rules of reciprocity in this matter. All these things are mentioned in clause 603(1) (iii) and clause 209. In regard to inspection of accounts also, it is not possible to inspect the accounts of a foreign company because there are *no* such provisions but, under the Indian Companies Act—section 234—there is power conferred on the Registrars to call for information or explanation. This applies to a foreign company also within the meaning of clause 591. Every inspector appointed to investigate the affairs of a company will have all the powers under clause 239 to investigate the affairs of a foreign company if it has a related company, under certain conditions. He may read that clause, as was pointed out by Shri Shriyans Prasad Jain. Clause 615 gives powers to the Central Government to call upon the foreign concerns having a place of

[Shri M. C. Shah.] business in India to furnish information or statistics. Perhaps Mr. Bhu-pesh Gupta is not aware of certain amendments moved by his friends of the Communist Party in the Lok Sabha. As a result of that, clause 615A was inserted which is now clause 615. If he had taken the trouble to go through these things, or even if he had enquired of his friends there, perhaps he would not have taken fifteen or twenty minutes of this House. I, therefore, submit that this amendment should be voted down.

MR. DEPUTY CHAIRMAN: The question is:

340. "That at page 276, after line 44, the following new clauses 595A, 595B and 595C be inserted, namely:

'595A. *All books and documents of the foreign company to be open to inspection.*— (1) The books and documents of the foreign companies shall be kept in their registered offices in India, and shall be open, during business hours, to the inspection of the employees without charge.

(2) If any inspection required under sub-section (1) is refused, every officer of the company shall be punishable with fine which may extend to fifty thousand rupees or imprisonment for a term which may extend to five years, or both, and the cancellation of the company's rights to conduct business in India.

595B. *Central Government to have the right to appoint auditors to the foreign company.*—(1) Notwithstanding anything contained in this Act or any other Act or in any agreement with the foreign company, the Central Government shall, on a complaint from any employee of, or from any person connected with, the company, or *suo motu*, appoint auditors to the foreign company.

(2) The auditor appointed under sub-section (1) shall have access to all the books and documents of the company.

(3) If the company refuses to make available to the auditor any books or documents which he requires in exercise of his powers under sub-section (2), the company and every officer of the company shall be punishable with fine which may extend to fifty thousand rupees, or imprisonment which may extend to five years, or both, and the cancellation of the company's rights to conduct business in India.

595C. *Central Government to have the right to investigate the affairs of the foreign company.*—(1) Notwithstanding anything contained in this Act or any other Act or in any agreement with the foreign company, the Central Government shall, on a complaint from any employee of, or from any person connected with, the company, or *suo motu*, appoint competent persons to investigate the affairs of any such company and to report thereon in such manner as the Central Government may direct.

(2) The inspector appointed under sub-section (1) shall have access to all books and documents of the company.

(3) If the company refuses to make available to the inspector any books or documents which he requires for the purpose of his investigation, the company and every officer of the company shall be punishable with fine which may extend to fifty thousand rupees, or imprisonment which may extend to five years, or both, and the cancellation of the company's rights to conduct business in India."

The motion was negatived.

Clauses 596 to 613 were added to the Bill.

Clause 614.—*Enforcement of duty of company to make returns etc. to Registrar*

SHRI BHUPESH GUPTA: Sir, I move:

341. "That at page 284, after line 39, the following *Explanation* be inserted namely:

—

*'Explanation.*—For the purpose of this section, a company includes a company incorporated under any other Act and also a company incorporated outside India having an office, and carrying on business, in India.'"

(The amendment also stood in the names of Messrs. S. N. Mazumdar, K. L. Narasimham and Abdur Rezzak Khan.)

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

SHRI BHUPESH GUPTA: Sir, unless this explanation was there, those foreign companies will get exempted from the provisions of clause 614 which relates to enforcement of duty of company to make return, etc., to the Registrar. This will be 101st speech, according to him, on the British again. I would only add here that we are not at all prepared to give them this exemption and it is no use trying to tell us that, fortunately for the country, they will remain there and that the Britishers will be enjoying so long. That much we know but all that I am asking here is that you should make this piece of legislation to some extent foolproof against the corrupt practices of the Britishers. That is what I am asking the Government. He need not, therefore, bring in the question of his remaining here or our not remaining there. That is not at all the issue. He is very confident that he will remain in power till eternity. We also know that as long as they are there, the Britishers also will remain. Therefore, I say that they are hand in glove with them and are getting on very well, it seems. The only thing is they do not like us. That is

the trouble. It is because we are in the unfortunate position of belonging to India and are not upholding the cause of the Britishers. We are not prepared to give this concession to the Britishers.

MR. DEPUTY CHAIRMAN: This clause applies only to the foreign concerns. Where is the need for your amendment?

SHRI BHUPESH GUPTA: It is only an explanation.

MR. DEPUTY CHAIRMAN: Is it necessary? This clause applies only to foreign companies registered outside India. That is what your explanation also says.

SHRI BHUPESH GUPTA: Is that so?

MR. DEPUTY CHAIRMAN: Yes.

SHRI BHUPESH GUPTA: No, Sir. This is a new chapter. But, is what you say the correct position?

MR. DEPUTY CHAIRMAN: Yes, I am sorry. It is not correct. Please go on.

SHRI H. P. SAKSENA: You are right, Mr. Gupta.

SHRI BHUPESH GUPTA: I have said whatever I wanted to say.

SHRI M. C. SHAH: He wants to bring in the companies incorporated outside India. I do not think we can accept this amendment.

MR. DEPUTY CHAIRMAN: The question is:

341. "That at page 284, after line 39, the following *Explanation* be inserted, namely:

—

*'Explanation.*—For the purpose of this section, a company includes a company incorporated under any other Act and also a company incorporated outside India having an office, and carrying on business, in India.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 614 stand part of the Bill."

The motion was adopted.

Clause 614 was added to the Bill.

Clauses 615 and 616 were added to the Bill.

*Clause 617.—Definition of "Government Company"*

SHRI KISHEN CHAND: Sir, I beg to move:

100. "That at page 286, line 30, for the word 'fifty-one', the word 'ninety-five' be substituted."

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

183. "That at page 286, line 30, for the words 'fifty-one per cent.', the words 'eighty per cent.' be substituted."

SHRI BHUPESH GUPTA: Sir, I beg to move:

342. "That at page 286, line 30, for the words 'fifty-one per cent.' the words 'thirty per cent.\* be substituted."

343. "That at page 286, at the end of line 33, after the words 'State Governments', the following be inserted, namely:—

'or in which the Government is a guarantor for any loan or rate of dividend.'"

(The amendments also stood in the names of Messrs. S. N. Mazumdar and Abdur Rezzak Khan.)

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

SHRI KISHEN CHAND: Sir, this clause defines a Government company. This is a definition for purposes of clauses 618, 619 and 620. So, we should see the benefit to be derived

by clauses 618, 619 and 620 in order to see what the definition of a Government company should be. Now, clause 618 says that the future Government companies will not have managing agents. That is one benefit. The second benefit is that clauses 224 to 233—dealing with the remuneration of managing agents—will be modified in relation to Government companies. Power is given to the Central Government to say whether a Particular clause of this Bill will apply to a Government company or not. These are the three benefits going to be derived by the Government companies. With this background, let us see what the definition of a Government company should be, whether it should be any concern in which the Government of India or any State Government has any share capital, say of one per cent., two per cent, or three per cent, right up to 51 per cent, or, according to my amendment, 95 per cent.

MR. DEPUTY CHAIRMAN: "Not less than 51 per cent."—that is what is stated here. That means, it must be more than 51 per cent.

SHRI KISHEN CHAND: There are certain other amendments which have suggested other figures.

MR. DEPUTY CHAIRMAN: We are not concerned with those amendments. The clause, as it is, says, "51 per cent."

SHRI KISHEN CHAND: The other amendments have suggested a figure lower than 51 per cent, and I want to develop my argument that, instead of 51 per cent., it should be not less than 95 per cent. Not less than ninety-five per cent., that means, I want to define a Government Company which is really a Government Company. Otherwise what do you mean by a Government Company? A Government Company, if it has got a large percentage of public capital, it is enjoying certain privileges, certain benefits and I do not see any reason why we should give them those privileges and benefits without really

having a Government Company. As I pointed out before, the State Governments tried the experiment of Government Companies by subscribing fifty-one per cent, of the share capital. Of course with one difference that there were managing agents. Those managing agents very badly managed the companies. The result was that the Government of Hyderabad State lost 51 per cent, of the share capital invested in the companies. So I am afraid that, if, for instance, there is 51 per cent of Government capital and 49 per cent, public capital, naturally there will be some directors of the public and if that company is badly managed, there is a danger that Government money may be risked. I do not see any reason why we should risk Government moneys. Already the Government of India is short of funds for its second Five Year Plan, and when we invest money in industrial enterprises, the Government of India should be very careful and take all precaution that the money is not lost. Therefore I have suggested, Sir, that the definition of a Government Company should be one in which almost cent per cent, capital is owned by the Government of India.

SHRI LALCHAND HIRACHAND DOSHI: In principle I am in agreement with my friend on the other side, Mr. Kishen Chand, who says that there should be a substantial capital invested in a company by the Government. 51 per cent, is only a nominal majority and it should not be taken as really a Government company. I am suggesting a sort of compromise between the Government's 51 per cent, and Mr. Kishen Chand's 95 per cent, and I have therefore suggested that 80 per cent, should be the result. I am able to consider a Government Company as really a Government Company, and I do hope, Sir, that the Finance Minister will revise his idea about a Government Company and accept this reasonable percentage of 80. Otherwise every company in which the Government have put in 51 per cent, just for the sake

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of control, will become a sort of Government Company and try to enjoy the benefits. It is not only the Government of India who are putting like that, but there are various State concerns, such as my hon. friend Mr. Dasappa mentioned, that the Mysore Government have got certain companies with 51 per cent, of their capital invested. So that sort of thing need not be covered by this clause *and* a really Government Company ought to be covered by this clause and therefore it should not be less than 60 per cent. Government capital.

SHRI BHUPESH GUPTA: Now I cannot accept either the compromise formula given by the hon. speaker of the big money or the most sweeping suggestion made from our side of the House in this connection by my hon. friend, Shri Kishen Chand, nor am I satisfied with the decision of the Government. Government is like Hamlet in certain matters, as you know, and with regard to this question when for the first time in the body of the company law we are defining a Government Company, and it seems that no company would be treated as a Government company until and unless it has 51 per cent, of the share capital. We cannot accept such an idea. Now we will say why. The reason is that it is not as if the Government is going into business partnership with all the companies; it is not at all the position. The position is that in certain cases the Government is advancing huge loans or have been subscribing a substantial part of the share capital. In such cases it is necessary to examine whether the company should be called private companies or privately owned — there are the public limited companies and private limited companies; I am not going into that — companies, whether they should be brought within the definition of Government Companies — it is of very great importance, important not because of what is happening today but because of what we are looking forward to. Now if you have to develop a public sector as the Government seems to have

[Shri Bhupesh Gupta.] decided in some of its plan formulations and all that, then it is necessary to see that a large number of concerns from out of the existing concerns are nationalised and brought within the public sector. Now we have our ideas why we have suggested this percentage. It is not just because we have got some fad for 30 per cent. We say that if it is 30 per cent, then the concern should be treated as a Government concern. For one thing in some cases the Government advances money free of interest without any obligation leaving it to the companies to pay whenever they like, bearing a sort of veto in their hands to decide the time of payment as has been done for instance, in the case of the iron and steel company of Martin Burns. Now huge sums of money have been advanced to other concerns, but what are the obligations of those concerns? Now if we are really spending money for the industrial development, we should see that in such cases effective control is established. So far Government has not succeeded in establishing its control over the concerns which had been given such fat loans as in the case of Tatas, Rs. 17 crores or so, something like that, certainly over Rs. 10 crores and in the case of the Indian Iron and Steel Company a similar amount, Rs. 10 crores or so, without any control. Now there is a tendency to buy shares also, but buy shares with what objective? If you are subscribing to the paid up capital with a view to strengthening the position of the Indian monopolists, tell us that you become their partner in order to help them. If you are trying to get their share not only to help them but also to strengthen the State sector in our economy, then there should be a different approach, especially with regard to the foreign concerns and the concerns that India Government may nationalise in the near future. Now suppose you decide to take a coal mine and bring it within the public sector, as you very well may, because of a decision to increase the production of coal. You will pay compensation. We are not

wedded to pay compensation to the foreigners, British. But what you will do? You have to get that company for which you will have to take something like 51 per cent, of the shares or any step corresponding to that position. We say it is possible for you to take 30 per cent, of the shares and make it a Government company. Let there be the coupon clippers whom you are allowing, but let it be a Government company and run as such. We do not like this combination of private capital and State capital in order to strengthen the position of monopolists. We want such combination to take place, it at all it must take place in any sector, for weakening the position of monopoly capital and for strengthening the State sector or public sector in our economy. Therefore it is necessary that the figure should be brought down to 30 per cent. 30 per cent, is a huge amount, a big chunk of the total share capital and I think if the Government really goes in for such investment, it will do so at its discretion when it thinks it absolutely necessary. Then it stands to reason that the Government should treat the company where so much stake has been made from the side of the Government, as Government company rather than as private company, Government playing the second fiddle to the private capital. We do not like such things. Therefore we have suggested such a thing. Now I do not know—the Finance Minister has his own ideas of mixed economy. It is mixed economy. The communion that is going on between the private and the public capital in such field seems always to fatten the profits and suck the blood of the people. Therefore I say that if it is mixed economy, let the mixture be a little in favour of the public. It should not be wholly against the interests of the public and if you should develop such a scheme, there should be some set objective before you. Government is not a big financier that whenever a private concern is in distress or in difficulty, it puts in share capital, becomes a partner for, what we call in Bengal, in our language, *mushkil*

asan, and thus saves them. You are not to do such things. You decide on the fundamental considerations of your economy as to where you should invest the money and then go and invest the money and secure corresponding control over such concerns. In cases where your investment comes to the tune of about 30 per cent, of the total paid-up capital, it is necessary that such concerns in all fairness should be treated as public concerns, as Government concerns or Government undertakings. I think this is the least that we can expect of this Government. Mixed economy should not be interpreted in a manner as if we are under an obligation to continually help them whenever they are in distress or in trouble or to enable them to make extraordinary profits as they have been making in the case of the Tatas and the Indian Iron and Steel Company.

MR. DEPUTY CHAIRMAN: I will do, Mr. Gupta. You are repeating yourself.

SHRI BHUPESH GUPTA: In such cases we have been doing these things. Therefore I say that the figure should be brought down to the percentage that we have given here in order to treat such companies as Government companies.

SHRI C. D. DESHMUKH: Mr. Deputy Chairman, we may be suffering from mixed economy, but we are not suffering from mixed ideas. The hon. Member has referred to the steel industry. That is already in the sector which could be nationalised at any time and then there is the provision in the Constitution in regard to payment of compensation and so on. Those issues are different and must be decided on their merits. So far as the instance of the steel companies is concerned, it is one of those industries which has been continuously under control ever since the outbreak of the war and even before that on account of certain special features, as for instance, the payment of subsidy and so on. All matters about them like the increase in I

price, retention price and so on are referred to the Tariff Commission and therefore to argue from that specific case to this general case is fallacious. We have certainly given very large loans to these two industries but it is wrong to say that we have no control on them. We have more control on steel than, as I said, anything else that is produced in this country. There are special loan agreements by which we ensure that the ends that we have in view are secured and the only reason why loans have been given to these companies is that we feel that they have certain residual reserve capacity of overheads and other appurtenances which we ought to take advantage of for the national good. In other words we expect *ihisA* when they attain their full production the additional steel that they will produce will be at a cheaper cost per ton than any other method of producing steel that we have before us, as for instance, through directly-owned Government companies.

SHRI BHUPESH GUPTA: Why is the price going up?

SHRI C. D. DESHMUKH: The general world price is going up. That is a separate issue and it will *Jake* me out of my beat, so to speak, if I were to explain that. The reason is that we want to ensure that the consumers of steel in India get steel at a reasonable price. We have to import steel from abroad which is at a very high price and so in order to match that we give a retention price to our own producers and fix a price in between so that what we recover, so to speak, from our producers is between the price fixed in the market and the retention price which enables us to subsidise the imported steel, that we also use. That is a separate issue. We have taken every precaution in regard to these loans. They are given out of, what is called, Equalisation Fund and that really has no bearing on this general question of companies making profits. I had occasion previously to explain that if there are high profits—we are concerned not only with Government companies but

[Shri C. D. Deshmukh.] with all kinds of companies—it is a problem which has to be tackled in the fiscal field. Therefore there is no particular case for substituting 30 per cent, for the figure that we have, that is, 51 per cent.

Next, I come to this strange case of two extremes meeting, that is to say, the P.S.P. and the capitalists. Both seem to want a very high percentage. This is a very well known phenomenon. One looks at it from one end and the other looks at it from the other end. One is looking at it from the point of view of privileges; the other is looking at it from the point of view of liabilities, because Government companies have both liabilities and privileges. The liabilities are special audit by the Comptroller and Auditor-General, there is no managing agency etc. In regard to privileges, one does not know but there may be cases where they might be exempted from certain sections of the Act according to the scheme of the Bill as passed by the Lok Sabha. We are bound to bring up before both Houses of Parliament every case in which a Government company will be exempted from any of the provisions of the Act so that the House need not entertain any anxiety on that score. That being so, I should imagine that the responsibilities and the privileges are matched and we shall not be far out if we take a figure like 51 which ensures that the Government have the control. It is not like 30 or 40 per cent, in a private company because you do not know whether all the shareholders are going to muster together or not, but when the Government holds 51 per cent, there is no way of reducing that 51 per cent, to 49 per cent, and all the votes of the Government will be cast in favour of a particular course of action.

Shri LALCHAND HIRACHAND DOSHI: It may be preferential capital too; not necessarily equity capital.

SHRI C. D. DESHMUKH: I am talking of the capital which is entitled to vote. To the extent to which we have

preference shares, certainly we should consider in the light of this as to what we are going to do. There are only a few cases now, as for instance the oil refineries, where the Government may have some preference capital and we may consider how we can deal with them but so far as ordinary companies are concerned, 51 per cent, shares means 51 per cent, of the voting rights. I am answering the criticism voiced from the opposite side that it might not give us control. I say 51 per cent, gives you control. It is in accordance with the practice which we have been following. When we took capital in Telco it was 51 per cent., in the Air India<sup>1</sup> International we took about 51 per cent, and in the Industrial Finance Corporation although the Government and the Reserve Bank have 40 per cent., it is because of the special enactment that we have a larger number of directors in the Industrial Finance Corporation than we would otherwise have had according to the weightage of our investment. Therefore I think that 51 per cent, is a very satisfactory figure. No good reason has been given to show why we should depart from it.

MR. DEPUTY CHAIRMAN: The question is:

100. "That at page 286, line 30, for the word 'fifty-one\*', the word 'ninety-five' be substituted."

The motion was negatived.

•Amendment No. 183 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

342. "That at page 286, line 30, for the words 'fifty-one per cent.\*', the words 'thirty per cent.' be substituted."

The motion was negatived.

♦Amendment No. 343 was, by leave, withdrawn.

♦For text of amendments *vide* col. 5123 *supra*.



MR. DEPUTY CHAIRMAN: The question is:

"That clause 617 stand pari of the Bill."

The motion was adopted.

Clause 617 was added to the Bill.

Clauses 618 to 620 were added to the Bill.

Clause 621.—*Offences against Act to be cognizable only on complaint by Registrar, shareholder or Government.*

SHRI BHUPESH GUPTA: Sir I move:

346. "That at page 287, line 45, after the words 'the company', the words 'or on the application of the registered Trade Union, where there is any,' be inserted."

347. "That at page 287, at the end of line 46, after the words 'in that behalf, the words '*suo motu* or on the application of not less than fifty employees' be inserted."

(The amendments also stood in the name of Shri Abdur Rezzak Khan.)

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

SHRI BHUPESH GUPTA: Sir, this says that offences against the Act will be cognizable only on a complaint by the Registrar, shareholder or Government. We want to broaden the scope of this provision. Therefore, we have said "on the application of the registered Trade Union, where there is any." If a registered trade union makes an application that should also be included and the offences complained of should be regarded as cognizable offence.

Then, after the words "in that behalf", the words "*suo motu* or on the application of not less than fifty employees" should be added. There are industries and undertakings where you do not have trade unions. There,

if fifty employees file an application, that should be given the weight of a cognizable offence. Here this is a big thing. A few pages deal with offences, procedure and all that. But are you really interested in finding out the offences that the company bosses are committing? Are you interested—I ask this question. If you are, why should you not include these employees and workers amongst those whose applications would be entertained and whose complaints of offences would be treated as cognizable? I cannot understand the logic behind it. Everybody is there. The Government machinery and the Registrar. The Registrar does not live with the company. He lives somewhere else and many things do not come to his notice, even if he is a very good person, who means well, he is not in a position, very often, to know things. Then, shareholders. There are *two* categories of shareholders. Among the shareholders, there are very small ones who are so much worried with the problems of life. They do not find time to know exactly what is happening in a company, whose scrip they hold. But there are other shareholders, block shareholders, top people, who hold the majority of shares in many cases—and in any case a large chunk of the shareholding is in their hands. They would not be interested in filing complaints unless, of course, there is a sort of internecine feud amongst themselves, family quarrel. There is a saying, when the thieves fall out with one another, honest men have an opportunity of coming to their own. But the trouble is that the company thieves do not fall frequently out with each other. There is a little trouble, a little quarrel, a little feud. Then somehow or other they settle their quarrels amongst themselves and get off. Therefore, you will not get any complaint normally from the top shareholding elements, that is to say, who live on clipping coupons, live on

the dividends they get on their shares and all that. The smaller ones, by the very nature of things, it is not possible to get. Some you may get

[Shri Bhupesh Gupta.] to know possibly and also the Government and the Registrar. I have said the persons who can bring to your knowledge such matters of corrupt practices and offences are the employees and the workers in industries and commercial undertakings. They should have the right to make complaints. Why are you fighting shy of this? I cannot understand this. If I am a shareholder in a company, suppose I have one share I can make a complaint. If, for instance, five of my brothers are workers there in the company as employees, they have not got any right to file a complaint a complaint that would be entertained under this clause. It is an absurd, an illogical position for the Government to take. Now, when I say that you are leaving them out, excluding the employees and workers from this clause, I infer certain things in my mind. I do not want to go into them. You are not serious—about what you are passing. If the Finance Minister wants to fight corruption and malpractices in industrial undertakings and commercial houses, we shall be with him. We shall support him. The trade union organisations in the country will help him, if he is so minded. In that case, at least I expect he should create provisions in the law whereby complaints and applications from them are entertained in the same manner as complaints and applications from the shareholder or the Registrar or the managing agency for that matter. Now, if you do not do such things, then we say that your sympathies and feelings for this sort of thing are only skin deep. They do not go very far at all. Therefore, I say, these amendments should be accepted.

I think they are starting a department to administer company law. Let there be a good beginning in this respect. If you make a provision of this sort, you will get applications. It is for you to entertain them and it is for the Government to finally judge

then—merits or otherwise. But at least have the provisions so that the applications could be made. It would have a very good effect on the corrupt bosses, because they will know, if they indulge in malpractices and corruption—whether it is a press or a commercial undertaking or a factory, and so on, that there will be the workers and employees to go and file a complaint. If a person burgles my house, there is the law, I do not have to go to a Deputy Minister to file a complaint on my behalf. Therefore, if the workers come to know that their bosses are doing wrong things, committing offences in the concern in which they are working, they should certainly have that right. Therefore, my amendments should be accepted.

SHRI C. D. DESHMUKH: Mr. Deputy Chairman, so far as the shareholder is concerned, the reply to the question why he is given a right is that he is a part owner of the company. After all it is his property in respect of which offences are being committed.

In regard to the Registrar, it is quite true that the Registrar does not live with the company. On the other hand, there are scores of clauses here under which certain duties have to be performed, of which the Registrar has to take cognizance and, therefore, if there is default in the discharge of those duties, it is the Registrar who has naturally the power to make the complaint. For the rest, all the other elements—apart from the Registrar who is after all a special officer of the Government and the proprietors—all the rights are concentrated in Government. And it is not only labour that is excluded. For instance, what about banks which make a loan to companies? They also are interested. What about other creditors? They also are interested. Then, what about depositors? Therefore, there is no special reason why only.....

SHRI BHUPESH GUPTA: I do not mind.

SHRI C. D. DESHMUKH: The hon. Member does not mind, but his amendment only relates to registered trade unions.

Towards the end of his speech, he suggested that the new department might make a very good beginning by allowing this. I do not know how that happens, because the Department will have nothing to do if we pass this clause. What I suggest instead is that the registered trade unions make a good beginning and if they do know of any matters in which offences are being committed, in which they are not interested under the Industrial Disputes Act, then they should take the earliest opportunity of passing on the information to the Government. It is only if, in a large number of cases, Government has failed to take any notice of these complaints that there might be some justification for saying that an independent access to the Court is necessary. Otherwise, I really cannot see any justification for giving an independent right. And one sentence I would like to add and that is so far as labours' own specific interests are concerned, they are largely governed by the Industrial Disputes Act. In other words, they are far better situated than some others. They have got a special Act, either the Labour Relations Act or the Industrial Disputes Act, under which all their own grievances can be brought to a head and to a judgment as against the company.

MR. DEPUTY CHAIRMAN: The question is:

346. "That at page 287, line 45, after the words 'the Company,' the words 'or on the application of the registered Trade Union, where there is any,' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

347. "That at page 287, at the end of line 46, after the words 'in that behalf, the words *'suo motu* or on

the application of not less than fifty employees' be Inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 621 stand part of the Bill."

The motion was adopted.

Clause 621 was added to the Bill.

Clauses 622 to 658 were added to the Bill.

#### *Schedule I*

SHRI BHUPESH GUPTA: Sir, 1 move:

348. "That at page 310, lines 21-22, for the words 'the amount recommended by the Board', the words 'eight per cent, unless sanctioned by the Central Government' be substituted."

349. "That at page 311, line 45, after the words 'the company\*', the words 'including those of the branches, if any,' be inserted."

350. "That at page 312, for lines 6 to 32, the following be substituted, namely:

'96. The company shall *not* capitalise the reserves or any portion thereof except for adding to block capital."

351. "That at page 312, for lines 6 to 32, the following be substituted, namely: —

'96. The company shall not capitalise the reserves or any portion thereof, unless a bonus is paid out of the reserves to the workers and employees equal to three months' wages for each year during which the reserves accumulated.' "

352. "That at page 312, for lines 6 to 32, the following be substituted, namely: —

'96. The company shall not capitalise the reserves or any portion

[Shri Bhupesh Gupta.] thereof unless fifty per cent, of the reserves is distributed as bonus to the workers."

953. "That at page 313, at the end of line 42, after the word 'object', the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

354. "That at page 314, at the end of line 37, after the word 'object' the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

355. "That at page 320, at the end of line 2, after the word 'object' the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

356. "That at page 321, at the end of line 23, after the word 'patentee' the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

MR. DEPUTY CHAIRMAN: Schedule I and the amendments are open for discussion.

SHRI BHUPESH GUPTA: Sir, I want these advantages. "The company shall not capitalise the reserves or any portion thereof except for adding to block capital." (2) "The company shall not capitalise the reserves or any portion thereof unless a bonus is paid out of the reserves to the workers and employees equal to three months' wages for each year during which the reserves accumulated." (3) "The company shall not capitalise the reserves or any portion thereof unless fifty per cent, of the reserves is distributed as bonus to the workers" and the other amendments.

The last one I want to concentrate upon. I do not go into the story of bonus share. It has been related in «Ws House earlier. Capitalising that way is something which has been very

much objected to by very many people, not only by those on this side, but also on the other side of the House.

We are coming to the end of the journey. As you know, bonus is declared by the companies out of the exorbitant profits they get; thereby capitalising takes places. Here we want that in each Schedule there should be a provision for carrying on before the declaration of bonus shares. We have given 50 per cent, figure. How do we calculate this? Fifty per cent, of the reserves is distributed as bonus shares. Reserves are built out of the profits of a concern. This is the first thing to remember. Then money out of this is distributed under various items. What we say is this: 50 per cent, of these reserves should be set apart in all concerns for distribution as bonus to the workers. This is what we demand. If the company makes profits and is in a position to build reserves, it stands to reason that the workers who have made it possible for the company by their labour and through increased production to earn extra profits, should be given bonus. It should be the first charge on that money. It is a question of social equity. Now my suggesting this does not make much impression on the hon. Members of the Treasury Benches. But I know this. The workers have the first charge on this kind of money which has been earned as a result of their labour. If a newspaper makes good money due to good circulation and all that, it means that the paper has become popular. It means that the journalists have done good work and therefore, they are entitled to claim a portion of the reserves created that way, as bonus to themselves. For instance, a textile mill makes enormous profits because of the fine cloth it produces. It sells throughout the country. It stands to reason that the textile worker should be given the first priority in the matter of distribution of money so earned. What happens to-day? Reserves are there. But the demands of workers and employees are brushed aside and, recklessly the money is put into various

reserve funds. Distribution of bonus shares leads to capitalising in any case, whereas the workers and employees are denied even the elementary fruits of their labour. This is an unjust arrangement in the whole company affairs. Remember, today you are up against this, when the working-class is demanding bonus everywhere. There is not an industry or a concern where the workers and the employees do not demand bonus. And this is something which has the backing of all sections of people in the country. This is reflected in the unanimity *between* the All-India Trade Union Congress and the Indian National Trade Union Congress in advancing this system. I thought such things should have some impact on the company law. It should not be a charter of profiteering for the monopolistic classes. It should be something for the working people who work in the companies and run our industries. Therefore, I have suggested such a thing and as you know, the tactics today are to deny bonus even when it is possible to grant it to the worker. The result is industrial tension and industrial dispute. After all, the dispute takes place as a result of the recalcitrant attitude of the employers in refusing to grant bonus. We are told by the pandits of the ruling party that the country's industrial peace must be maintained, and that we belong to one family. All fine phrases! Time and again we are told by the ruling elements in the country in this way. Here you make a provision of 50 per cent. Let them take 50 per cent. Another 50 per cent, you set apart for the workers and employees. I am not going to talk about socialism. After all, you do not believe in socialism, I know—everybody knows it. (*Interruptions.*) You talk of socialism because the idea of socialism is so irresistible. Therefore, you proclaim from the house-top about the socialistic pattern. But when you come to the question of distributing the fruits of the labour, you behave as if you are the exploiters' advocates. You do not give any-

thing to the workers. This is a very legitimate demand which is advanced by all sections of the people in the country and I do not see any reason why the Government should not accept the demand of this sort.

SHRI M. C. SHAH: I cannot accept these amendments. I have got full sympathy for the working classes and I wish they might get as much as they are justified to get from the management of companies. Managements of companies should be rather thankful to Mr. Bhupesh Gupta that he asked for only 50 per cent, of the undistributed profits. I think this is not the place where such a restriction should be placed. It cannot find a place in the Companies Bill. Here in the question of undistributed profits if he feels that every year there are huge profits and the management wants to take a part of them to the reserves as undistributed profits, then he must try through unions and by other means available to get as much as possible from that sum as bonus to the working class. There is no quarrel on that point at all. But the moment the undistributed profits have been taken to reserves, I do not think the workers can claim that bonus shares should be issued out of those undistributed profits. As I understand, undistributed profits are, really speaking, the property of the shareholders. After all dividends are distributed after fair wages are given. After all, bonus, if justifiable is given to the working classes. When these undistributed profits are accumulated, then naturally they are allowed to be issued in the form of bonus shares. 4 P.M.

And as I understand, the legal position is also that the labourers, the working classes, are not entitled to these undistributed profits. If necessary, they should also agitate in the courts to get a legal right to these undistributed profits. Then, to get a share in these undistributed profits it is not necessary to have any amendment. So far as the position stands today, I do not think he is justified in

[Shri M. C.-Shah.] getting a place in the regulations of the company law that 50 per cent, should be given over to the working classes, and the remaining 50 per cent, as bonus shares when these undistributed profits are proposed to be issued as bonus shares. I oppose the amendment.

MR. DEPUTY CHAIRMAN: The question is:

348. "That at page 310, lines 21-22, for the words 'the amount recommended by the Board', the words 'eight per cent, unless sanctioned by the Central Government' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

349. "That at page 311, line 45, after the words 'the company', the words 'including those of the branches, if any', be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

350. "That at page 312, for lines 6 to 32, the following be substituted, namely: —

'96. The company shall not capitalise the reserves or any portion thereof except for adding to block capital.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

351. "That at page 312, for lines 6 to 32, the following be substituted, namely: —

'96. The company shall not capitalise the reserves or any portion thereof unless a bonus is paid out of the reserves to the workers' and employees equal to three months' wages for each year during which the reserves accumulated.\* "

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

352. "That at page 312, for lines 6 to 32, the following be substituted, namely:—

'96. The company shall not capitalise the reserves or any portion thereof unless fifty per cent, of the reserves is distributed as bonus to the workers.'" The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

353. "That at page 313, at the end of line 42, after the word 'object', the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

354. "That at page 314, at the end of line 37, after the word 'object', the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

355. "That at page 320, at the end of line 2, after the word 'object', the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

356. "That at page 321, at the end of line 23, after the word 'patentee', the words and brackets '(Objects should not be more than six which are all connected and ancillary to one another)' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is;

"That Schedule I stand Part of the Bill."

The motion was adopted. Schedule I was added to the Bill. Schedules II to XII were added to the Bill.

*Clause 1.*—Short title, commencement *and extent* SHRI BHUPESH GUPTA: Sir, I would not move my amendment No. 1 if the Government tells us when it will come into force.

SHRI M. C. SHAH: We have already stated that we propose to put into operation, when this Bill is passed into an Act, before 1st April 1956 or latest by 1st April, 1956. I want to make it clear that with the amendments that we have accepted we will be in a position to bring this Act into operation before the 1st April 1956.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 1 stand part of the Bill."

The motion was adopted. Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

SHRI M. C. SHAH: Sir, I move:

"That the Bill, as amended, be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill, as amended, be passed."

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

DR. M. S. BARLINGAY: Mr. Vice-Chairman, now that we are through the various clauses of this Bill it will not be out of place to make a few observations.

The first observation that I should like to make is that we are all very very grateful to \*he hon. the Finance Minister and the hon. Minister for

Revenue and Civil Expenditure, Mr. Shah for their very great patience with the Members of this House. The Members raised all kinds of objections, made all kinds of observations, and I am very happy to say that they were always prepared to accommodate the various view-points of the Members concerned and were always willing to answer the questions that they raised. All congratulations to them for what they did.

Having gone through the entire Bill, Sir, it seems to me that we will all have observed one very crucial point, and the crucial point in the whole Bill according to me, has been the question of managing agents. I do not imagine that the Government too have been very much in favour of the system. Nonetheless, now that we have a large amount of Government control over this system, there would be no objection to continuing this system for a few more years. The Bhabha Committee had suggested a limit of 15 years for ending this system. There were some amendments yesterday suggesting that a period of ten years would be quite adequate. Personally, I was of the view that Mr. Parikh was quite right in his amendment and that a period of ten years would be in fact more than enough. But I am not going into all that matter now. One thing that has come out of this discussion is that at any rate, so far as the formation of capital in the country is concerned, it is quite clear that unless we have the managerial experts taking keen interest in all these financial matters the private sector, at any rate, cannot be properly organized. I was coming to this whole problem not from the point of view of the companies but from the point of view of the co-operative societies. I have some experience of the running of co-operative societies. I can say, Sir, that if there is any one thing which is responsible for the failure of co-operative societies in this country, it is this that they do not attract the required managerial talent for their developmen<sup>4</sup>

That is the

[Dr. W. S. Barlingay.] main reason why co-operatives—I do not say that they are absolute failures, because some co-operatives have flourished—are going down. Because they do not attract the managerial talent to the extent to which they ought to. Now this is a very important matter. While I wholeheartedly believe in co-operation, I feel that the experience of the administration of the companies puts us on our guard and tells us that there ought to be suitable amendments to the Co-operative Societies Acts also.

SHRI LALCHAND HIRACHAND DOSHI: Sir, on a point of information. Only one hour and fifty minutes are left to conclude the debate on this Bill. And I am sure there will be quite a number of Members who would like to address the House on the third reading. Would it not be desirable at this stage to fix some time-limit for each Member? Otherwise one Member will get an hour and a half, and some others will be asked to finish in two minutes, five minutes and all that. That should not happen. Therefore it would be desirable to have a time-limit fixed.

SHRI B. C. GHOSE: Sir, I am prepared to withdraw in his favour. I shall not speak, and I shall give all my time to him.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR) : Well, it is really necessary for the hon. Members to be reasonable in taking time. I have not yet received any information as to how many hon. Members are going to speak. The names before me are only about four. If I have an indication as to the number of hon. Members who want to speak, I shall certainly adjust everything..... (Interruptions).....

SHRI H. N. KUNZRU (Uttar Pradesh) : If you want a larger number, I can add myself to the list.

DR. W. S. BARLINGAY: As far as I am concerned, I am not eager to take.....

SHRI BHUPESH GUPTA: I suggest one procedure. After he speaks, let the three hon. musketeers speak, and then if there is any time left, we shall speak. We are always generous even to the capitalist class.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR) : I think hon. Members should take ten minutes each.

DR. W. S. BARLINGAY: Mr. Vice-Chairman I was saying that it was a very important matter to organise the private sector. The first and the most important thing to remember in this connection is that the distinction between the private sector and the public sector is not equivalent to the distinction between capitalism and socialism. That is a very important thing to remember. As a matter of fact, I am of the view that even if we have State control everywhere, it could still be a sort of State capitalism, and State capitalism, or for that matter, capitalism of any sort is not really conducive to democracy. On the other hand, I would ask: Was it not—if I remember aright—Rousseau who said that man is born free but is everywhere found to be in chains? But I would say this, Sir, whether a man is born free or whether he has any chains, or whatever it may be, it is very important to remember that for the proper functioning of democracy—whether it is in this country or in the whole world—the intellect ought to be absolutely free from all bondage. Intellect is born free, but today it is in bondage, and it is in bondage of the capitalists. Now this has got to be avoided. And I therefore very strongly suggest that if you want to free the intellect from bondage, then you have got to organise the private sector with a good deal of thought and consideration. Sir, if I may say so, the essence of freedom of the intellect lies in the fact that the person concerned is not dependent for his livelihood upon anybody else. That is the most important thing. If you simply make slaves of men, if you still retain the notion of master and servant—whether it is in the private



sector or in the public sector—I think democracy is at stake. Now what I was going to say was, therefore, that you should really try to organise the private sector in such a manner that democracy will survive. After all, as I said, democracy is the function—I use the word 'function' in the mathematical sense—of the intellectual and spiritual freedom of individual citizens. Now, if you grant that, then I suggest that so far as the private sector is concerned, the only solution to the problem of freedom of the individual is co-operation, co-operation, and nothing else. It is not through these various intricacies and mazes of this company law, or through the intricacies of the share market or this financial jugglery, that we are going to achieve the freedom of the intellect that the nation wants. It is through co-operation and co-operation alone that we can achieve that freedom \_\_\_\_\_

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): You have already taken 10 minutes, Dr. Barlingay, minus the interruptions.

DR. W. S. BARLINGAY: I will take only two or three minutes more.

Sir, if this private sector has got to be properly organised, let that be organised on a co-operative basis, and if suitable amendments are made in the whole co-operative set up, then I suppose it will be a great achievement.

In this connection, Sir, I had written a letter in Sanskrit to the hon. Finance Minister, and I would like to read that out to you. It is as follows:

“दृष्टं सदैव जनतंत्रपरां व्यवस्थाम्  
सर्वान् यदीच्छसि समस्तसुखानुबन्धान् ।  
हेयं तदा निगमनार्थमिदं जालम्  
लोकामिवीद्विसरीणि सहकार्यमेव ॥”

It means this:

"Oh Minister! If you wish to have a democratic set-up in this country for all time, a set-up which produces

a chain of happiness, then abandon this miasma of financial jugglery which is rooted in the Companies. For it is only through co-operation that you can achieve all round progress amongst the people."

And, to this, I am glad to say that the Finance Minister has replied. I hope he will have no objection to my reading what he has replied:

“हे बारलिंगे भवता सहैव  
श्रद्धास्ति मंडीस्मिन् सहकार्यजाते”

He says, "Mr. Barlingay, I also believe with you that the only solution to this problem lies in co-operation."

यावत्प्रगच्छति शनैः सहकारिसंघ  
स्तादीदीर्घनिगमजः प्रचलत्वबाधम्

"But so long as the co-operatives progress very slowly—they make very slow progress—for so long let us go on with this Companies Act." This is all that I wanted to say in regard to this matter. Thank you.

SHRI H. N. KUNZRU: Sir, I offered to speak because the number of speakers was very small. Having listened to the debate rather intermittently, I feel that it was carried on at a very high level. Whether one agrees with the views expressed here on this side of the House or on that side of the House or not, I think it must be admitted that those who moved the amendments and those who spoke against them, have tried to bring the light of facts to bear on the discussion. One may not have agreed with many of the amendments moved by hon. Members to my right, it cannot be denied that they showed considerable knowledge of the problems that they dealt with. I think this shows the interest that is being evinced in the country in the question of the management of joint stock companies and the form that the administration of our commercial concerns should take. It shows further that, whatever the need for the retention of the managing agency system

[Shri H. N. Kunzru.] at the present time may be, the atmosphere in the country is such that it cannot last for a long time. I hope that the managing agencies will take due note of this feeling which is not illegitimate. I think it will be admitted that it is desirable that in our country there should be agencies for promoting, organising and providing credit for joint stock companies such as one finds in certain other countries, for instance, in England and

nd America. I feel that the Finance Minister was right in saying that on the whole the situation in this country required the assistance of those who have been able to promote industries, to organise them and to provide credits for them, but they have to move with the times and I hope that they will be progressive enough to adapt themselves to the changing conditions. Let us not, however, suppose that by a mere change of name, we shall be able to feel that we have achieved our purpose. Suppose for a moment that in the next 10 years there are no managing agencies left and that companies are being carried on by managing directors or secretaries or treasurers. It will, I think, be a mistake to imagine that in such a case people with money will not be able to exercise a preponderant influence. The managing agents may convert themselves into secretaries and treasurers in the near future but, so long as they have money—money is power—they will be able to control the affairs of the companies with which they are connected. The only way, therefore, is to see that such arrangements are made as will enable the companies to have the necessary finance and technical assistance without being controlled too much by the interests of a small group of persons. No one can, I think, suggest a cut and dried scheme in order to prevent the control of a small group over the joint stock companies, but I think it ought to be the task of the Department of Company Law Administration to see that *the* provisions of the new law are carried out in such a way as to achieve the purpose that lies behind it.

There is one thing more that I wish to say with regard to managing agencies. It is well known that there are a number of companies with managing agents which are not really managed by the managing agents, who are lacking in the necessary organizational and techni

cal capacity. They are being managed by some other people who occupy an inferior position but who have the necessary organizational capacity and technical know-how. I have been given instances of companies in which the managing agents who had neither much experience nor much knowledge were tempted to set aside the services of the real managers of their companies and the result has been that these companies have suffered greatly. I think that this matter should be borne in mind when the Government establishes the Department which is to administer the law that we are going to pass today. I think this is an important matter. It may not be possible, by any legal method, to prevent managing agents from exercising their rights, but suitable executive action could be taken to make the managing agents realise their limitations so that public interests may not suffer.

Lastly, I would like to refer again to some of the questions that I raised during the consideration stage. I suggested that the Department of Company Law Administration should regard it as one of its important duties to encourage the establishment of shareholders' associations wherever they did not exist and to strengthen such existing associations as are not in a good condition. I also suggested that for the education of the shareholders, the Department should consider the practicability of publishing literature which will enable them to understand the real position and to discharge their functions effectively. This Bill gives greater power to the shareholders than they ever possessed. It has also strengthened the position of the directors. It has provided for a measure of internal control, and it is necessary to see that this internal control is exercised so efficiently that the

purpose that we all have in view may be achieved. The Finance Minister, while winding up the debate at the earlier stage, made no reference to these matters. I attach a little more importance to them than the Finance Ministry seems to do. I have therefore referred to them again so that I may be able to get some reply from my hon. friend, the Minister for Revenue and Civil Expenditure, who will probably wind up the discussion. Perhaps my time is over. I do not want therefore, to say anything more now, except to impress on the Government one more point. I have considered the language of the clause which says that the Government may order investigation into the affairs of a company which does not provide adequate information to its shareholders. I think that provision is contained in clause 237. I asked whether that provision will enable a shareholder or will entitle a shareholder to receive such information in response to his enquiries as is not of a confidential character or is not likely to affect the interests of the company injuriously.

[MR. DEPUTY CHAIRMAN in the Chair.]

J. am sure that the Government have looked into this matter and will be able to give a definite reply. I asked for a definite reply because when I raised this question, either my hon. friend Shri Lalchand or Shri Jain said that this clause would not entitle a shareholder to get the information that he wanted from a company.

SHRI LALCHAND HIRACHAND DOSHI: I did not say that.

SHRI H. N. KUNZRU: Somebody did say that from that side. Somebody got up and said that this clause would not entitle a shareholder to get such information from a company as could be given without damaging its interests.

SHRI SHRIYANS PRASAD JAIN: I think the impression is wrong. I have not said that.

SHRI H. N. KUNZRU: I may be wrong but I am perfectly certain that somebody on the other side did say that this clause did not mean what I thought it meant. I am glad to hear that none of these hon. gentlemen said that. But in any case the matter requires clarification and I hope the hon. Minister who will wind up the debate will be able to tell us what view is taken by the law authorities of the Government of the meaning of this clause.

MR. DEPUTY CHAIRMAN: May I know how many Opposition Members want to speak?

SHRI ABDUR REZZAK KHAN (West Bengal): I would like to speak.

MR. DEPUTY CHAIRMAN: Because I am calling the hon. Minister to reply at 5-45 and the time is very limited. I would like you to be very short.

श्री अब्दुर रज्जाक खान : डिप्टी चैयरमैन सर, मैं इस बिल के ऐसे ही डिस्कशन के वक्त थोड़ी सी अपनी राय इसके मुताबिक देना चाहता हूँ। सब से पहले मैं आनर्लीबल पीडित कुंजूरु साहब की राय के साथ एकमत होते हुये यह कहना चाहता हूँ कि इस हाउस में इस बिल का जो डिस्कशन हुआ उसका लीबल बहुत ही हाई रहा यानी बहुत बुलन्द पैमाने पर डिस्कशन हुआ। इसके लिये मैं सब से पहले इस हाउस के तमाम आनर्लीबल मेम्बरान को धन्यवाद देता हूँ कि डिस्कशन को काफी पॉलीटिकल लीबल में किया गया। इसकी जरूरत इस लिये थी कि आज मुल्क के सामने जो काम हैं, जो मकसद हैं, जो रास्ता आगे बढ़ने का लिया गया है कि तमाम हमारी इंडीट्रियल लाइफ को आगे बढ़ाया जाय, उसमें हमारी बिजनेस के चलने की जो सूरत है, जिस आरगन के जरिये से वह चल रही है वह मेनली मेनोर्जिंग एजेंसी है और इस हाउस के और उस हाउस के डिस्कशन को अगर मिला कर देखा जाय तो काफी तौर पर यह कहा जा सकता है कि प्रार्लियामेंट में अक्सर मेम्बरान ने इसके

[श्री अब्दुर रज्जाक खान]

खिलाफ राय दी। इसके साथ बाहर जा डिस्कशन इस सिलसिले में हुए हैं उनको भी अगर जांच लिया जाय तो काफी तौर पर यह कहा जा सकता है कि आम राय इसके खिलाफ है। इसी लिये जहां तक मेरा ख्याल है मैनेजिंग एजेंसी के मूतालिक जो इस बिल में प्राविजन रखे गये हैं उनको पहले की हालत में रखना नामुनासिब और नामुमकिन हो गया। आज उनको बदलने की जो जरूरत पड़ रही है उसकी यही वजह है कि आज से नहीं बल्कि एक जमाने से पब्लिक मैनेजिंग एजेंसी के खिलाफ राय दृष्टी आ रही है। इन्हीं सब वजूहात से आज उसको पहले की हालत में जारी रखना गैर मुमकिन हो गया है। चुनावों उसको कंट्रोल करने की जरूरत हो रही है। हमारे आनरीबल फाइनेंस मिनिस्टर की तरफ से जितने आर्गुमेंट्स दिये गये हैं उनमें यह कहीं नहीं कहा गया है कि उसके अन्दर कोई खराबी नहीं है। इससे सब को इतिफाक है कि उसमें खराबी जरूर है। लेकिन वह समझते हैं कि इस खराबी को दूर किया जा सकता है, उसको अब भी दुरुस्त किया जा सकता है। दूसरे लोग यह समझते हैं कि अब उसकी जरूरत बाकी नहीं रही, उसका अब हटा देना चाहिये। यही फर्क है। वैसे सब इस पर इतिफाक करते हैं, सब एकमत हैं कि बिजिनेस को आगे बढ़ाने का कोई रास्ता निकाला जाय, कोई बेहतर रास्ता या कोई बेहतर सूरत निकाली जाय। अब सवाल यह है कि क्या मैनेजिंग एजेंसी को कायम रख करके ऐसा किया जा सकता है या तोड़ करके और कोई दूसरी सूरत निकाल करके ऐसा किया जा सकता है? हमारे फाइनेंस मिनिस्टर साहब की तरफ से जो आर्गुमेंट्स दिये गये हैं कि हम उसको रख भी रहे हैं और उसको तोड़ भी रहे हैं वह एक ऐसी दलील है जो कि हमारी पब्लिक नहीं समझ सकती। हमारी अवाम उस दलील को नहीं समझ पायेगी। उनके आर्गुमेंट्स जितने भी पावरफुल हों, जितने भी जोरदार हों, लेकिन यह यकीनी बात है कि हम इसको समझ रहे हैं कि यह

खराबी पैदा कर रही है और इसके जरिये से बिजिनेस में करप्शन आ रहा है। यह तमाम बातें हो रही हैं लेकिन बाजूबद इसके हम उसको रख रहे हैं क्योंकि हमारा ख्याल यह है कि उसको हम दुरुस्त कर सकेंगे। कहां तक यह हो सकेगा, जो लोग अब इस हालत में हैं उनको दुरुस्त करना कहां तक मुमकिन हो सकेगा, इसमें शक किया जा सकता है और इसमें शक करने की गुंजाइश है। वाक्यात शक करने के फंदे में हैं। मैं इस बहस में पड़ना नहीं चाहता, सिर्फ यह कहना चाहता हूं कि इस पर काफी डिस्कशन हुआ और हमें खुशी है कि जो इस वक्त पब्लिक की राय है वह सामने आई। पब्लिक राय क्या है? पब्लिक राय यह है कि इंडस्ट्रियल डेवलपमेंट का हमारे सामने जो मकसद है उस मकसद को पूरा करने के लिये बेहतरीन इंतजाम होना चाहिये और उसके लिये अगर मैनेजिंग एजेंसी को कुरबान करना पड़े तो उसको कुरबान कर दें। हमें खुशी है कि पार्लियामेंट में यह राय काफी तौर पर आ गई है।

इस सिलसिले में हमारी तरफ से और दूसरी तरफ से, दोनों तरफ से, आर्गुमेंट्स हुये हैं लेकिन दोनों के आर्गुमेंट्स में फर्क है। एक तरफ कहा जा रहा है, एक तरफ से दलील यह दी जा रही है कि हम उन बुराइयों को कानूनी कार्यवाही कर के दूर कर सकेंगे लेकिन हम इस हाउस के तमाम मंत्रियों के सामने यह पेश करना चाहते हैं कि हम गवर्नमेंट को जानते हैं, हम गवर्नमेंट की मशीनरी को भी जानते हैं, इस मशीनरी के जरिये तमाम खराबियों को दूर कर देने का हौसला करना, इतनी बड़ी बात कहना, मेरे ख्याल में इस वक्त की सूरत हाल में मुनासिब नहीं है। मगर जिम्मेदारी हमारे ऊपर नहीं है, गवर्नमेंट के ऊपर है और देखा जायेगा कि क्या होता है। अगर आप अवाम के विश्वास को लीजिये तो वह नहीं समझते कि ऐसा करना मुमकिन होगा। यहां तमाम अहेलुर राय लोग बैठे हुये हैं, इन तमाम लोगों को चाहिये था कि कोई ऐसा तरीका बतलाते जो कि मुनासिब

होता और इससे बेहतर होता। हम नहीं चाहते कि जो हमारे सरमायदार भाई हैं, कंपिटलिस्ट भाई हैं जो कि बिजनेस कर सकते हैं और कर सकते हैं उनको हम दूर हटा दें, उनसे हम बिजनेस का काम न लें, उनका कोई हक न रखें। यह इस वक्त हो नहीं सकता। उनसे हम जरूर काम लेना चाहते हैं, उनको हक देना चाहते हैं, उनको माकूल मुआवजा देना चाहते हैं लेकिन हम नहीं चाहते कि कारोबारी हिस्से में कोई खराबी हो, कोई करप्शन हो और ऐसा हो कि उससे हिन्दुस्तान भर के तमाम लोगों में करप्शन आ जाय। यह हम नहीं देखना चाहते। अगर यह ख्याल किया जाय कि हमारी तरफ से जो रुकवर्ट डाली गई हैं, जो मुसालिफतें की गई हैं, इसके माने यह हैं कि हम सरमायदारों के खिलाफ हैं और उनको हम बिजनेस से हटा देना चाहते हैं तो यह गलत है। हरिंगज ऐसी बात नहीं है। हम उनको बिजनेस में हिस्सा देना चाहते हैं और बेहतरीन तौर पर मौका देना चाहते हैं लेकिन उसको कॉपी मुफाद के भाषिक देना चाहते हैं।

जनाब, हिन्दुस्तान का हर शहर, हर बस्ती, हर बड़ा जानता है कि हमारे मुल्क में पिछले कई सालों से करप्शन की एक लहर सी आ गई है, करप्शन का एक सैलाब सा आ गया है और गुजिश्ता जंग के बाद से यह बिजनेस के जरिये से गांव गांव में फैल गया है। इसकी जिम्मेदारी बां बिजनेस के चलाने वाले हैं उनके ऊपर है। हम इसको खत्म कर देना चाहते हैं ताकि हमारा मुल्क ठीक हो जाय, साफ हो जाय। यही हमारा मकसद है और इसी लिये हम मैनेजिंग एजेंसी को खत्म करना चाहते हैं और कोई दूसरी बेहतरीन सूरत पैदा करना चाहते हैं। इसके लिये हमारी तरफ से जो कुछ कहा गया है उसको हम समझते हैं कि वह पीब्लिक की राय है। अगर इस बार में पीब्लिक की राय ली जाय तो पीब्लिक यही राय देगी। आनर्लीबल फाइनेंस मिनिस्टर के जो आर्गुमेंट्स हैं वे बहुत ही लायक हैं, बहुत ही मुद्दिल्लिल हैं लेकिन वे किसी के दिल को पान नहीं सकते, कोई दिल 82 RSD—9

इनको कबूल नहीं करेगा। उन्होंने कुछ फ्रैक्टर्स और फीगर्स ला कर दिये हैं लेकिन उसको बहुत कम लोग समझेंगे। तो अगर हमारी प्रोजेक्शन में और उनकी प्रोजेक्शन में कोई डिफरेंस है तो यही है।

मैं हाउस का ज्यादा वक्त नहीं लेना चाहता हूं। मैं सिर्फ यह कहना चाहता हूं कि जो कुछ डिस्ट्रिक्शन हुआ है उसका दारोमदार यही है कि किस तरीके से इस बिल को काम में लाया जायेगा, इस बिल का प्रैक्टिस में क्या हथ्र होगा। मैं यहां यह जाहिर कर देना चाहता हूं कि मुल्क में जो राय बन गई है उसके मुआफिक अगर काम नहीं हुआ और अगर मैनेजिंग एजेंसी के कामने वालों का, मैनेजिंग एजेंसी के ही नहीं बल्कि और जो तमाम बिजनेस के मालिक हैं उनका, रवैया नहीं बदला, उनकी जहानियत नहीं बदली तो मुल्क में बड़ी खराबी आयेगी और जो हम आगे कदम बढ़ाना चाहते हैं उसमें हमें कामयाबी नहीं होगी। हमें इंडस्ट्रीज को बढ़ाना है और सिर्फ यही नहीं करना है कि फाइव ईयर प्लान में जो रखा गया है सिर्फ वही हो बल्कि गांव गांव में इंडस्ट्री को फैलाना है। इस काम में जो हमारे सरमायदार हैं उनसे बेहतरीन खिदमात हम ले सकते हैं लेकिन वह उसी सूरत में जिस सूरत में कि कॉम चाहती हैं लेना है। अगर सिर्फ मुनाफे का लालच रहे और यह रहे कि सब कुछ हम ले लें तो ऐसा नहीं हो सकता है। मैनेजिंग एजेंसी है क्या? वह कम्पनी के ऊपर एक व्युरोक्रेसी है। मैनेजिंग एजेंसी सिर्फ इसी तरह का आर्गनाइजेशन है और कुछ नहीं है। हम एक तरफ यह लड़ाई लड़ रहे हैं कि कॉम में जम्हूरियत आये, कॉम में डेमोक्रेसी पैदा हो और दूसरी तरफ कोशिश यह हो रही है कि बिजनेस के अन्दर डेमोक्रेसी न हो, बिजनेस के अन्दर व्युरोक्रेसी रहे और व्युरोक्रैटिक आर्गनाइजेशन रहे। यह चलने वाली बात नहीं है। इस पर जो लड़ाई, तकरार और बहस मुबाहिसा हुआ इसकी कोई भी जरूरत नहीं थी। जिनके ऊपर जिम्मेदारी है वह अगर समझ कर चलते तो कोई बात नहीं होती लेकिन वे समझ कर नहीं चल रहे हैं। बहुत सी मिसालें दी जा सकती हैं

लेकिन इस वक्त इसकी गुंजाइश नहीं है इसालय में नहीं देना चाहता हूँ। सिर्फ एक होशियारी देना चाहता हूँ और वह यह है कि अगर बिल को सही तौर पर काम में नहीं लाया गया, अगर पूरे तौर पर कंट्रोल करने की कोशिश नहीं की गई, जो मैनीजिंग एजेंट हैं, डाइरेक्टर हैं या और किसी तरह से बिजनेस के मालिक हैं उन्होंने अगर अपनी रीवश नहीं बदली और अपनी जहानियत नहीं बदली तो फिर इसी विषय पर वहाँ द्वारा डिस्कशन करना पड़ेगा और नई सूत निकालने की कोशिश करनी पड़ेगी। सिर्फ इतना कह कर में खत्म करता हूँ।

SHRI H. P. SAKSENA: Sir, it is admitted on all hands that this Bill, which is very soon going to become law, is a marked and distinct improvement over the old Companies Act. Our thanks are consequently due to all those who cooperated and worked for this consummation, particularly, my hon. friends on the Opposition benches who never adopted an obstructionist attitude but, continuing as they did to press their own view-points, saw to it that no bitterness and no rancour was brought into the debate. Eventually, they yielded to the view of the majority which is, after all, an accepted rule.

DR. W. S. BARLINGAY: Rule of reason, not of majority.

SHRI H. P. SAKSENA: My friend, Dr. Barlingay, calls it a rule of reason. I accept it.

Dr. Barlingay spoke of something about State control and State capital. He is perhaps afraid of State control. I am not; the one thing that gladdens me here in this Bill is .....

DR. W. S. BARLINGAY: I said nothing of that kind.

SHRI H. P. SAKSENA: I have been a reporter. My hon. friend, Dr. Barlingay, must remember that fact and I have reported his own words about which there can be no difference of opinion.

This Bill has given very many powers to the Government and, trust as I do the Government, I hope that all these vast and extensive powers that have been given to the Government will be used in the best interests of the country.

Sir, Dr. Barlingay also spoke of co-operation and democracy. It is not in our interest and it will not serve our purpose if we go on repeating these words over and over again. What is needed is to introduce these things in our day to day life. What is needed is to integrate the principle, the theory and the philosophy of these two golden principles in the life, both public and private, of the country. This is how I would put these two golden principles to use.

On our part, we have got to congratulate ourselves in this respect that we justified our existence by accepting two minor amendments which will necessitate the Bill being taken back to the Lok Sabha for its approval of the amendments that we have made. This goes to prove that we do not simply skip over the Bills that are sent to us by the Lok Sabha for our approval. We have gone through the Bill very carefully; we have studied all these 658 clauses, the Schedules and all that, and have given our verdict in the cases in which we thought, changes were necessary.

Sir, most of the Members of this august House, including myself, had devoutly hoped that we would be in a position to give a very decent burial to the managing agency system in this very session itself, but as fate would have it, it has not been possible to do so. I am sure that the little lease of life of four years that we have given will only be used to the betterment of the condition of the managing agency system and that, on the 15th August, 1960, this system will have become a thing of the past, a chapter of Indian history absolutely to be forgotten and that the entire system of managing agency will be eliminated in that year..

Sir, the three factors connected with the Companies Bill were, evidently

enough, labour, capital and Government. As the Bill has been drafted and passed, it has safeguarded the interests of all the three factors; labour should not be dissatisfied; capital has been given a longer lease of life which, in the opinion of the majority of the Members of this House, it did not deserve; still, it has been given four more years to live. Lastly, Government which had very little control over the affairs of the joint stock companies, will now have greater power and authority to see that mischief is not committed and that the interests of the shareholders are not butchered and murdered.

Sir, to the hon. representatives of the capitalist class I have to make a humble submission and it is this. There is time enough for them to see and behold that the Government is committed to and wedded to a socialistic pattern of society. Now, if they are shrewd and wise enough to see that the present state of affairs is miles and miles away from the socialistic pattern of society, it is in their own interests that they should mend their houses and regulate their business relationship with the concerns that they are running in such a manner that causes of grievances are reduced. They should be very cautious and very careful because of what the sense of this couplet will show:

“सँयाद हुनर दिखलाए अगर,  
तालीम से सब कुछ मुमकिन है ।  
बुलबुल के लिए क्या मुशकिल है,  
उल्लू भी बने और खुश भी रहे ।”

I hope, Sir, this Bill will have a good running.

SHRI KISHEN CHAND: Mr. Deputy Chairman, at the very outset, I must congratulate the hon. Finance Minister and the Minister for Revenue and Civil Expenditure who have piloted this very long and complicated Bill. Though we do not agree with the hon. Finance Minister, and though he has accepted only two minor amendments — not very much liked by us—he has

given us plenty of assurances that he will be very carefully watching the progress of this Bill and that he will carefully examine how this Bill is effectively carried out.

I maintain that there has been great progress in the world. The rate of progress is much faster. The hon. Finance Minister does not realise that the world is changing in one year at a very rapid rate. The progress in one year is equal to the progress in a hundred years in the last century. The Finance Minister has introduced many retrograde provisions. By retaining such provisions and by extending the life of the managing agency system, he has actually retarded the progress of the industrialisation of our country.

I may, at the outset, say that I lay great emphasis on the means and methods. I firmly assert that the managing agency system is fundamentally bad and fundamentally wrong though it may have done certain good to the industry of our country because the means are bad. We should not wholly be guided by the ends. Our aim and object is not only the production of wealth in this country, but side by side with it the proper distribution of that wealth. The hon. the Finance Minister is of the view: Let us first produce the wealth by any means, whether good or bad or indifferent, and later on, after an interval of time, he will think about its distribution. This is where we disagree with him. This is why a whole series of amendment have been brought forward by this side of the House. They were aimed at reducing this gap between the production of wealth and its distribution. There is also difference of opinion about the means of producing the wealth. I maintain, Sir, that the Father of the Nation laid great stress on the means of attaining an ideal and we are departing from it. We are departing from it when we are allowing a bad system to continue in our country, a system which was criticised by hon. Members on that side and wholly under the influence of party

[Shri Kishen Chand.]  
 whip they voted on that side. But the number of speeches delivered against the managing agency system should be an eye-opener to anybody and everybody. Sir, in this country .....

SHRI H. P. SAKSENA: This is again a mistake about the fact, Sir. There was no whip.

MR. DEPUTY CHAIRMAN: Don't disturb him please.

SHRI H. P. SAKSENA: I am not disturbing anybody.

SHRI KISHEN CHAND: Sir, the Government has taken a very great responsibility on itself when it has introduced so many clauses for controlling the managing agency system, controlling the industry, controlling the rights of directors, etc. The hon. the Finance Minister has given us an assurance that the Government will carefully watch and will carefully guide the management of companies. I do hope, Sir, that the Advisory Commission that will be set up by the hon. the Finance Minister will be above corruption and its subordinate officers will set up a standard of honesty in business administration which should be worthy of emulation by all. I think, Sir, that we are now about to pass this Bill, but let the hon. the Finance Minister and all industrialists always keep before their eyes that the important and ultimate object of industrialisation is the good of the common man. Let us always keep this before our view and always think that any action that we are taking is aimed at attaining that ideal.

SHRIMATI LILAVATI MUNSHI (Bombay): Sir, I do realize that at this stage one can have only a few general observations and I do not know whether I am qualified to speak on a Bill of this nature. Even in the first reading stage a person like the hon. Dr. Kunzru had the same doubt about himself. So it is more with me whether I can speak. But, as he himself said that he would have to cast his vote for or against the Bill, in the

same way I have to cast my vote and I must vote intelligently.

During the debate, Sir, there are so many words spoken here and if words have wings, I do not know where they will be hovering all the time. This Bill is a very complicated piece of legislation and requires hours if not months, to understand and digest it. We are all supposed to have read the whole piece of this legislation, but I do not think all of us have been able to digest it but for the amendments which have brought us a little more light to the understanding of this Bill. So far as I have understood, Sir, the real fight is, as Mr. Barlingay and many other speakers said, against the managing agency. The ideology of both sides is the same; it is to abolish the managing agency system. But the question is when to do it, and whether Government has the machinery to undertake the whole burden if it is abolished to-day. The hon. Mr. Saksena said: Let us give an honest burial to-day if we possibly can. But, frankly speaking, we are not in a position to give it a burial today and that is why a lease of life is given to this managing agency. We have got to train up men and set up machinery and that is why the Government requires time to examine the whole position, and I hope Government will make good use of the time given to it.

There are other contentious clauses governing secretaries and treasurers and foreign companies and so on and so forth, and many hon. Members said that it is another form of creating the managing agency. Well, so far as I have understood the arguments of the Government side, it is a different class of people, the secretaries and treasurers. They have no right to appoint directors. Their powers are limited. But there is nothing wrong if the secretaries and treasurers have a stake in the concerns. In that case they will be more vigilant to safeguard the interest of the concern. But there is one thing I would like to say, Sir, that while giving all these powers to the



Government, people feel that not only the business community but the people as a whole should not be made so dependent upon Government with no initiative left to any individual. I will say the same thing as said by the hon. Mr. Barlingay that he did not like so much dependence. If you make them so unable to form capital, they cannot start new industries, nor can they make new experiments and they cannot give much to charity. It may be that by making all the people dependent on Government, we may be able to create a little more material comfort for some class of people. But by doing so, let us not kill the spirit of adventure and creativeness. It may be that in that case we may create a nation of parasites and flatterers and cowed-down people who may have to run after the officials all the time.

In my opinion neither pure communistic system nor pure capitalistic system is good for our country. We must take the good points of both the systems and evolve a system suitable to our country. Let us hope that by 1960 we would have perfected our machinery and collected sufficient facts in order to arrive at a decision.

I support the Bill.

SHRI LALCHAND HIRACHAND DOSHI: Sir, the Bill as was presented in its original form was very complicated and it put many restrictions on the management of companies and from stage to stage it has emerged in a worse form so far as controls are concerned. When it was introduced the business community felt considerably nervous and upset and as it passed through the different stages they did express considerable apprehension which evoked an assurance from the Finance Minister who, in a speech in the other House, assured the business community that this Bill will be administered with justice, with despatch etc. It was a good assurance for the business community who have to manage the various companies. Any restrictions that are imposed by this Bill when it becomes an Act will >.<-

tainly affect considerably the economic working of those companies. Sir, that assurance has been very useful but I hope that the assurance that has been given by the Finance Minister will be carried out by the Department that will be entrusted with this task. Our experience has been that many of the assurances and promises that were made in the past have not been carried out always and so far as despatch is concerned, there can be quoted any number of cases where the idea of despatch has been completely forgotten. I may quote at least one case which has often been commented in the Press too. The Bank Act was passed several years ago and the various licences that are supposed to be given to the banks have not been given. I can quote many instances like that but I do hope that, since the Finance Minister and the Government have decided to establish a special Department for administering the various clauses of this controlling Bill, that assurance will be carried out. Sir, if the freedom of the entrepreneur is too much restricted his initiative is lost and the private enterprise will not be able to function efficiently and in the best interests of the country. In spite of the assaults on the system of private enterprise the results of free private enterprise properly encouraged by the State have been very big. If we look for illustration, we can see that the United States of America have made big strides in creating employment and in production of wealth and it has reached almost the peak so far as employment is concerned. Sixty five million jobs in a population of 180 million people is an astonishing achievement and I am sure my hon. friends on the other side who have taken every opportunity to assail private enterprise will realise that this achievement has been staggering. The same thing has been found even in the U.K. Today the stage has arrived there where there is no unemployment and they are now importing people from different countries to

[Shri Lalchand Hirachand Doshi.] run their industries. Leaving aside these glaring instances, even if we look to the recent development in Germany we find that the two sectors in this big country show two different pictures. In one case the private enterprise is completely stopped while in the other it has been greatly encouraged by the State and what a picture we see in the two different sectors. I had the opportunity of listening to the speech of one of our diplomats who was posted in Germany. He said that the development in the Western Germany has been colossal while the picture in the Eastern Germany is very dismal from the economic point of view. So this is what private enterprise when given proper opportunity and encouragement can achieve. The same thing can be said about many other countries too. If it is properly developed you can get very good results from private enterprise and I say that if the Government encourages private enterprise on proper lines, I am sure it will show very good results even in this country.

MR. DEPUTY CHAIRMAN: It is time.

SHRI LALCHAND HIRACHAND DOSHI: I will finish, Sir.

A lot has been said against the managing agency system and it has been tried to be conveyed that the majority of the Members of this House are against such a system. Sir, I am not surprised if the majority of the Members of this House take that view but who is the person that really counts in saying whether the managing agency system should continue or not. It is the investor and the investor has given his opinion that the managing agency system ought to continue because it has done good to the investor and is capable of doing good. The Finance Minister himself mentioned, when I moved the amendment, that the managing agency system is as bad as any other system just as the system of secretaries and the treasurers or the managing director or the director-managed company is capable

of being twisted as badly as this. There is nothing fundamentally wrong therefore with the managing agent or his system. There may be certain individuals who have gone wrong and have created a wrong impression and as there has been a tendency among certain people to harp on the black side of things, that is why the managing agency system has been receiving such abuse. I would therefore say that if the investor feels that the managing agency system is bad, he will say he will not subscribe to that system. Therefore it should be left to the investor rather than putting a stop to this by this political method. I would associate myself with Dr. Barlingay and Dr. Kunzru that the debate has brought out the various views on this subject. The Government have become fully aware of the views of the different interests of this House and I do hope that they will not be carried away by the slogans of the opposite side and that they will administer this measure in the proper spirit.

SHRI C. P. PARIKH: Mr. Deputy Chairman, this Bill is a great improvement on the present Act and I think that it is in substitution of the present Act and of the present system that this new measure has been brought forward. As for the system, it will be an entirely different system now; only the names are the same. So far as restrictions, powers and remuneration are concerned, this system is an entirely different one. And I hope that this system in its present form with some restrictions that I had suggested will be continued even after 1960. But the question is, are we going to establish a credit system in the country on the level of credit being required for the joint stock companies? We must have investment houses and underwriting syndicates with huge capital in order that the concerns may not be in the hands of financiers. Sir, the concerns will remain in the hands of financiers so long as this system does not exist or operate in India. That should not be forgotten. By mere fond hopes and vain wishes this is not

going to be accomplished. The whole thing is that you do not want to have the managing agency system in the hands of financiers. And I do not want it in the hands of financiers.

I have made it very clear that you should have technicians associated with the management, but that has been discarded. Even though it has been discarded, I am quite confident that technicians will come into the field in two or three years. Public opinion will be created. The Shareholders' Association will get so strong that the managing agents will not be able to control the present managing agency on account of their finance". That is going to happen. The forces are irresistible in the country. As regards finance, that difficulty is going to remain and remain for a pretty long time. That we should not forget. Even the present restrictions are not sufficient. Restrictions, in my opinion, should be more, and the Shareholders' Association will be putting forward proposals to Government. Though you have these powers, let us give some more powers. We know how the managing agency system behaves. If it is in the interests of the country, it cannot be ended. The system of secretaries and treasurers is not different from the present managing agency system, by whatever name you call it, by whatever words you call it. I think it is entirely the same system as the managing agency system. It is no use disguising that fact from the country, because the secretaries and treasurers will have the same powers as the managing agents. Only two powers are different and those two powers can be wielded by the financiers. So, whatever system exists in the country, it will still be controlled by the financiers, unless you have a different system. That cannot be forgotten.

Mr. Bhupesh Gupta referred to taxation and all that. These things cannot be done. Even for the next Five Year Plan our resources are still not adequate and we are short of Rs. 800 crores even after a deficit

financing of Rs. 1,200 crores. That fact should not be forgotten. We must live in a practical world and not think of other things.

Now, Sir, as regards restrictions, I had suggested some amendments, but they have not been accepted. As the hon. Minister for Revenue and Civil Expenditure said, it should be no disappointment to me. Disappointment will come to only those who want power and money. Disappointment will not come to me. I do not want either power or money. I have sufficient power and money which I can use or abuse. Now, Sir, with regard to it, I am just advocating this. You are leaving so many clauses or loopholes in the Bill by which there will be temptation on the part of certain managing agents to abuse even within the present Bill. And, therefore, I am firmly of opinion that Government will have to take notice of what is happening in the country. They will have to take notice of private limited companies. This has been entirely forgotten. The capital may be five lakhs or ten lakhs, but such private limited companies are over five hundred in number. They should not have power to abuse. At the earliest opportunity you should make applicable to them the powers given in the Bill. I think the administrative machinery is there, it is adequate and it should be adequate.

Now, it may be said that voluntarily the business houses may put their houses in order. If voluntarily industrial houses had put their houses in order, this Bill would never have been brought before us. I am sure voluntarily industrial houses will not do what we desire and what the country expects them to do. Therefore, certain measures and restrictions are necessary. But there must be flexibility about it. With all the rigidity, there must be flexibility, and the flexibility can be attained in so many ways.

I will go a step further. The Minister for Commerce and Industry has

[Shri C. P. Parikh.] said that we want to build a Germany and a Japan here in a period of seven years, and that is a challenge to the industrial and technical talent in India. I say, if that challenge has to be met by the industry or technicians, the Government will have to provide certain conditions, in order that the challenge is met by this country. I mean to say, when I talked of technicians, you feared trade unionism. Now, technicians are far above any trade unionism. They are far cleverer than other persons. I am glad to say that in the present Planning Ministry, a man with technical knowledge has been appointed only recently and I am quite sure that the result will be very good.

Now, Sir, one last point with regard to capital formation and that is, we must leave the private sector in such a way that there is capital formation in the country and our progress is not retarded. What is the capital formation demanded? Out of Rs. 1400 crores for industry, Rs. 400 crores are for the private sector and out of that Rs. 200 crores are for small industries. With regard to this the Chambers of Commerce and Associations have said that they can invest more, more than this investment. So, more amount is also coming from the private sector. So there is no doubt about it that the capital formation will be there. Practically capital formation has been adequate in the past and will continue so and the Chambers of Commerce and Associations have said that they are prepared to meet more obligations if certain allocations are made to them.

Sir, this is the warning that has been sounded by the Finance Minister: Put the industrial houses in order. There should be respect of the shareholder, respect of the public and respect of all others. I think that the signs must be read far ahead—not merely of 1960—but even as to what is going to happen in 1965. All persons must understand especially those who have possession of power owing to finances. I think this will not last

any longer and the sooner this system, is changed to a better form, the better it is for the industrialisation of the country.

As regards the responsibility, the responsibility is not only that of shareholders, not only that of the Government, but the responsibility lies also on the big industrial magnates who are shaping and forming industrial opinion in the country. And, as long as these industrial magnates do not rise to the occasion, we will not be making great progress.

One last word as regards administration. The Finance Minister has assured us of promptitude and impartiality. I think that is very necessary. When this Bill is administered, promptitude must be there, because in business delay is dangerous. And impartiality should be there, because there should be no differentiation between one company and another. The rules should be laid down in such a way that there is no partiality or bickering on that account.

And, lastly, I will say that if this Bill is worked in the proper spirit, the managing agency system will also command the respect of the country—if all the forces in the country work together in making it successful.

SHRI SHRIYANS PRASAD JAIN: Sir, we are at the last stage of the Bill. Before I make any comments or observations, I would like to pay my tribute to the hon. Finance Minister and his industrious colleague, Mr. M. C. Shah, Minister for Revenue and Civil Expenditure, who has taken great pains in piloting this Bill. Even at the Select Committee stage, I was a member of the Select Committee and I know how difficult it was for the Finance Minister to reconcile the various views, and it was he alone who could do that. When such a situation arose, he handled it very tactfully and he brought home the point and tried to meet every point of view. The main object in doing that was to see that the industrialisation of the country

goes on and that it should not be retarded merely based on the ideological ground. We have said much about the managing agency system. Much abuse has been caused. By the business community it has been said that it is this system which created all the abuses in the country and that it has outlived its utility. It has still a great part to play in the coming years. Sir, we have retained the managing agency system in this Bill. But as Mr. Parikh said, this is not the old managing agency; it is the managing agency system coming to a new form. Many loophole

s which may come to notice have been tried to be plugged. It is possible that some of the loopholes may not have been plugged and when they come to the notice of the Government, they will bring in an amending Act. The Government have thrown a challenge to monied people and they have said, "We have given you some time to change your attitude" I accept that and I want to assure the Government on behalf of the business community that whatever difficulties and handicaps may come, they will do their best and see that the country's industrial development is not retarded. They will prove worthy of their part. Whether it is a managing agency system or a director system or it is a system of, secretary and treasurer, after all it's the talent of the people which will create an atmosphere in the country so that we may be able to have much more rapid advancement in the industrialisation which is expected of the business community. I would rather like to say one or two things more. The success or failure of this Bill depends upon how it is enforced effectively and without rigidity. It is possible that, so far as the big companies are concerned, they may be able to handle their affairs in a much simpler way than those who are living in the mofussil or who have got lesser resources at their disposal. What I would like to suggest to the Government is that, if some sort of a liaison office is created at those places where they may be able

to meet newcomers to the industry or those who do not understand the implications of this Bill, that particular office may assist them in understanding the various clauses so that they may not feel any difficulty. As you know, there are 139 penal clauses under this BiH. For some mere technicality, some might have to go to jail. Therefore, it is very necessary to fee that one is not sent to jail and is discouraged. I am not suggesting that, if a person commits any mistake or if he is guilty of anything,, the heavy hand of Government may not come on him. He may be punished and dealt with according to law. What I want to suggest is this: For the mere technicality, it may not be that he may be put to difficulty and inconvenience and a situation may not be created whereby people may be afraid of coming forward for the formation of new companies.

As regards Government companies, my suggestion is that, so far as shareholding of the company is concerned, if they offer about 20 to 25 per cent. of the share-holding to the public, in that manner they will have the support of the public. The public will know what is going on in Government companies and it will be a good thing. I am not suggesting this by way of criticism. But mine is a very constructive suggestion and I would rather wish that the public should also participate in the Government companies. It will be beneficial to the Government. They will be able to raise funds from the public; that policy will be to the advantage of the public who will be able to tell the Government if they are in the wrong. Therefore, it will be a check on the Government. It is some kind of a check, besides Parliament, on the Government. It will create a healthy atmosphere to run the machinery. Some of the things may not come to the notice of the Government through their officials, but if they are brought to their notice by the shareholders, then, I think, the Government will pay attention and will do the needful.

[Shri Shriyans Prasad Jain.] I think the Government have suggested or the Finance Minister has said somewhere in the Lok Sabha that they are trying to publish a booklet in which they will give certain clauses explaining the various problems and difficulties. I would suggest that if this booklet is published in the various languages of the country, it will be good. Most of the people do not understand English. If it is published in Hindi, Urdu, Gujarati, Marathi, Tamil and Telugu, it will facilitate even the common man to understand.

SHRI M. GOVINDA REDDY  
(Mysore): Kanada?

SHRI SHRIYANS PRASAD JAIN: In Kannada also. I am sorry I omitted it. I mean that it should be published in all the regional languages.

MR. DEPUTY CHAIRMAN: It is time.

SHRI SHRIYANS PRASAD JAIN: Then I will finish, Sir.

SHRI H. C. DASAPPA (Mysore): Mr. Deputy Chairman, I will not take much time. A new chapter has commenced and I would like to make an appeal to all friends who have been very critical including my friend, Mr. Bhupesh Gupta to bury the hatchet from now onwards. Let us ring out the old and ring in the new. And I hope the new Bill will certainly augur very well for the future of this country.

I want to say one or two things. The mere elimination of the managing agency system is not going to eliminate capitalism from the state. I have said so already and therefore, let us try to attack the root of the trouble—how to eliminate this kind of disparity in the matter of possessions and in the matter of wealth. I would suggest that, instead of the managing agency or the question of having secretaries or treasurers, the better thing will be to have the managing directors.

AN. HON. MEMBER: It is the same Thing.

SHRI H. C. DASAPPA: No, no. It will not be the same thing. There are two ways of promoting industries. I do not think that private enterprise will hereafter be forthcoming in any measure to start the industries. For one thing, the taxation has been so heavy that they will not have much left with them. Secondly, the restrictive and the penal clauses might scare them away to some extent. Therefore, while I agree with friends that we should have credit institutions to finance industries I would say that the Government must take a direct initiative in sponsoring industries. And I see no other way of industrialising the country.

The second thing, is an appeal to all the great financiers and industrialists that hereafter they should not plan the programme of running industries through either the managing agency or by secretaries and treasurers. Let them follow the example of their own compatriots in the West. My friend here spoke of the rapid industrialisation of West Germany. It has not adopted this managing agency system nor of the secretary and treasurers. Therefore, let them really become the trustees of the country and build the industries on the basis of managing directorship. I think that will be all for the good. Another thing is what my friend, Mr. Jain was just suggesting here, namely, when sponsoring industries, we need not adopt total nationalisation. Let us take a dominant voice in the administration of the companies and of the projects, but let us also invite participation of industrial talent in the country and also of such financial help as may be available. It is a very good suggestion and that has proved a great success wherever it has been tried, and we ought to adopt it.

Then the most important of all things is the question of administration. As yet, I know for a fact, there was hardly any administration to look after the working of these joint stock companies. Today we are assured of it and I do hope that this new

department of the Government will work very efficiently. I do not think it will be possible for the Centre to look after all these institutions in the land; it shall be the regional organisations under the guidance of the Central Government. They should do it, and I hope that the various States will Co-operate in this matter

While I agree in inviting the co-operation of the industrial and financial talents in the land, I would only supplement the idea by saying that there must be a harmonious working between the Central Government and the State Governments. I see no reason why the State Governments should not take an increasing part in the building up of industries. As regards the small industries, Sir, I agree that they will be in a great handicap because this compendious, bulky volume will not help them in particular. More and more it is the bigger industrialist who will be able to do something with this volume. It will, therefore, be necessary for the Government to simplify the matter and try to help the smaller industrialists as much as possible.

SHRI M. C. SHAH: Mr. Deputy Chairman, I am grateful to all the Members of this House for the fullest co-operation they have given in considering this huge piece of legislation. I am grateful also to the Members for the kind references that they have made with reference to my senior colleague, the Finance Minister as well as to myself.

I am one with Dr. Kunzru when he said that the level of the debate in this House was very high. I am also one with him when I accept the position that all the amendments that were tabled to the clauses of this Bill from this side as well as from the opposite side were rather very intelligent ones and showed a keen study of the Bill. Though we have not been able to accept the amendments that were moved by them because of the reasons given by us when replying to these amendments, we have accented two amend-

ments which though my friend Mr. Saksena terms as minor ones, I consider them as very important ones. In one we have brought down the limit of two years of commission to be given to the employees to one year. That was moved by the Communist friends. Another amendment was also very important one and we accepted the position that before a notification is finally issued by the Government with regard to the finishing of the managing agency system in some of the industries, that must be first laid on the Table of the House for 30 days and, if approved or modified, that notification either approved or in a modified form will take effect. That is one of the most important amendments that we have accepted.

We have said that with the Government, Parliament also be responsible for very important decisions with regard to the abolition of the managing agency system in one industry or the other. Sir, we have heard about the managing agency system. We have heard about the condemnation of managing agency system by many Members of this House here as well as we had heard in the other House. Very few Members have supported the managing agency system. But they have forgotten the most important point that the managing agency system that they propose to allow for some time is not the present managing agency with all its abuses but the new managing agency system with checks and counter-checks whereby those managing agents who played with the monies of the public for their own interest will now rather be not in a position to do the mischief that they did in the past. The old managing agency system ends from the day this Act comes into operation and the new managing agency system in a revised form comes into being, that too for a limited period of about four years, during which time the Government will have ample opportunities to gather information, statistics and all that is required to come to a decision as to whether in a particular industry or particular industries the

[Shri M. C. Shah.] managing agency system is necessary in the interest of the country. Therefore, those who have spoken against the present managing agency system will take note of this important fact. I am sure those who are managing agents today will take note of the sentiments expressed by the Members of both the Houses and will just try to behave when they are on trial, to prove that they are worthy of the trust imposed in them by the investing public, and they work in the best interest of the country in order to get a further lease of life if thought fit and necessary after a thorough enquiry.

Sir, I am glad that two Members of the Congress party belonging to this big business have appreciated the Bill. I am afraid I cannot agree with my friend, Mr. Lalchand Hirachand when he says that the Bill has emerged into a worst form. So far as I know, the business community have recognised the fact that because of the changing times they will have to change their attitude in the management of the joint stock companies. They will have to forego the huge profits they made, not only from managing agents' commission, but from so many things—buying agency, selling agency, relative's commission and associate's commission and all sorts of things that they were used to. Now the time has come when they must also realise that in an independent country they owe a duty to the country. So far as I know, big business have already reconciled to this fact. Only that section of the business community which is represented by Mr. Lalchand Hirachand may perhaps feel that this has emerged in a worst form. I think that it will be in their interest if they take note of all these sentiments and all these feelings that have been expressed here by the Members of this House and the other House. He said that the Finance Minister has given assurances and, therefore, fears have been allayed. I say that whatever assurances have been given by the Finance Minister

will be implemented in full but at the same time I expect that a section of the business community which is represented by Mr. Lalchand Hirachand should play their game. If they do not play the game, then they must take note that the Government will see that nothing is being done which goes against the interest of the country, which goes against the interest of the shareholders and which goes against the interest of the investing public.

My friend Mr. Chandulal Parikh has said that there are many loopholes which will be taken advantage of. We have taken note of that and we will be always alert. As I have already stated the other day, the moment we got information that some of the business people—human ingenuity as it is—advised by their legal advisers try to find out some loopholes and take advantage of these loopholes, we will not be lacking in bringing an amending Bill to plug those loopholes. We have already stated, and the Finance Minister has also stated, that we have tried to bring forward, as perfect a Bill as possible, but complete perfection is never achieved. And if in our experience of the working of the company law we come across certain devices by which some of the managing agents, or some of those in the management of the joint stock companies, try to take undue advantage of certain provisions, or try to enrich themselves at the cost of the shareholders, or if they act against the interests of the country as a whole then we will not lag behind in bringing forward an amending Bill at once.

Sir, this is a very mammoth piece of legislation. It is a great improvement, as has been admitted by several Members of this House, upon the existing management of the company law. We claim, though some Members on the opposite side will not agree, that it is a big step forward in the implementation of the decision taken by the country as a whole, with a few exceptions, of course. We know that our objective is to establish a socia-



listic pattern of society. The Government of India have already taken certain steps. They have passed the Estate Duty Act, though the results are not yet according to our expectations. The Government have just brought about the Indian Income-tax Act with heavier rates of taxes on personal incomes, and we have just brought about the nationalisation of the Imperial Bank of India. And this is the fourth step that the Government have taken towards the realisation of our great objective that the country has set before us. I am sure that all necessary steps will be taken towards the implementation of the objective of setting up a socialistic pattern of society, which is laid down by our Prime Minister, Shri Jawaharlal Nehru, our great leader.

Now, Sir, it may be, as I said, that certain people on that side will not accept what we say here, but they will accept all that we say after they have gained some experience. Now, Sir, there are certain points with regard to the managing agency system, as to why we have accepted this system. I would not like to go into that matter, because the Finance Minister has fully explained it in the Lok Sabha as well as in this House, and I do not think I should take the time of the House by going over the same subject again.

Now, Sir, certain points have been raised by certain hon. Members of this House. I will take up first Dr. Kunzru's points. He said that now that the Bill has been passed .....

SHRI H. N. KUNZRU: I said 'is going to be passed'.

SHRI M. C. SHAH: Anyway, the Bill will be passed soon. At the end of our journey in this House we will have to go to the other House, and we hope, as I have already stated, that we will be able to bring this measure into operation before the 1st of April. That is our determination. And I can assure the House that before that date this measure will

come into operation. We have already appointed the statutory authority. We have already implemented the recommendations of the Joint Select Committee, and this House will also debate on that point with regard to the Company Law Administration when the Supplementary Demands are placed before it. We have already established a separate department. The Finance Minister has already assured the House here, as well as in the Lok Sabha, that there will be despatch, there will be judicial working of the department, and there will be effectiveness. And we will see to it that our assurances are implemented in full. My friend, Dr. Kunzru, suggested some steps about encouraging the associations of shareholders. We have that in view, and I can assure my hon. friend that all possible steps will be taken to see that the existing shareholders' associations are strengthened and the new ones are formed. The House may be knowing that in the Advisory Commission we have already thought about this matter. And it is a provisional decision that there will be one representative of the shareholders. We propose to have a full-time Chairman either of the status of the High Court Judge or a man well versed in these affairs with good public life, who may command the confidence of the public at large. We will have one representative of the business interests, one representative of the Chartered Accountants, one representative of the labour and also one representative of the shareholders. And I feel sure that my revered friend, Dr. Kunzru, will be satisfied with what I have said with regard to that point.

Then, Sir, he referred to another point. That was about the booklets to be published in order to educate the shareholders. We have already established a special department wherein we have created a special branch of research and statistics. We have in our mind the idea of bringing out a small book explaining the various provisions of this measure, which will make the position very clear to the laymen. We have already had

[Shri M. C. Shah.] a booklet issued with regard to the Estate Duty Act which makes the provisions of that Act comprehensible to a<sup>1</sup> the laymen, and thousands of copies have already been disposed of. We have also got a book for laymen on the Income-tax Act, and thousands of copies of that book also have been disposed of, so much so that we have to publish it again and again. In this case also we propose to have a small booklet, after the Bill is passed into law, published as early as possible, possibly by the time the Act comes into operation. At the same time, because of that branch of research and statistics, which we propose to<sup>1</sup> strengthen, we want to make available all the information which is necessary for the shareholders, or for those who want such information, on the company management especially.

Then, Sir, Dr. Kunzru made a third point. And that was whether a shareholder can get any information that he wants to get from the management. I think, Sir, clause 237 is very clear on the subject, and what can reasonably be expected might be a question of fact to be decided by the Government of India, but there is no provision in that clause to withhold any information which he may ask for regarding the management of the companies. Of course, if the information is of a confidential nature naturally the shareholders cannot expect to get it. Excepting that, he will be entitled to get under the clause as it stands all possible information which is contained in the account books and other documents of the company. These are the three points raised by my revered friend, Dr. Kunzru.

My friend, Mr. Parikh, when I said that he should not be disappointed, took it in another light. I know he has money and power but that was not the point. I don't see it in that spirit. I said that he had put in so many amendments to put more and more restrictions on managing agents, managing directors, directors, secre-

taries and treasurers, but we thought that in the scheme that we have propounded, we should not go ahead of what we have already thought proper. My friend is a businessman and may be coming into contact with big business people. He may be knowing the loopholes, the ways that these businessmen may be following, in order to defraud the shareholders, the investing public or the creditors. If he gives that intimate knowledge to us, certainly we promise that we will consider all these things and we will try to see that these malpractices are not followed by those businessmen who are in the habit of doing these things, as my friend has often said when supporting his amendments.

Some friends have raised the question about the Government.....

SHRI B. C. GHOSE: It is past 6 o'clock .....

SHRI BHUPESH GUPTA: He can continue tomorrow.

SHRI M. C. SHAH: I would not take more than five minutes. I am thankful to you, Mr. Bhupesh Gupta. You have given notice of amendments and they gave some food for thought. I feel that you have rightly served the working classes by moving so many amendments, but because they did not fit in with the scheme of this Companies Bill, we could not accept them. But I wish you success in your efforts to find justice in other quarters. I am in full sympathy with my friend, Mr. Bhupesh Gupta, in his attempts to see that the condition of the working classes is improved. They deserve better treatment but that cannot find a place in this Companies Bill. Because we have not been able to accept these amendments, he should not be disappointed in the sense in which Mr. Parikh took it, but he should continue to try in other quarters to get a better deal for the working classes. I wish him all success.

There was only one point which I want to mention and I will finish, and that is about the private sector and

its encouragement. My friend, Mr. Dasappa, feels that the Government should take a lead in this. He knows that the Government has already taken the lead to help the private sector also. The issue before us is not the public sector versus the private sector; the issue before us, so far as the Companies Bill is concerned, is how to regulate and control company management in the private sector. Whether certain sections of this Act should not apply to the public sector is a matter to be decided by both Houses of Parliament. So far as the Government is concerned, we must know that we are trying to help the private sector also. There is the Industrial Finance Corporation, there are the States Finance Corporations, we have already established the Industrial Development Corporation. There is again the Industrial Investment and Finance Corporation to which we have given Rs. 7½ crores free of interest to which objection was raised on the other side. We have already tried to encourage the private sector. The main question here is how to regulate and control the management of the joint stock companies in order that they may play their full part or full role in the advancement of the industrial development of the country during the period of the second Five Year Plan. We have adopted here the principle of the golden mean. There were Members who wanted to go too fast ahead; there were Members who wanted to go backwards, as was to be seen by the amendments of Mr. Lalchand Hirachand Doshi. But we have to steer a middle course, keeping in view one objective and one objective only and that is the industrial development of our country and we have to see how best that can be achieved without crippling the private sector but merely regulating and controlling that sector. That is the objective with which we have to approach this Companies Bill. I am sure that, when it is passed into an Act and when it is worked, the path that we have pursued will prove to be a wise one, a successful one. I am also sure that at

the end of four years *i.e.* in 1960, we will be in a better position to decide whether the managing agency system, even in this revised form, is necessary in one, two or more industries. When we allow some managing agencies to continue, it will be considered whether the industry concerned is a very vital one for the industrial development of the country. We have made that very clear so often. We have given assurances that it will be our sacred duty to see impartially whether certain managing agencies, if we allow them, will be in the best interests of the country. If we find that it is not in the interests of the country, if we find that the persons concerned in those industries are not fit and proper persons, then we will not allow them there. Sir, I think the House may well congratulate itself on passing this very important piece of legislation which will bring a revolutionary change in the management of joint stock companies.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

#### MESSAGE FROM THE LOK SABHA

##### AMENDMENTS TO THE SPIRITUOUS PREPARATIONS (INTER-STATE TRADE AND COMMERCE) CONTROL BILL, 1955

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

"In accordance with the provisions of Rule 138 of the Rules of Procedure and Conduct of Business in-Lok Sabha, I am directed to inform you that the following amendment made by Rajya Sabha in the Bill to make provision for the imposition in the public interest of certain restrictions on inter-State trade and commerce in spirituous, medicinal and other preparations and to pro-