

[Shri B. Gupta.]
 cause you abolish the institution of Rajpramukh you must have another Katju sitting as he sat in Bengal and eating away public money.....(*Time bell rings.*) Turn away the Rajpramukh from the State. Come here with an amendment of the Constitution. It will not take you two minutes, provided you are so minded, to abolish that horrible institution which you have created as a result of your unholy communion with the princely order. The honourable Dr. Katju does not understand all this because he is politically committed to the princely order. His constitutional points are only a cover to hide the political intrigues and machinations that preceded the arrangements. Therefore, let us not have such childish arguments. It does not behove a man of his standing and legal experience to trot out such fantastic and inadmissible arguments.....(*Time bell rings.*) Abolish this institution.....

MR. DEPUTY CHAIRMAN: Order, order. The hon. Member will have ample time on the next Bill. There is no time now. The hon. Minister. Any reply?

SHRI M. C. SHAH: No reply, Sir.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be returned."

The motion was adopted..

10 A.M.

THE INDUSTRIES (DEVELOPMENT AND REGULATION) AMENDMENT BILL, 1953

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T. T. KRISHNAMACHARI): Sir, I beg to move:

"That the Bill to amend the Industries (Development and Regulation) Act, 1951, as passed by the House of the People, be taken into consideration."

Sir, I would like to say a few words about the scope of this amending measure.

SHRI KISHEN CHAND (Hyderabad): On a point of order. This regulation comes under article 369 as a temporary measure.....

MR. DEPUTY CHAIRMAN: Let the Bill be moved first.

SHRI T. T. KRISHNAMACHARI:
 Sir, the House would certainly like to know, before considering this measure, about the working of the parent Act. The Industries Advisory Council which according to the Act was constituted in May last year met twice, once in May and again in October. The Council constituted a sub-committee to scrutinise the licences that are granted under this Act. That sub-committee met once. The Licensing Committee constituted under the Act has been meeting regularly every month. The other aspects of the measure, namely, granting of licences and registration of undertakings, have been going on smoothly. The number which applied for registration was 3,562 and the number that were granted registration was 2,241. I would like to explain the disparity between the number that have applied and the number that have been granted registration. It is because quite a number of industries that do not really fall within the purview of this Act, industries which were excluded by the scope of section 4, which is now sought to be amended by the present amending Bill, had applied, and therefore there is this disparity between the number that applied and the number that were granted registration. The number of licences applied for for new undertakings was 189 and the number granted licences was 80. It does not really mean that there were plenty of rejections. In fact there were only two appeals against rejections so far, and one appeal has been recommended to be allowed by the sub-committee of the Industries Advisory Council, which Government accepted. In many cases the applications for licences were returned ask-

ing for information or for presentation of the application in a different form.

is the reason, Sir, why we have brought this amending Bill.

Sir, the other aspect of this measure on which a considerable amount of stress was laid at the time when the Act was passed, was the Development Councils. It was originally intended that we should constitute the Development Councils initially. But before constituting these Councils we had to get some idea how they work in other countries where such Councils were in vogue, particularly in the United Kingdom. We were able to get an expert who had to do with the working of Development Councils. He came under one of the Aid Programmes and made a preliminary survey, and his advice with regard to the working of such Councils was taken note of by Government. At the same time, it should be noted that in the country in which these Councils were first started they have not had smooth sailing. Out of a number of such Councils which were started, only two now remain. One Council in the United Kingdom deals with cotton, and the other with furniture. And I am told that the Furniture Council is almost in the process of being extinguished. Therefore, on further consideration I felt that we must go a little carefully about these Development Councils. Government have constituted two Councils, one for diesel and internal combustion engines, and the other for fertilizers. One of them has met; the other is to meet next month. I propose to watch for some time—a month or two—before I constitute other Councils. In any event, before constituting Development Councils for all the scheduled industries we have to gain some experience as to how those Councils are working. It may be that they will work very well in this country. But we have to learn almost by trial and error, rather than by the experience gained in other countries where what is known about these Councils seem to be rather an unfortunate experience. Sir, some difficulties arose in regard to the working of the Act. We found that the powers were inadequate and some of them required clarification. And that

Then, in regard to the original Act, considerable fear was expressed by the concerned interests. Various meetings were convened and this was almost a uniform feature—complaints against the Industries (Development and Regulation) Act. Sir, these difficulties arose out of a misconception of the policy of Government rather than any intrinsic defect in the scope of the Bill. I have made it clear, Sir, on various occasions when I met these people, that we did not intend to use this measure as a punitive measure, but we really intended to use it for development purposes. One particular difficulty I had in the working of the Act was in regard to the provisions which attracted most the criticism from concerned interests. It was mainly on the question of investigation into an industry, secondly, giving directions to the industry to carry out certain changes or certain reforms and lastly, taking over the industry. It is true, Sir, that we have so far utilised the provisions of section 15 of the Act only twice. Government gave notice to a textile mill in Indore. Luckily, after investigation it was found that the conditions that obtained then did not necessitate our giving directions under section 16 or proceeding under section 17. Very recently, Government have given notice under section 15 to a group of mills in Bombay. But in giving those directions Government have to weigh the pros and cons and be prepared for the ultimate act, namely taking over of the industry. If section 17 could be avoided, well and good. If the mismanagement in the mill or bad management as such could be remedied by means of giving directions, well, it is good. But if it happens that the logical line has got to be followed, namely taking over, then we find that the provisions of section 17 are totally inadequate for the purpose. There are the interests of the parties. The rights of shareholders are there; the rights of managing agents are there; the rights of directors are there and the rights of employees are there. And Government have to spend some

[SHRI T T Krishnamachari] money in respect of these multitudinous rights that exist.

Sir, we have a similar case now with which I won't deal as it is in the Supreme Court, namely the Sholapur Mills which Government have taken over under a specific Act. But the fact remains that the management that is now running it, is doing so for the sake merely of discharging a duty. The Government have asked them to undertake that responsibility not for the purpose of their profit. And they have more or less taken the institution out of the rut. But nevertheless, their financial position has not been very good and they have to be subsidised to a very large extent by the Bombay Government and to some extent by us. Though technically there is no difficulty for the Government getting their money back, it is not a very happy state and in fact the person who is now in charge, Mr V. N. Chandravarkar has been consistently pressing me to relieve him of this responsibility. Well, I have been compelling him to stay on because I think he has done a very good job, a very good work and we could not possibly find any person who could do this work. I have expressed my feelings about this gentleman in the other House and I would repeat it here that the Government deeply admire the public spirit of this gentleman who is carrying on this work because the Government have asked him to do it with no profit or gain.

PROF G RANGA (Madras) May I ask for a little bit of information? Why has it been necessary to subsidise this mill, Sir? Was it because its machinery was useless as compared to other mills or there was any other reason?

SHRI T T KRISHNAMACHARI No, Sir, it is a very big mill and also there is another responsibility which the mill has undertaken, namely to supply electric power to Sholapur. And the position of the textile industry was not very happy and some time back the management had left it in a state of complete bankruptcy so far as

finance was concerned. They have now put it on a reasonable basis but money was necessary for carrying on the expenses. And because of the nebulous position of the management, they could not actually go to any bank for finances, or any borrowings.

PROF G RANGA So that means it is only a loan and not a subsidy.

SHRI T T KRISHNAMACHARI: I used the word 'subsidy' in a very loose way. We have every hope of getting it back. I think the mill is in a very sound proposition and there is no danger of our losing money. Anyway, I have cited it as an instance to show that we have to finance these undertakings which we take up and the present position of section 17 leaves that more or less in the air.

Sir, I shall now deal with several other provisions that are covered by this measure, not that they do need any underlining, they are fairly simple. Sir, clause 2 of this Bill defines the existing undertakings. This phrase occurs in a number of places in the Act and the definition is therefore necessary. Sub-clause (ii) of clause 2 defines "new article". Sir, here there has been a certain amount of misgiving. I would like to say that the definition of 'new article' has to be read along with clause 6 of the Bill which is the operating clause. We have sought to circumscribe as much as possible the definition of new article. Often times Sir, it happens that they get a licence for manufacturing a new article and they have to pay royalties which need not necessarily come before Government, but they do come and the expansion goes on that way. We would like to be informed of what is going on there because a development of that nature should be known. But with regard to the actual operation of this particular restriction, it is my intention that normally permission should be more or less a matter of course, and we may even make an amendment to the rules to say that in the case of manufacture of a new article, we might even circumscribe the normal period of three months to six weeks or one month, if necessary. We would only like to know what is being done.

By clause 3, section 4 of the original Act is omitted. On this, there is a lot of misgiving. Originally the section says that concerns with a capital invested of less than one lakh of rupees will not come within the scope of the Act. Sir, in actual practice, it has been found that it may be that a concern has got a capital of less than Rs. 1 lakh, but it may have resources available which it could deploy to the extent of several lakhs. If we stick to the number of workers, it may also mean that supposing you say 20 workers—a concern which only employs 20 people or a little less may be highly mechanised, and it might produce very valuable articles and the turnover may be big. We have to meet the various cases by means of rules rather than by means of statutory provisions. The original exemption clause which has now been sought to be amended by clause 29B, is the clause under which we propose to describe an undertaking which need not come within the scope of the Act. Hon. friends will please note that there is no resistance so far as industrial units are concerned to be registered. In fact, the 1,000 odd applications for registration which we have rejected come very largely from the category of industrial units which would like to get registered and there does not seem to be any fear on the part of small units. The exemption provisions will be used very liberally and naturally anything that we do will be placed on the Table of the House and hon. Members will know how we are using this exemption provision.

Clause 4 which was introduced by the Select Committee of the House of the People, really seeks to fill up a lacuna. In the new Chapter IIIA we are taking powers to take over industries sometimes without giving directions under section 16. Now, under clause 5(4) (b) the Industrial Advisory Council should be consulted both in regard to giving directions under section 16 and taking action under section 17. Now, where the Government takes over an undertaking in an emergency, they can do so without consulting the Industrial Advisory

Council. Under the old provisions, before taking over an undertaking or giving directions to an industrial undertaking to reform its methods, we have to consult the Industrial Advisory Council but the Select Committee and the other House thought it fit to omit this particular clause, because these powers are only intended to be used in cases of emergency. The normal provisions under section 16 will operate and wherever it is possible, and wherever there is time, the Industrial Advisory Council will be consulted. The fact is that the Industrial Advisory Council is a very big body and the members are extremely busy people. A fortnight's notice at least should be given, and then anything might happen in the course of that fortnight, and that is why where there is an emergency, the Government has been given powers to take action without consulting the Advisory Council. The House will remember that Government is not a free agent. The Government is responsible to the Houses of Parliament and Government will have to answer and explain what the emergency is and why they have had to take action without observing the normal provisions and without even consulting the Industrial Advisory Council.

SHRI H. N. KUNZRU (Uttar Pradesh): Why could we not make it under section 5, that while Government will be free to take action in an emergency without consulting the Advisory Council, in other cases, it should consult the Advisory Council? Now as section 5 has been amended, the Advisory Council will have nothing to do except to consider the rules.

SHRI T. T. KRISHNAMACHARI: The point that my hon. friend is not able to appreciate, if he will permit me to say with all respect, is that we are still thinking as if there is a foreign Government and an irresponsible Government here. But here is a responsible Government. If the Government acts without utilising the normal provisions, the Government will have to explain and answer questions.

SHRI H. N. KUNZRU: My hon. friend will remember that this law was passed when there was a responsible Government.

SHRI T. T. KRISHNAMACHARI: This is a legacy of the past. It still persists. It persisted in a large measure when this Act was passed, and I am afraid, Sir, it persists even now. The difference is this: The difference between Tweedledum and Tweedledee. If you say that in an emergency the Government can act, that means the assessment of the emergency is left to the Government. It may be that Government would use it only in an emergency and not otherwise, but there is nothing gained by putting in the word emergency, because the decision in regard to the existence of an emergency is left to the Government. But whether you put it in or not, whenever Government takes action, the Government has got to explain to this House that there is an emergency. Hon. Members might question, and Government would have to reply. The real point is that sometimes we find it difficult to get out of the rut in which we have been brought up all along. It is a psychological atmosphere which makes us think that by putting the word emergency here, anything can be done. If the Government does act, well they have got to explain that there has been an emergency.

PROF. G. RANGA: The point is that the Minister may put in his signature as a matter of course or he may put it after giving the case due consideration, and that is where exactly this sort of consideration comes in.

SHRI T. T. KRISHNAMACHARI: My hon. friend will forgive me. Fortunately or unfortunately I have been a Minister for a year now, and I find no difference at all. Every signature is as good as every other signature. It makes me responsible and there is no question of any signature being put in as a matter of course, and so far as I am concerned, there is no difference between one signature and another in regard to my responsibility, and if hon. Members feel that some clerk puts up

the papers and the Minister merely signs, I can tell them that those days are gone. Every day we are being pilloried not only by hon. Members here but also in the Public Accounts Committee, in the Press, everywhere. Lastly, we are quite alive to our responsibilities and we cannot afford to be so casual.

PROF. G. RANGA: We have had the Biswas experience only the other day.

SHRI T. T. KRISHNAMACHARI: The one difference between his saying and my saying is this: The hon. Member is speaking on the basis of surmise. I am speaking on the basis of actual grim fact.

SHRI C. G. K. REDDY (Mysore): What would happen if another Minister comes?

SHRI T. T. KRISHNAMACHARI: Send him out. Every Minister can be sent out, and I can tell you that no insurance company in this world will insure the life of a Minister, not in the sense of his life but his tenure of office.

SHRI C. G. K. REDDY: We are quite prepared to underwrite you.

SHRI T. T. KRISHNAMACHARI: Clause 5(a) refers to the question of registration of industrial undertakings. Clause 5(b) is also more or less on the same lines. Clause 6 gives power of revocation. We regard that where we revoke registration, the party must be given an opportunity to be heard. My hon. friend has proposed a subclause and I think it is more or less a matter of more elegant language than any matter of substance. Clause 7 relates to the definition of the new addition and I don't want to deal with it any more.

Clause 9 is an amendment to the existing section 13 on the question of substantial expansion. Here again the question is what is substantial expansion. Well, there we cannot define or bring it within the scope of the mischief of this Bill. If there is sub-

stantial expansion or production, if a unit normally is to operate only one shift and it is operating 3 shifts and if production increases, then by no stretch of imagination can you devise a language to say that that is substantial expansion. We don't intend it to be so but there must be substantial expansion in the machinery. If you ask whether it is change of machinery or complete replacement which will mean substantial expansion it might not, but where replacement means modernisation and to that extent there is augmentation of production, it might. With the same machinery, without working it for more shifts, he wants to expand production, naturally he must ask for permission.

SHRI B. GUPTA (West Bengal):
What would you call rationalisation?

SHRI T. T. KRISHNAMACHARI:
That is another thing, where probably we have to keep control because we have another factor there. By rationalisation if it means throwing out of labour, it invokes certain responsibilities for the Government. We would like, even in cases where we feel that rationalisation is necessary and we think it has to be permitted, we must make some arrangements for the labour to be absorbed or employed elsewhere. So if rationalisation means labour saving and that there is going to be very big changes in the labour structure, naturally they will have to ask for notice. That is why we have said in clause 14 that the opinion of the Government is final in this matter. But the hon. Member.. should not run away with the idea that it means a check. It does not. It merely means powers to induce persons to give notice whenever there is rationalisation. It does not follow ordinarily that licences would be refused, unless it be that sometimes, as the hon. Member has suggested, there is going to be throwing out of labour force in which case Government's general responsibility is invoked and Government has to do something about it.

Clause 11 is amendment to clause (b) of section 15. The change has

now been made for this reason because I think the period of one year when this Act has been in operation, the elections having taken place, new Houses having come into being, it has been generally assumed that Government have a direct responsibility, and it has been seen that public interest is a vital factor in the working of industry. So the padding that has been given to section 15(b) is no longer necessary and public interest cannot be ignored in this matter. It was felt that section 15(b) has to be amended to bring in public interest. Naturally concerned interest will say that it is more or less giving Government an omnibus power. Certainly, to some extent it is liberalising the powers of Government but without it it cannot be done. After all hon. Members will note, it is only an investigation and nothing else. It is not taking over, it is not even giving directions. It means only that Government has the power to investigate. If it is a textile mill I don't have to go and investigate by using this power though I have used it. I have other powers under the Textile Control Order. Government have various sorts of ways to investigate but we want it in a straightforward manner. If anything goes wrong, we should see that public interest is not allowed to suffer. So we should have these powers of investigation. When hon. Members look at this amendment, they will see that there is no new publicity about it. Of course there is some publicity. But Joint Stock Companies are public companies. You can go to the Registrar of Joint Stock Companies and see the balance sheets, share-holders etc. So no new publicity is made about it. We definitely feel that the narrow definition of section 15(b) should be changed.

Sir, clause 12 is deletion of section 17 because we are putting in the same words in Chapter IIIA. I would like to mention that I have already dealt with the need for amending section 17. I don't propose to go into the details of it once again but I would like to give one information to hon. Members. That is 18A and the following clauses follow more or less a pattern of the

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amendment that Parliament has approved in regard to the Industrial Finance Corporation Act. Hon. Members might ask that the I.F.C. are a creditor and why should this be put into the Industries Development and Regulation Bill? The position of Government in this is far more important. The Government act as a trustee. So we want this provision and without this it will be impossible for us to take over any industry under the original Section 17.

I now come to Chapter IIIB dealing with price control. At the present moment price control is exercised by Government under the Essential Supplies (Temporary Powers) Act which will lapse towards the end of 1954 and the Supply of Goods and Prices Act which will lapse in August unless the hon. Members give it a fresh lease of life. So far as the provisions of the Supplies of Goods and Prices Act is concerned, we have to come before the House every year and ask for its life to be renewed. We might have to come—I don't say I will not—but it would be in regard to those commodities which would not be covered by the scope of this particular measure, if it is not already covered by the Essential Supplies (Temporary Powers) Act. But so far as the commodities covered by this measure are concerned, we propose now to streamline the provisions to bring it within this particular measure. It might be asked, "Is it at all very necessary?" On this Government have very strong views. In a planned economy price control forms a great part. It may be that we need not actually exercise it; if goods are in plenty, the price control need not be exercised and the law of supply and demand will operate and to the benefit of the consumers and that is the essential thing that is necessary. In the case of goods which are in abundance if I put a price control and say so much to the producer, so much to the wholesaler and so much to the retailers, cost of transport is so much and so much is the profit, then artificially you increase the price at every stage instead of

allowing the normal forces to operate. When a ceiling is fixed, it always operates as a floor and the black-marketeers demand always a little more. For honest men it is a floor. He does not sell for anything less. I found it in the case of the textile industry and I must say by and large, wherever I have relaxed price control, the prices have come down to the benefit of the consumers and therefore it is not our intention to fix the control price unless it is necessary. I had mentioned in the other House about the necessity for price control and for the purposes of development of a particular industry; I even offered to guarantee the return. The newspapers too expressed their resentment but I propose to say that once again here. For this reason, in a planned economy, when we want private investment to come in, the small investor puts his money in these ventures—and the smaller the investor the greater the safeguard that we have to give him both in regard to guarantee of his capital and also guarantee of return. I cannot very well allow the small man who has probably Rs. 4,000 or Rs. 5,000 invested in an undertaking and then merely because of the vagaries of management no dividend is declared for some years, and the small man who is expecting some return to be left high and dry. I would have to give them some confidence, that Government will guarantee to repay the money. When Government does that, it is guaranteed to that extent. That, Sir, is more or less the scheme that is envisaged for the future for encouraging the smaller people to invest in industrial undertakings. I do feel that when I give a guarantee, I must also see that that guarantee is not normally invoked. Merely giving the guarantee does not mean that I can allow the management to sell at whatever price it likes. My responsibility to Parliament and the electorate has to be discharged and I would have to see that the guarantee is not invoked in that fashion. In fact, sometimes, when it is invoked I may have to give a direction, if on investigation it is found necessary, to see that the guarantee is not invoked. This is one of the methods for me to safeguard

the ultimate masters, namely the people who return us to see that the prices are controlled. We have got to give such guarantees where there is a consumer's market in the country with regard to control of prices. And this makes it very necessary for me to make price control a part of the permanent statute of the country and that is what we seek to do now by these provisions which are added to this amending Bill.

Sir, the other clauses are, more or less, consequential, and the Select Committee of the other House has recast some of them. They are really, delegation of powers, power to issue directions, cognisance of offences, burden of proof, jurisdiction of courts and so on. Maybe, some people may say the penalties are heavy; but we have to recognise that we have to deal with a very powerful and very clever people. The Government is almost a baby when compared to them.

SHRI B. GUPTA: But some of the babies are on your own side.

SHRI T. T. KRISHNAMACHARI: Pardon? I could not hear the hon. Member.

SHRI B. C. GHOSE (West Bengal): Some of them are on your side, he says.

SHRI T. T. KRISHNAMACHARI: If the hon. Member wants to say something to me, at least I must hear it; but if he is saying it only for his own satisfaction, well, I don't mind.

SHRI B. GUPTA: Some of the babies have your support. They are on your side.

SHRI T. T. KRISHNAMACHARI: In that case, I don't know, who is a baby and who is not. Often times when the process of growth is arrested, arrested development also means a baby.

The point really is that though powers have to be taken, the whole thing will be done through the normal

processes of law and the courts must be approached. We are not seeking to use the Preventive Detention Act either. Ultimately the matters will have to be decided by the courts. We may have to make the penalty deterrent, but we have to prevent summary proceedings. We cannot play with fire. These are very necessary.

That brings me, Sir, more or less to the end of my story. I would like to close my speech with these words. The vested interests engaged in industry have no reason to fear so long as they keep within the four corners of the law. Government have no intention of indulging in the use of power. It may be, there are such instances here and there; but there is always a little difficulty so far as the Central Government is concerned. The ordinary smaller governments have not so much responsibilities as the Central Government and it is difficult for them to misuse their powers. Secondly, hon. Members need not try to draw conclusions from this measure more than what is warranted by the exact working. As I have said elsewhere, this might be ultimately a way of getting some experience of what the industries are doing, to gain some experience of industrial management. It does not mean nationalisation. It means control. I have stated very simply that this amendment is an illustration of the policy of the Government, i.e. control over the means of production and to ensure a fair return to labour and a fair price to the consumer. This is an obligation which we recognise and we are prepared to undertake.

SHRI B. GUPTA: When will you implement it?

SHRI T. T. KRISHNAMACHARI: I am implementing it every day and if I cannot force that knowledge on my hon. friend, I am afraid it is my misfortune.

Well, it is a very clear proposition that we are not using this measure for taking over ownership. That is a different thing altogether. Whether Government will take over ownership

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or not will have to be decided in each individual case at the proper time and according to the necessity for it. But we complete one part of the picture. It is no use vested interests saying that it is all wrong for you to interfere, for we have to interfere when necessary; we should know what they are doing. We may be bringing out the Companies Act Amending Bill before long and that may cover powers of Government with regard to inspection and in regard to knowing what is what in an abundant measure. That could be complementary to this amending Bill. But so far the control is concerned, we do propose to control. Control does not mean the exercising of the control at every stage. If some one does his job properly, we do not propose to control that. Any man who is doing his bit of the job for the country, whose industrial unit is producing satisfactorily need not be afraid of it. But if anything goes wrong, certainly the provisions of this law will be invoked, but it does not mean anything more than that.

That is all I have to say, Sir.

SHRI M. MANJURAN (Travancore-Cochin): Sir, on a point of order.....

MR. DEPUTY CHAIRMAN: Let me first place the motion before the House.

Motion moved:

"That the Bill to amend the Industries (Development and Regulation) Act, 1951, as passed by the House of the People, be taken into consideration."

Well, what is the point of order?

SHRI M. MANJURAN: Sir, there are five items added by this Bill in the Schedule of the original Act. In the original Act, section 2, there is reference to declaration as to the expediency of control. There is a declaration that it is expedient in the public interest that the Union should take in hand the control of the industries specified in the First Schedule. And 37

items are so specified. Now the items that are added here were governed by entry No. 24 of the State list and when such items as were given to the States are brought within the purview of parliamentary legislation, they should be so declared before by the Parliament and the process of such declaration is contained in article 249 of the Constitution. It provides that:

"Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State list specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force."

These five items were on the State list and they continue to be on the State list until Parliament so declared by invoking article 249 of the Constitution. Article 249 requires that the Council of States should pass a resolution by a two-third majority to bring in these under the Union List, that is, item 52 of the Union List.

Till then they remain on the State List and so this discussion cannot be had on any other matter except those items specified in the First Schedule of the original Act, which are 37 in number.

SHRI T. T. KRISHNAMACHARI: Sir, the hon. Member has completely misunderstood the Constitution. Article 249 is not at all attracted.

SHRI KISHEN CHAND: I wish to support the Point of Order, Sir.

MR. DEPUTY CHAIRMAN: You want to say something?

SHRI KISHEN CHAND: Yes, Sir.

The point of order that has been raised is a very clear point of order.

Entry 24 of the State List refers to industry but does not specify any particular industry and the only proviso is the provision of entry 52 of List I. Here also, there is no mention of any particular industry. Entry 52 of List I also says "Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest". So, I beg to submit, Sir, that if we read entry 24 of the State List and entry 52 of the Union List it becomes quite clear that these two entries relate to industries without any exception and, therefore, any sort of argument of making discrimination against one industry or the other will not be admissible. So, for the application of entry 52 of List I as has been pointed out by Mr Manjuran it is very essential that article 249 of the Constitution be invoked if the hon Minister for Commerce and Industry wishes to include the additional industries enumerated in Schedule I of the amending Bill. Otherwise the new industries which have been brought in in Schedule I cannot be added to it and I think article 249 is very clear: the whole procedure has been stated and nothing further need be said about it except that it be followed *in toto* in the application of this Bill.

SHRI RAJAGOPAL NAIDU (Madras) Sir, I find, it is mentioned in entry 7 of List I—the Union List—"industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war". It is only this kind of industries.

MR DEPUTY CHAIRMAN Which is the article that you are referring?

SHRI RAJAGOPAL NAIDU I am referring to entry 7 of List I—the Union List.

So far as the industries are concerned, it is only those that are necessary for the purpose of Defence or for the prosecution of the War that come in the Union List and I find in entry 52 of the same list, "industries, the control of which by the Union is declared by

Parliament by law to be expedient in the public interest". The enabling provision in List II—the State List—is entry 24 which says "industries subject to the provisions of entry 52 of List I". We find enacted in section 2 of the principal Act "it is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule" and, in the First Schedule we find, Sir, that as many as 37 industries are enumerated. In the amending Bill, we find, besides amending some of the items which are in the First Schedule, some more items are added, namely, dye-stuffs, soap, plywood and ferro-manganese.

SHRI M MANJURAN Tractors

SHRI RAJAGOPAL NAIDU Yes, also tractors. Now the whole question is, Sir, whether for the addition of these five items any resolution has to be passed under article 249 or whether section 2 which has already given wide powers to the Parliament to enact laws—I may read section 2 once again, Sir—"It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in the first Schedule"—would do. It might also mean, Sir, that this section would embrace even the items that are now newly added by way of this amending Bill or if you want to be really technical in this matter, probably we may have a resolution passed under article 249. But, I do not know what the Law Ministry has advised in this matter. I would request the honourable Minister Sir whether the Law Ministry has been consulted in this matter as to whether section 2 is enough and whether it would cover all the other new items that have been added or whether any resolution is necessary under article 249.

SHRI K C GEORGE (Tiravancore-Cochin) Now that a constitutional point has been raised we should like to have the opinion of the Law Minister on this point, more especially when the hon Member has said that this

[Shri K. C. George.]
matter has not been consulted with the Law Ministry.

MR. DEPUTY CHAIRMAN: We will know from what he has got to say.

SHRI T. T. KRISHNAMACHARI: Mr. Deputy Chairman, all the legal wisdom has been brought to bear on this particular provision. I submit, Sir, article 249 has no bearing on this. Article 249, Sir, if I may humbly point out, is for a specific purpose referring to the State List and the period is restricted to one year, subject to periodical extensions by this House.

SHRI M. MANJURAN: This is on the State List.

SHRI T. T. KRISHNAMACHARI: Let me have my own say. As a matter of fact, the hon. Member must please concede that I know my Constitution also as well as the hon. Member does.

Article 249 has absolutely no bearing on the present case. Then, Sir, we come to entry 52 of List I. This entry is quite specific. I do not propose to read it. Then, item 7 was referred to.

MR. DEPUTY CHAIRMAN: That refers to defence and prosecution of war.

SHRI T. T. KRISHNAMACHARI: That refers to defence and also when there is a question of the prosecution of a war. Item 52 of List I and item 24 of List II should be read together. Item 52 of List I takes something and item 24 of List II is only what is left behind, residue of what has been taken over by entry 52. That is very clearly mentioned.

In regard to the declaration, Sir, the declaration is there. Section 2 has not been repealed. I have not put in the amending Bill that section 2 of the original Act should be omitted. Section 2 is there and that operates on any amendment that you put up. What

is being put in the Bill is not by the rules, is not by executive decision of the Government. I am not doing it by means of a resolution. What is being put in is by law and so, section 2 operates in regard to any portion of this particular measure and certainly it operates in regard to the Schedule and the amendment of the Schedule is done by law. To this extent, it is closely inter-related to section 2.

Some other hon. Member wanted to know if the Law Ministry has been consulted. Every measure that comes before the House is scrutinised by the Law Ministry; drafting is done, checking is done and scrutiny is also done by the Law Ministry. Nothing is done by us; if the hon. Member thinks that a layman here is trying to pass something as being legally valid, he is making a mistake. So, Sir, I venture to submit that the point of order has no substance in it and therefore ought to be ruled out by the Chair.

SHRI M. MANJURAN: I would like to know where the items were included before these were included in the Schedule.

SHRI T. T. KRISHNAMACHARI: The whole point is when you put it into the Schedule it attracts straightaway the provisions of section 2 of the Act and Parliament is competent to declare any item as necessary, the control of which is exercised in the public interest, by the Union, and to that extent there will not only be subtraction indeed from the scope of item 24 of the State List. There might be even progressive subtraction. It is an inevitable fact.

SHRI M. MANJURAN: But I think clause 3.....

MR. DEPUTY CHAIRMAN: You have had your say already.

SHRI M. MANJURAN: Clause 3 of article 246 makes the State subject the exclusive right of the State to legislate upon. It cannot be transferred to the Centre unless it is so declared by Parliament by the due process as

enunciated in article 249. That is my contention.

SHRI V. K. DHAGE (Hyderabad): I just wish to ask the Minister as to whether article 249 of the Constitution is comprehensive to cover all the items mentioned in the State List and if so whether it would attract item No. 24.

MR. DEPUTY CHAIRMAN: The objection raised by the hon. Member is with reference to article 249. It is not operative in the manner in which hon. Members think because even the original Act is involved.

SHRI M. MANJURAN: It was in 1951 that the then Parliament or the Legislature had the right to do so and that declaration is valid and now because the Council of States has come into being it is invalid.

SHRI T. T. KRISHNAMACHARI: As a matter of fact, Sir, the other body on behalf of the Council of States did it. Merely because article 249 was put in by the other body it does not mean that article 249 cannot be used.

SHRI M. MANJURAN: Has the attention of the hon. Minister been drawn to a certain difference in the language employed in item 52 and that employed in article 249? Entry 52 in the Union List reads "Industries, the control of which by the Union is declared by Parliament by law to be expedient *in the public interest*." Article 249 reads: "Notwithstanding anything *** Chapter, if the Council of States has declared by resolution support by not less than two-thirds*** that it is necessary or expedient *in the national interest* that Parliament should make laws***."

Does the hon. Minister think that there is any difference in the wording employed, namely, between 'public interest' and 'national interest'?

SHRI T. T. KRISHNAMACHARI: I do not think it is worth while really looking into the wording. It does not apply at all to these things.

SHRI M. MANJURAN: It involves the States and becomes applicable to the States and so it applies. If any legislation is to be made on matters relating to all the States the process is that it should go through by virtue of a resolution of the Council of States. Sir, the constitutional provision is very clear there in that article and it makes this exclusively a State subject and to be legislated upon by the State Legislature.

MR. DEPUTY CHAIRMAN: A point of order has been raised that Parliament has no power to take over the industries mentioned in the amending Bill and that it can be done only under a resolution in terms of article 249(1). Article 249(1) is for taking power by Parliament for legislation with respect to a matter in the State List in the national interest whereas item 52 of the Seventh Schedule—Union List and item 24 of the Seventh Schedule—State List, govern legislation regarding the control of industries. Entry 11 A.M. 24 of the State List is circumscribed by item 52 of the Union List, and entry 2 of the Union List says, "Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest." The declaration is already contained in Section 2 of the original Act which reads as follows: "Declaration as to expediency of control by the Union.—It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule." Now what is sought to be done by the amending Bill is to amend the Schedule by including these five new items. If the Parliament accepts this amendment, automatically the operation of section 2 of the original Act is attracted. So I think there is no point of order and the debate will continue.

SHRI B. C. GHOSE: Mr. Deputy Chairman, the hon. Minister is in the happy position that almost every section of the House is agreed on the principle of the Bill and has also given

[Shri B. C. Ghose.]

its general support. Nevertheless it may be permissible to ask—Why is this amending Bill and what is this amending Bill? Why was it necessary to bring forward this amending Bill? What were the cases in which Government found that they had no sufficient powers to act? The hon. Minister gave us two instances in which it was necessary to cause an investigation to be undertaken. But we have been given no instance as to when it was found necessary for the Government to either issue directions or to take over an undertaking under the provisions of the existing Act. We have also been referred to a particular case which was taken over under a special Act of Parliament. The hon. Minister had also stated in his reference to the Development Councils that he had been going slow because he was not sure as to how they will be acting. In that view of the matter, would it not have been advisable also to use his discretion and not bring forward this legislation as it is doubtful if there have been sufficient grounds for bringing it forward, particularly as the hon. Minister himself had stated that it gives occasion for suspicion? Now on that ground I labour under certain disadvantages. There appear to be in relation to the opposition of what are called 'big business interests' two possibilities—of course I am not saying at the moment which of them may be right; I am just giving them as possibilities only. The first appears to be that—since it appears Government does not really exercise the powers that it takes over, may be for the reason that it feels that there is no reason to exercise those powers but still brings this legislation—there may be a sort of understanding between them and the big business that whenever such a legislation should be brought forward there should be a very large protest raised by the business interests against such legislation. I am prompted to make this suggestion, in view of the observations made by the hon. Minister in the other House that he was relieved to find that big business interest had not supported him but had

opposed him very vehemently when he had brought forward that legislation. Otherwise he might be subject to the criticism that big business interest was also agreeable to this sort of legislation. But if that is not so, Sir—I believe that it is not so, Sir...

SHRI T. T. KRISHNAMACHARI: Sometimes we indulge in humours also.

SHRI B. C. GHOSE: I thought so, Sir. But if that is not so and if really it is intended to be utilised then, as I suggested that since the Government feel that there cannot be many occasions to invoke such powers and if also it is true that big business interest is really alarmed by such legislation and may be prevented from undertaking expansion and so forth, I would only ask the hon. Minister to consider the advisability under those circumstances of bringing forward such a piece of legislation when powers are available to the Government under other Acts to do practically the same sort of thing. For example, power may be taken over under the proposed Company Law with a view to obtaining stricter control over industries. Also if necessary legislation might be brought forward if there were only very rare cases like this or if the Parliament were not in session, Government might issue an Ordinance.

Secondly, what is this amending Bill? What is it going to do? I find that under the Act Government can take powers only under certain eventualities which are of a peculiar character. For example, section 15 can be invoked if there is undue fall in production, or undue deterioration in quality, or undue rise in prices or if it involves a question of national importance, or if the industry might have been functioning in a manner detrimental to the scheduled industry or to public interest. Now, in every case, the occasion for the Government to take action is severely restricted. It is only when a thing of undue character or nature occurs that Government

can take action and here also I would like to draw the attention of the House to the fact that if the industry concerned acts in a manner which is prejudicial to the interest of shareholders, I do not think Government can act, if otherwise the industry is being run properly or there is no undue deterioration in quality or undue rise in prices. If the industrialists are making a large amount of money at the cost of the share-holders, I do not think that Government have the power to interfere unless it be considered that that is detrimental to the public interest. But it is doubtful if the interest of a small number of shareholders can be equated with public interest. So I should like to know from the hon. Minister whether, if the shareholders' interests are only affected, and not otherwise, Government have powers under this Act to take over an industry or cause an investigation to be made.

PROF. G. RANGA: On their own motion or on the initiative of the shareholders?

SHRI B. C. GHOSE: On their own motion. I quite appreciate that probably there will be provisions introduced in the new Companies Act under which it may be possible for shareholders, on their initiative, to force Government to take action. But under this Bill I am not quite sure if it is possible, if shareholders' interests are adversely affected, for the Government to intervene. Further, I doubt whether it is quite right to say that this Bill is of a developmental character and not of a punitive nature, because it is only when an extreme case may arise where an industry or undertaking has been functioning improperly that Government can take action.

Now, in this connection, a question of wider interest was raised in the Lower House to which I shall be referring in a moment's time. But before doing that I should like to draw your attention to certain provisions of

the Bill. The new Section 18A had been fairly elaborately explained by the hon. Minister and he stated that it was necessary that section 5(4)(b) should be omitted in order that the Government might act, in an emergency, to take over an undertaking. Sir, may I draw the hon. Minister's attention to the new section 18A? In section 18A there are two sub-clauses (a) and (b). Now, I should like to ask the hon. Minister, what is the difficulty in the Central Advisory Council being consulted in relation to cases under (a)? Thus, section 5(4)(b) could be amended to drop the reference to section 16 and substitute for sub-section (1) of section 17 sub-clause (a) of section 18A.

SHRI H. N. KUNZRU: What is it? I do not understand the hon. Member.

SHRI B. C. GHOSE: There are two sets of cases envisaged in 18A (a) and (b). There is no difficulty in consulting the Central Advisory Council in regard to cases under (a). If there is no difficulty, then the only amendment in respect of section 5(4)(b) necessary would have been to drop the reference to section 16 in that clause and substitute clause (a) of section 18A for sub-section (1) of section 17. The hon. Minister stated that no Government will exercise powers unnecessarily and he gave an assurance to that effect. That assurance coming from him may be quite acceptable. But when he will not be in office, whether the other Ministers would also be as circumspect is another question, because the present hon. Minister has much experience of industries. But if it is contended that the hon. Minister does not support this contention, then what is the use of having clause (a) of section 18A? The whole sub-clause may be omitted. So, I would suggest to the hon. Minister either to omit clause (a) of section 18A or introduce modifications on the lines that I have suggested earlier.

The second point is with regard to substantial expansion or the production or manufacture of a new article which is mentioned in clause 14 of the

[Shri B. C. Ghose.]

Bill. That is an amendment of section 23. I would like the hon. Minister to consider whether he cannot make the decision of the Central Government in this regard subject to consultation with the Central Advisory Council. What difficulty would arise if in the matter of substantial expansion or the question of production or manufacture of a new article, any dispute arising thereon were made subject to consultation by the Central Advisory Council?

Then, Sir, I come to the question of Development Councils. The hon. Minister stated, I believe, that he was not quite sure as to how the Development Councils would be working and that is why he was going slow. While the hon. Minister is on this matter I should also like to draw his attention to the observations in regard to Development Councils made by the Planning Commission.

SHRI T. T. KRISHNAMACHARI: That is not germane to the Act.

SHRI B. C. GHOSE: It is Government's policy. I am bringing it in that connection.

SHRI T. T. KRISHNAMACHARI: The Planning Commission's Report is not Government's policy.

SHRI B. C. GHOSE: But that was accepted by both the Houses.

SHRI T. T. KRISHNAMACHARI: That is a big Report. You can accept the whole lot. But there might be one or two sentences about which I might be a little diffident. I should like to give a little explanation here. The point really is this. I might have certain diffidence about a particular thing, but diffidence does not mean that the policy is not accepted. Diffidence only operates with regard to the operation of that particular policy. And so far as I am concerned, I have the responsibility to Parliament. Planning Commission do not have any such responsibility. I have got to answer you. They don't have to. I agree that this

Government attaches a great deal of importance to Planning Commission's Report. But there is no point in trotting it out every time. They plan in vacuum. We have daily to bear the shocks from hon. Members of Parliament and the public. They are immune from all these attacks. So I have got to shape my policy in a manner in which I like. The tempo, the pace and the operation of it is a thing for which I am ultimately responsible and not the Planning Commission. Therefore it is no argument and the hon. Member will not get any reply from me.

SHRI B. C. GHOSE: I agree with the hon. Minister. I was just trying to explain to the House how the position stands in regard to the Development Councils. My personal view may be the same as that of the hon. Minister. At the same time, we must know where we stand in regard to this matter and what the Government policy is.

SHRI T. T. KRISHNAMACHARI: I made that very clear. If the working of the two or three or four or five Councils that we propose to constitute during the period of six or eight months shows that they are successful, naturally I will go ahead with the whole lot.

SHRI B. C. GHOSE: But the report of the Planning Commission, submitted in December 1952, said that seven Development Councils would be set up immediately, and a Development Council for textiles was also being considered. Up till now only two have been set up. Therefore, how these Development Councils will work, we really do not know.

But in this connection I should like to have some information from the hon. Minister as to how he considers that these Development Councils may function. The functions which have been allotted to these Councils, as stated in Schedule II to the Act, are comprehensive. But I should like to know what happens in a case where there is a difference of opinion

between the members of the Development Council. How do they proceed? I presume that they cannot do anything except with the permission of Government. I will cite a single illustration about which, I am sure, the hon. Minister knows quite a lot—the case of soap. The case of soap is one where a particular concern is responsible for about 60 to 70 per cent. of the total production today of machine-made soaps. Now, the other units in that industry have been clamouring that there should be a restriction on production so that the other units may also be allowed to function. In such a case, what is going to be done? The question of reorganisation of that particular factory is also involved—whether it would be permissible for that unit in the industry to bring in new plant and machinery of a better type. For, while on the one hand that is always desirable from the point of view of the improvement of the industry and the capacity of the industry, it is going to make it difficult for the other units to function. So, how are the Development Councils going to work under such conditions?

I now come to the last point, and that is about a matter which a very distinguished member of the other House raised, namely, the question of the setting up of an industrial management trust. That suggestion had, I believe, provoked the hon. Minister to think aloud and say that he was also thinking along the same lines, and that he had thought of an institution like the court of wards. I should like to have some more information, if I may, on how his mind is working in this matter. What we are aiming at is this. When we are setting up an institution of this nature, our aim is not merely to have a mixed economy, which we already have, but also mixed industries. In each particular industry there would be a public and a private sector, apart from the fact that in the economy as a whole we do have a public and a private sector. Now, if a particular unit is in difficulty, may be because it is ineffi-

ciently run, or because there is a lack of demand for its goods, or because there is a change in fashion, is it the Government's intention to take that unit up? I am sure that is not the Government's intention, because the hon. Minister himself stated in the other House that he did not want to be landed with a number of lame ducks. And if that is not the intention, then I believe the hopes that are aroused by such suggestions are not justified. It is much better not to say anything much on this subject, because people have a feeling that Government will come along to help any unit in an industry which is in difficulty. What the Government probably had in mind was this. If an industry which was being run with first class machinery had management which was not conducting itself properly because the management was not working in the public interest, then the Government might intervene. If that is the only intention of Government, then it is a very restricted sphere in which the Government wants to operate, and if that is so, then it would be much better for the Government not to arouse hopes such as that it will come to the assistance of units in an industry which are in difficulties or that they themselves will take up developmental work in regard to industry. If that were the intention, I would suggest that a much better and more straightforward policy would have been for Government to nationalise the industries and set them up in such a way that they would only produce articles of a quality that was desired and up to an amount that was justified by the demand.

PROF. G. RANGA: That would be going too far.

SHRI B. C. GHOSE: That would be going too far for this Government, and that was never the Government's intention. Therefore, I do not see what an institution like the Industrial Management Trust or a court of wards would do. Why I am saying

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this is that I am afraid they have raised hopes which may not be fulfilled, and under present conditions it is much better not to raise such hopes.

DR. N. DUTT (West Bengal): Sir, I welcome this measure for the regulation of the industries of this country. That is what the Five Year Plan envisages. It is important that the industries of India should be canalised and should be regulated. Also it is particularly important because of the fact that the State is entering into the industrial field and reserving some special sectors for State activity. Therefore it is time that the private industrialists knew what was their scope and what was their sector. So long we have been working on the theory of *laissez faire*, and on the theory of the survival of the fittest. We know that the industries which were not so well developed were squeezed out of existence through competition. This causes a lot of wastage of energy and wealth. So, it is good if the Government means to avoid this wastage and to help industry to grow along certain lines.

But the present problem is the appearance of the big industrialist in spheres which were normally being worked by small scale and medium sized industries. The previous speaker, Shri Bimal Comar Ghose, has already drawn the attention of the House to the case of soap. The soap industry which was mostly a small scale and medium sized industry at one time, has come under one industrial big firm. Perhaps this will also apply to the case of the shoe industry. Our experience in Bengal is that ice-making was a small industry and was being managed by small and medium sized factories. Suddenly a big industrialist came and started a big ice factory and crushed out all the small people. In this way we are suffering very much. Take the case of the hosiery industry. In Bengal the hosiery mills are mostly in the hands of middle class people. A big hosiery factory starts and crushes out these

people. Is it not necessary that in this Bill there should be a line of demarcation for the purpose of protecting medium sized and small scale industries? If this Bill is meant for the improvement of industries, for the canalising of industries and for the regulation of industries, and also for the prevention of unemployment, I would say that it should be the first object of the Commerce and Industry Minister to pay attention to this fact that we want to render help to the small scale and medium sized industries. Our Government has taken steps to protect the handloom industry against the big textile mills. If that has been possible in the case of the handloom, why should it not be possible also in the case of the hosiery industry, or the soap industry, or the shoe industry?

Now, there is one particular point to which I want to draw attention of the hon. Minister. Many iron and steel fabricators which were working in Howrah are suffering very much for want of work. Many of the factories are closing down, causing a great deal of unemployment. Who is going to look after these unemployed workers? I hope the hon. Minister will do something for them.

Now, the question that strikes me here is why there is an amending Bill today. The original Act was passed only in 1951. Enough time has not been given to the working of the original Act. About 2,000 applications had been made and it seems those applications have not been scrutinised and sufficient attention has not been given to those applications.

SHRI T. T. KRISHNAMACHARI: May I ask the hon. Member wherefrom did he get the information that the applications were not scrutinised?

DR. N. DUTT: Well, it seems that not enough time has been given.....

MR. DEPUTY CHAIRMAN: The Hon. Minister wants to know where you got this information from.

DR. N. DUTT: I am sorry; it was a mistake. Now my question is whether sufficient time has been given to the working of the old Act, and whether we have experienced any difficulties which have been created by the original Act. I do not think it has been done. According to me, this amending Bill is only an afterthought. This Bill seeks to amend 15 out of 32 sections in the old Act. And there is a big addition of Chapter IIIA and IIIB. I do not think that there was any immediate necessity for these Chapters in the original Act, regarding investigation of and taking up of industries. Still these additions have been made within such a short time and without giving sufficient opportunity to the previous Act to work. This shows that the sections were not drawn up very carefully and with enough foresight and this takes a lot of time both of the Department as also of the Parliament. So I am of the opinion that the original Act should not have been amended so quickly. We have seen that this Bill has been drawn up mostly on the lines of the Industrial Organisation and Development Act of 1947 of the Labour Government in England. In England also there was an opposition to this Act by the industrialists and the Act has not been very fruitful. Only two Development Councils had been formed. The only Council effective is the Development Council of Cotton. This Council was not really the Government's creation. It was created by the industrialists by their Working Party. This Working Party was in existence for about eight years. Therefore, this has become a very fruitful Council and has also been helpful to the Government. We should take a lesson from the history of England. Here also we find that an imposition has been made on the industrialists from the top. This is a bureaucratic attitude which we have inherited from our previous masters; and even our popular Ministers also follow the same line. They generally do not make the industrialists feel that it is for their benefit that this Act is being passed. Therefore, what I suggest is

this that the industrialists should form Working Parties or Cotton Boards or other Boards and when they have scrutinised a particular industry as a whole and put up all the problems and difficulties before the Government, a Development Council could be formed and thus the Bill could be properly drafted and the list of goods could also be made carefully and not in a haphazard manner.

Now, I shall turn to some of the amendments. The word 'new' causes a lot of confusion. I do not understand exactly what the Bill means. I would like the hon. Minister to tell me what will happen in the case of articles like leather shoes, pickers, picking bands, and roller skins? Can the manufacturer of leather shoes produce pickers without fresh licence, and *vice versa*? Will that be a new article? Picking bands and roller skins are not included in the list. Can the manufacturer of pickers produce picking bands and roller skins without fresh licence? So about the word 'new' we should be particular that it only applies when it is a new industry in the Schedule, other than the one for which a particular firm has got sanction.

Then, I come to section 10A. It refers to revocation of registration for misrepresentation of essential facts. Well, sometimes it so happens that young entrepreneurs, young industrialists, make certain representations, when they are starting an industry, and they count on expected finance, rights, prospects etc. and if after some time they find that their estimate was wrong or their calculations was wrong, they should not be punished by revocation. Such *bona fide* people must be asked to explain and if their explanation is not satisfactory, then some action can be taken against them. And then the power of revocation should not be left in the hands of the officials. That power should be in the hands of the Advisory Bodies like the Advisory Council or the Development Council.

[Dr. N. Dutt.]

(The Vice-Chairman, Shri B. C. Ghose,
in the Chair.)

My next point is regarding section 13; "Substantial expansion". This is a very ambiguous clause. If a mill working one shift, adds five shifts, will it be substantial expansion? For addition of every shift will an industry have to come to the Government for sanction? Therefore this permission for substantial expansion should be omitted from the Act. Let us say that expansion beyond 50 per cent. or beyond 100 per cent. will not be allowed or will need fresh licence.

Then lastly, Sir, this new chapter, Chapter III-A, is a very serious chapter and has drawn attention from every section of the House. This is a drastic power that the Government wants to take and when it says that the Government will take over the industry without notice, without giving any opportunity to the industry to correct itself, that may be justified only in a particular case, but when this power is laid down in the Act, it may be used in a general manner. What I have seen from my experience is this that when a new managing agent goes into the industry, he generally looks for quick profits; he fritters away the assets of the industry. Therefore it is not always safe to get new managing agents for a period of 5 years or so. Naturally he tries to make as much money as possible and thus undermines the whole industry. We have enough experience of the Court of Wards and Administrators. Our experience is not happy. The assets in most cases dwindle. In this way the new managing agents will practically spoil that industry which they are put in charge of. In this clause there is a penalty for everybody. The new managing agents have been given powers to drive away the old manager, and other employees. This is a very drastic power given to the new managing agents and should be withdrawn. When it comes to retrenchment, they will retrench only those people who were in the good

books of the old management. This will seriously affect the old employees. The poor employees were there only to carry out the orders of the old management. Hence, there should be some protection for the employees. Government should punish the people who are guilty but why punish the shareholders also? They are innocent people who have invested their money. If the managing agents have done something wrong, let the Government punish the managing agents. Why punish the shareholders? I hope Government will not use these drastic powers.

Then I come to price fixation. This is a matter which is very disturbing to the industry. We have had enough of controls and we are really sick of them. We do not want these controls again. Our connections with the officials have not been quite happy and we do not want this price fixation power as a permanent measure. This permanent control coming in through this Bill will not be very welcome to the industrialists, and this will only cause friction between the Government and the industry. Price fixation at the present moment, I do not think it is so much necessary. We are not living in war time. Already prices are going down and the market conditions will fix the price. Why should Government interfere and fix the price? It is only in exceptional cases when the prices jump up that the Government should intervene and fix the price. Now, this is going to be a permanent feature and the Government is going to fix the price for every article. It may be that one concern gets its raw materials cheaply and another concern gets the same raw materials at a higher price, and how is Government going to fix the price for the same articles manufactured by these two concerns? I think we have had enough of these controls during the last few years, and this power should not be left in the hands of officers. In the case of price fixation or in the case of appointing managing agents, there should be an appellate body formed out of the Advisory Council to go into the complaints of

this nature. In this way alone, you can help the industries. The private sector is expected to play its part in the completion of the Five Year Plan. The hon. Minister said that he was going to be fair to labour and fair to the consumers. He did not say that he was going to be fair to the industry. Perhaps he is going to be unfair to industry but fair to the consumers and fair to the labour. If that is the attitude, how does he expect the private sector to play its part in the completion of the Five Year Plan? With these few words, I endorse also what has been said by the previous speakers that the Government have already *enough powers and they need no fresh powers to control industries.*

PROF. G. RANGA: Mr. Vice-Chairman, I am very glad that this Bill has been brought forward on this occasion. I do not agree with those friends who think that Government already possess sufficient powers by other enactments and therefore there is no need for them to come forward with this Bill. It is true that some years ago I was also of the opinion that there should be more and more nationalisation when I used to be angry with the previous Government as well as our own Government because they were not prepared to go ahead with the policy of nationalisation as fast as some of us wanted, but after having had experience of the manner in which our administrative machine has administered these controls or rather mis-administered these controls and mismanaged a number of State-owned undertakings, I have had to revise my opinions. and if we are not prepared to learn from experience, we certainly cannot claim to be serving our people in any responsible manner. For this reason I wish that the Government do not undertake the policy of nationalisation in regard to any of our industries until their administrative machinery comes to be sufficiently efficient and effective, also honest and reliable. We should not cling to this policy of nationalisation as if it is going to deliver the goods.

Secondly, Sir, I am glad that my hon. friend has frankly stated that through this Bill Government do not wish to adopt any general policy of nationalisation of our industries. It is better that we should say so quite frankly than give the impression, than leave the industrialists with the impression that on anyone of these days, this Damocles' sword as they consider it, is going to come down on their heads. To that extent, the industrialists in this country would get the assurance and the encouragement that they can sink as much of their capital as possible in industrial enterprises and also their managerial skill in the private sector which we want to be developed in this country while we develop the other sectors, and that as long as they behave in conformity with this particular Act and legislation and other pieces of legislation that we have, they will be able to carry on their enterprises or display their initiative and make their contribution to the totality of the growth of our national income and our national wealth.

Then, Sir, my hon. friend the Minister has stated that this legislation is complete in itself. I agree with him and it can come to be supplemented by the later amendment of the Companies Act and I hope that will soon come to be an accomplished fact. But I am not able to agree when he says that we have to go on in such a cautiously slow fashion in the development of these Advisory Councils. It is not such a difficult matter anyhow that he should have taken, with the reputation that he has for drive as well as initiative, 11 months to create 2 Councils. Now I begin to wonder why it has taken him so many months. Perhaps so many months must have taken for selecting the personnel for these committees, in making a list and changing them etc. I want to know why it has become such a stumbling block in the way of progress that he wants to make. He wants to see that these Councils work and see how they work. Is it going to be such a serious matter? He talks as if he is not the

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popular Minister of today but he is the Civil Servant of the past days.

SHRI C. G. K. REDDY: No difference.

PROF. G. RANGA: He is not made in the way of the Civil Service of the past and therefore I am afraid he does much less than due justice to himself when he argues this hopeless case in such a fashion.

SHRI B. GUPTA: That is only an infection.

PROF. G. RANGA: It might be coming from my right or left, I don't know.

AN HON. MEMBER: Are you Centre?

PROF. G. RANGA: I am certainly standing in the centre just now, and I am very unhappy that the long promised industrial Civil Service has not been brought into existence. I think it was our friend Dr. S. P. Mookerjee when he was the Minister in charge of this Department who made this promise for the first time.....

SHRI T. T. KRISHNAMACHARI: It is a lesson not to make promises.

PROF. G. RANGA: In pursuance of the policy adopted by the then Government and that was a policy that we had been advocating when the British were here during the war and soon after. We wanted definite steps to be taken and the Minister said that he was going to organize regular training courses for that purpose and yet nothing has been done till now. One of the reasons why we don't want to go too far ahead even in regard to the extent of development of mixed industry—not to speak of mixed economy—is that we don't have a well-trained Industrial Civil Service. It took several years for many of our people who had come to be appointed to the Textile Controller's office to understand the intricacies of that industry and my hon. friend has himself admitted today that when com-

pared to the abilities of the magnates of our private industry, the Government is only a babe. It need not necessarily continue to be a babe for years and years.

SHRI B. GUPTA: It has chosen to remain so!

PROF. G. RANGA: It certainly should be possible for you to be able to tackle these gentlemen and deal with them properly and satisfactorily indeed and efficiently if only you were able to develop this Economic Civil Service also. Therefore I should like my hon. friend to take early steps in this direction. I am not encouraged to feel that he is likely to do it by the kind of interruption he had made that that is the danger of making promises. If he thinks that the promises he is likely to make are not likely to be fulfilled, then I would certainly advise him not to make any promise but I would like him really to consider this matter carefully and even if he is not prepared to give any promise at all in response to this debate today, I would urge that he should take earliest possible steps, definite steps, in this direction so that at a very early occasion it might be possible for him to come and tell us that really the development of this Industrial or Economic Civil Service is well on its way in our country.

Sir, I am fascinated by this idea of mixed industry. It would be a good thing indeed if in a number of industries Government were to take the initiative in this direction. In fact they had already accepted this as a policy. In regard to the iron and steel industry at one time we were told that in addition to the industrial plant that we have already had for iron and steel production, Government were going to undertake the establishment of another concern. Unfortunately till now it has not become an established fact but I do hope that Government will try some experiments in this direction in some of those industries where already the technique of organization, administration and the scientific side of it as well as the industrial and

technical side of it have already become so well-standardised that there would not be too much of risk for Government to undertake the management of one of the plants.

Then I also agree with the policy of the Government and the attitude of our hon. Prime Minister that instead of Government trying to take up the existing plants into their own hands, it would be better for Government to try to supplement to the development of our industries by running their own additional plants and enterprises. In that way it would be possible for them not only to make use of the existing enterprises but also to start their own.

Secondly the advantage of this mixed industry is this. If Government were to nationalise a particular industry wholesale then it would be impossible for us to test, to have any touch-stone, whether its management is really efficient or not, whether it is yielding good dividends or not but if on the other hand they were to establish their own enterprises in addition to those which are already there in any particular industry, there would be some competition between the existing enterprises managed by private interests and those established by the Government themselves and in that way it would be possible for us to satisfy ourselves that the Government undertakings are being run efficiently and profitably.

Then my hon. friend said that this legislation is needed in order to see that the industries do play their role in our national economy in the interests of everybody concerned. One of our friends was deploring the fact that although Government were thinking of the consumers and workers, they don't seem to be considering the interests of the shareholders. I thought the interests of the shareholders were sought to be protected by the Companies Act and Government had taken to themselves sufficient powers under that Act and if any more powers are found to be necessary in order to safeguard the interests of the shareholders, I would

like my hon. friend the Minister to study that matter and then incorporate the necessary amendments in the Companies Act but that is no reason why because the shareholders' interests are not specifically mentioned here that we should take any objection to this legislation. On the other hand we take it for granted to start with that with the aid of the Companies Act the shareholders will be and are in a position to look after themselves and are being enabled to look after themselves sufficiently.

But having left those people to look after themselves, we have to think of the interest of others—the public, the consumers and the labour employed therein. It is in these three directions that this legislation seeks to protect the interests concerned and I am satisfied with it but what I am not satisfied with is the kind of administration that we are having to see that this legislation is enforced. My friend had said that so far as registration to get licences was concerned, there were no complaints. On the other hand more and more people, even those who were not expected to ask for registration had come forward asking for registration from Government. I can easily understand the reason for this. Once they are able to say that they had applied for registration and got registration, it gives them a particular standing in the eyes of the shareholders or the general public. Therefore it is in the interest of the private enterprises, in the interest of those persons who are engaged in those enterprises, to seek these licences or to seek this registration and I am glad the hon. Minister has sought to extend the scope of this registration so that even the smaller concerns can come forward and get themselves registered. The difficulty does not come that way. That comes when the licence is sought to be withdrawn from any particular company or particular enterprise. When a particular enterprise is found to be extending its capacity of production or its machinery or when technical provision is made for rationalisation of production and all that, and if it wishes to get into touch or reach

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the licencing authority or the registration authority, it runs the risk of the registration being cancelled. And it is then that the difficulty arises and these people have got to come to the Centre. And if the administration is not as efficient and as honest and as dynamic as it ought to be, and as my hon. friend the Minister himself would like it to be, then one could easily understand the difficulties of these industrialists. We have had a bad experience in recent years. Therefore, I would like my hon. friend to give us an assurance, not in the conventional manner that other Ministers have been giving till now, but I would like him to assure us that he would give his best possible personal attention to this matter and see to it that the particular section of his administration which will be entrusted with this responsibility, will be such that it will be absolutely above reproach, above suspicion. And what is more, that it would be so patriotic and so dynamic in its activities that it would be willing to go out of its way to help the industrialists in order to get themselves registered, to get their well-planned developments carried out and remove all possible difficulties and in general help them; that is instead of approaching them as their masters, as if they are the slaves, approach them as their friends and comrades.

Then there is one difficulty for which I am not able to find any satisfactory answer. What would be the position of Government *vis-a-vis* the monopolists? Yesterday—or was it the day before—during question time the point was raised as to how the small manufacturers of matches could be protected against competition from the WIMCO and other such big concerns. And today, you Sir, also raised the point regarding the soap manufacturing companies. There is this competition between the monopolists or rather the near-monopolists on the one hand and the small *entrepreneurs* on the other and we have to see that the near-monopolists do not drive the others out of the field altogether.

Have the Government got the necessary power to do that? If they have not, how do they propose to get it? How does the hon. Minister propose to avoid any unhealthy competition between the small *entrepreneurs* and the monopolists? I would like the Government to study this matter carefully and if they do not have sufficient power they should take an early opportunity of bringing forward the necessary legislation in order to assure the country as well as these small *entrepreneurs* who are here in our country that the interests of the small concerns will be quite safe.

SHRI GOVINDA REDDY (Mysore): The big fish swallows the smaller fish. That is the law of nature.

PROF. G. RANGA: Well, we do not allow that. The State should not allow it.

12 NOON

I am glad indeed to find that this legislation will answer so many of the questions and clear so many of the doubts of many of my friends here to my right in regard to new industrial concerns that are being started in our country either entirely by foreigners or in co-operation with foreigners, for however important that foreign concern may be, however strong it may be, whoever may be its managing agents, this legislation gives power to our Government not to discriminate between Indian and non-Indian concerns, to see that these non-Indian concerns in this country or the foreign concerns in our country, whether they are entirely foreign 100 per cent. or partially foreign and partially Indian, behave properly and the manner in which they behave will have to be in the interest of our country and also in the interest of our own labour here. To that extent, this legislation takes us many steps forward and gives us the assurance that it would be possible for us and for our Government to welcome foreign investments into this country to a greater and greater extent in the next five or six years and in that way help us to go ahead in the development of the various kinds of industries in this country, and in spite

of all that, be assured that our national interests would not be jeopardised.

I do concede one point. Suppose our Government is a weak-kneed one and is not able to discharge its duties as well as it is entitled to under this legislation, there might be a danger in our welcoming foreign capital, foreign investment and foreign enterprises into this country on such a large scale. But I have no such fear, for the time being at any rate, because I do feel that our Government as it is constituted today, under the leadership of Pandit Jawaharlal Nehru is strong enough to safeguard our interests. I do not know what would happen some years later on and it is for that reason that I am extremely anxious that my hon. friend the Minister should not deal with our fears in regard to the powers that Government wishes to take for itself without consulting our Industrial Advisory Councils, in such a light-hearted manner and say, "Why don't you people believe the Government? This is a responsible Government. Why don't you leave everything to the Government?" We might like to leave a lot of things to Shri T. T. Krishnamachari because most of us have come to have much more confidence in him than in many other Ministers—they may be past, may be present, or anybody. But after all, the personal views of a particular Minister, or the personal assurances of a particular Minister can only be a temporary matter. The hon. Minister himself has conceded that nobody can possibly ensure the tenure of a Minister. Therefore, we have to insure ourselves against the strength or the weakness or the possible weaknesses of a Government. And the Government too may change. There was a Democratic Government in America for twenty years back and nobody could have thought then that the Government would be replaced by a Republican Government; but it has come to be so replaced. Therefore this present Government of ours also may be replaced by another. Who knows? And it may not have as strong a leadership as we want.

Therefore we have to insure against these things. Of course, I concede we cannot go on insuring against everything. But to the extent that we can possibly insure against such things, I appeal to my hon. friend the Minister to give greater strength to the Advisory Councils and the Boards that were suggested by the Planning Commission.

I am in agreement with him, but I am in disagreement with yourself, Sir, in regard to a dispute which arose with regard to the recommendations of the Planning Commission, because I do feel that the recommendations of the Planning Commission should be taken as an indication of the direction of the policy, as a sort of a tendency in which the Government should move. But to what extent the Government can get a move on at this or at any particular juncture, say, over a period of two or three years has got to be settled by the Cabinet and the Minister under the authority of the Cabinet in a definite and specific manner.

But, it is no good for us to twit them by simply saying that you are probably willing to go only up to this extent whereas the Planning Commission has asked you to go in this curved manner. The curve has got to be reached somehow and if and when you reach it, there will always be—whether you call it consumers' surplus or producers' surplus—a lacuna and, therefore, that is the field open for experimentation and it is for us to make the suggestions for those experimentations and it is for the hon. Minister as well as his Cabinet to cover that ground by slow but at the same time dynamic steps.

Sir, after having said all these things, I wish to take you, Sir, to this proviso that is provided for 18A in this amending Bill. There, I find that Government have taken power to take over the management of any industrial undertaking far beyond five years. If need be, they can ask for power to take over any industrial undertaking for more than five years

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but whenever they do it, they have agreed to lay a copy as soon as may be, before both the Houses of Parliament and it is open to the Houses to take exception to any such extension or to approve of it. If we approve of it then there may be no proceedings at all; if, on the other hand, we do object then there can be proceedings and it would be open for the Government to justify their action. Therefore, I do not think that this five year.....

SHRI T. T. KRISHNAMACHARI: I have given an assurance which is being incorporated in the action that Government will take that all important notification issued under this Act will be laid before the Council.

PROF. G. RANGA: I am glad for this assurance. Sir, whenever any such industry is taken over, Government has got to take for itself all these powers that are detailed here in the original Act, section 18 and also in this 18A. Government also has got power to cancel any such notification; they have put it under 18F, I think. Now, if after a time they find that a particular industrial undertaking is being run very well indeed and can be trusted to the management of its own original owners they can be handed over to these people. That does not mean that the interests of the workers will be left to the tender mercies of the employers or that the interests of the public will be left to the tender mercies of the employers because Government has the general power of control and I want the Government to continue to exercise this power of control over all these industries, and that is where I am not able to agree with my hon. friend, Dr. Dutt when he said 'Why do you want this price control,' and so many other things.

Sir, it is true—and the hon. the Minister himself has confessed—that the price control generally acts more in the direction of keeping up the prices long after there is need for such a high level than in the direction of

keeping them down and that is one of the reasons, Sir, why some of us have not been satisfied with the administration of price control. At the same time, the hon. Minister has placed before us a very satisfactory point and that is this. In the case of a number of new industries which we want to start in our country—even for a big industry at one time an assurance from Government, an under-writing as it were, for a minimum rate of profit was given—and when we are unable to induce these huge *crorepatis* to go into these things, it is better to fix minimum prices which may come to be ceiling prices, so that people will be induced to come into these small industries.

Then, lastly, Sir, I am glad that the Government has adopted this new policy which I called as the ushering in of a social revolution, the new policy of protecting small industries and cottage industries, *vis-a-vis* the big industries. It is a social revolution.

Some hon. friend said that small fish will be eaten by the big fish and so on. The smaller fish has also got to be protected and Government have adopted a policy of compelling the big fish to concede a portion of its own profits in order to subsidise the production from small industries so that the larger number of people employed in these industries can be kept employed. That according to me is indeed the beginning of what is known as Eastern or Oriental economics. That is a revolutionary step and a revolutionary policy which the Planning Commission has accepted and my hon. friend has begun to implement it so far as the textile industry goes. Sir, there are a number of industries in regard to which there may be small scale industries and, in all these, I hope my hon. friend, Mr. Krishnamachari, will be able to come forward with necessary legislation on the lines of the Khadi and Handloom Protection Bill so that those industries also can be protected.

Sir, in conclusion, I wish to say that the most important thing today in our

country is efficient administration, honest administration, dynamic administration, popular administration. Those friends who believe in totalitarianism say that they have a better administration; I do not know, but I do not want that kind of administration. At the same time I do not want the kind of administration that we have in our country which is not able to deliver the goods. Maybe in certain respects, in certain aspects of the administration my generalisation is much too sweeping. It is much better for us to err on this side rather than err on the side of eulogy. So many of our friends come here eulogising their administration. They say that we must encourage them otherwise they will feel awfully discouraged. No, Sir. What is wanted is a dynamic Ministry or ministerial approach so that the Ministers know how to get work out of their own Ministry without having to come here shielding the officers. On the other hand, they should make them work honestly, dynamically, energetically and in that way there will be no need at all for any Minister to come before Parliament and then say, "Please excuse us: we have been working for..." how many hours they said?, "22 hours and sometimes 18 hours. Our people are also working sometimes up to midnight and if there are any mistakes, please excuse us." I am sure that is not the attitude of our hon. Minister but I do hope that our hon. Minister will set an example—I need not say to the rest of the Cabinet because there are some others also who are equally efficient as my hon. friend, maybe even better—for as many of the other Ministers as possible.

DR. J. P. SRIVASTAVA (Uttar Pradesh): Mr. Vice-Chairman, I thank you for giving me a chance to say a few words. I speak here not on behalf of any Chamber of Commerce nor on behalf of any organisation of industrialists, but I speak as a common man in whose welfare the Minister is interested.

Sir, at one time I was an industrialist. I then belonged to that fraternity.

My hon. friend the Minister also, I think, belonged at one time to the same fraternity but he having crossed the Rubicon has now attained Nirvana.

PROF. G. RANGA: You have fallen from Nirvana?

DR. J. P. SRIVASTAVA: I am still struggling for it.

Now, Sir, when I read this new Bill my eyes watered and I had to apply Optrex lotion. I rubbed my eyes and wondered what it was intended to achieve. I could not see exactly what useful purpose it was going to serve. In fact I could not make out what were the aims and objects of this piece of legislation. And yet it must be important as the Minister has received a chorus of praise and approbation all round, in both Houses. Still I wanted to satisfy myself what there was in it, what good purpose it was going to serve. Was it intended to serve the interest of the shareholders who had put their money into a company? Was it intended to help the cause of labourers and workers? Was it intended to protect the consumer? Was it intended to eliminate black-marketing, tax-evasion and things like that? Or was it intended to have a number of industrialists running after the Minister to save themselves from some kind of danger? I do not know what the exact object is. As the Bill is named it is called the Industries (Development and Regulation) Amendment Bill. Now where is the development in it? But there is plenty of regulation. Is it going to advance the cause of industrialisation of the country? Can the Minister give an answer on that point that the Bill would in the long run, say over a period of years, make India more self-sufficient in industries and develop the industries? I see nothing in it which is calculated to do that. I talk impartially again—not as an industrialist. Now what of course struck me was that there is plenty of 'regulation' in it. I thought it was a totalitarian Bill with two capital Ts in it. I do not wish to say that the Bill is not necessary at all but I feel that the

[Dr. J. P. Srivastava.]
Government have already got so many powers to keep down any delinquent industrialist or Company Director, that perhaps more powers are not necessary. The best administered country is the one which has the least number of laws and even the laws it has it does not invoke their use. That is the best administered country.

PROF. G. RANGA: What is that country?

DR. J. P. SRIVASTAVA: Well, my friend over there knows better than I. Now we have in India today, I think, a plethora of laws many of which are not used at all. They adorn the archives of the Government Secretariat. They have not been put to use because they cannot be put to use and it seems to me that this might also be one of those laws. It appears to me so and my reasons for saying this are very objective. I am not going to exaggerate or indulge in any kind of feints about it. My reasons are that the Chapter that we are just trying to introduce about the taking over of the management of concerns is, to my mind, very impracticable. I would not go into the rights or wrongs of this matter, but when the Government starts to work it, they will find that this legislation will not carry them very far. You cannot take over an industrial concern just like that. You won't be able to carry it. Industrial concerns might be public limited companies or proprietary ones. Now I think at the back of his mind the drafter of this Bill, had all the time these public limited companies, but you can have a large undertaking owned by one man or owned by a family. There are concerns like that. Now, what justification would you have for taking over a concern of that kind? Suppose the thing belongs to, let us say, Prof. Ranga. Now if the Minister goes to him and says: "In public interest I want to take over your concern together with all its assets", what will be the position? Maybe, it will include the house you

are living in, and probably with all the money that you have put into it. Is it not so? The money that has been invested in it.....

SHRI T. T. KRISHNAMACHARI:
And the money that would be invested.

DR. J. P. SRIVASTAVA.....and the money that would be invested in it, that is how the hon. Minister corrects me. Now, you may not have that money, because finance is changing all the time. Suppose you are buying cotton for a textile mill and for this you require 50 to 60 lakhs of rupees. You might have found the money by mortgaging your house, your lands, your shares, your everything. The cotton is used up and the loan has been paid back. In that case at the time of the take over would Government expect the man to again mortgage his house, his shares and his jewellery and find the money required for working capital. I do not know whether that is the intention.

(MR. DEPUTY CHAIRMAN in the Chair.)

So there is this working capital which varies from time to time which the proprietor or the Managing Agent finds somehow at the time when it is required. If Government does not get the money from him then Government will have to find a lot of money—crores of rupees—to run the concerns. It is not like a plum that you will pluck from the tree and eat. That cannot be done. You have either to make that poor man give you all the money that is required for running the concern or you will have to find it yourself.

Again, Sir, every concern that is running, incurs a lot of liabilities. It has a lot of creditors. Debts receivable, advances receivable, all these appear in the books—debts contracted by third parties. Will the Government make itself responsible for all these when it is taking over the concern?

SHRI T. T. KRISHNAMACHARI:
Yes, if they are *bona fide*.

DR. J. P. SRIVASTAVA: Well, what is *bona fide*? Everything is *bona fide* so long as it is a genuine transaction. It might however be a mistaken deal. It may be a thing which may result in loss.

SHRI C. P. PARIKH (Bombay):
Government does not take any responsibility.

DR. J. P. SRIVASTAVA: Well, suppose you bought cotton and the prices have since come down. There is going to be a big loss but it is a *bona fide* loss. Is the Government going to take it over? You may hold cloth which you cannot sell. You may have bought machinery and there may be lots of other things. All this responsibility will be that of Government. Frankly Sir, Government will be in a regular 'hornets' nest. That is all that I can say.

Then, Sir, Government takes the responsibility to run the concern successfully. The hon. Minister has been a very good friend of mine for a long time and I have great respect for his opinions. He says that the Government will be in the position of a trustee. He could have used no better word. That is where lawyers will make a lot of money. A trustee's responsibilities go very far. When you have taken over a concern as a trustee, you will have to discharge your duties, not in the way you like, but in the way the beneficiary likes. And the beneficiary will have the right to assail you at every step.

PROF. G. RANGA: Who are to be the beneficiaries?

DR. J. P. SRIVASTAVA: The person or persons to whom the whole thing belongs.

PROF. G. RANGA: It is the public interest which has to be considered.

DR. J. P. SRIVASTAVA: Public interest or no public interest, the con-

cern still belongs to one man or six men or 20 men—a body of men from whom you have taken it over as trustee, hoping you would show better results.

SHRI GOVINDA REDDY: Public trust.

DR. J. P. SRIVASTAVA: Whatever it is, unless you specially protect yourself, I do not know how you can get over it. You have taken over as trustee.

SHRI T. T. KRISHNAMACHARI:
Official trustee.

DR. J. P. SRIVASTAVA: Whatever it is. An official trustee is accountable. An official receiver appointed by the court is accountable all the time. You have to account for your.....

SHRI T. T. KRISHNAMACHARI:
Misdeeds?

DR. J. P. SRIVASTAVA: I will not call them misdeeds. You have to account for the management, for your stewardship. Misdeeds, may be, later on. To start with, management and stewardship. You will have to keep a very careful eye.

SHRI T. T. KRISHNAMACHARI:
I have to become an Indra?

DR. J. P. SRIVASTAVA: I do not know what the experience of the Government has been in the matter of the management of the cotton textile mill taken over at Sholapur, for which a special Act was passed. I think they feel a little bit as if they had burnt their fingers over it. They have made little progress.

PROF. G. RANGA: Mr. Chandravarkar is much more efficient than you are.

DR. J. P. SRIVASTAVA: No fault of his. I know that things were bad. But another man would have done much more than Government has done. Government had its own limitations.

[Dr. J. P. Srivastava.]

I do not blame you. But you have not been able to do as much as someone else could have done. I know the mill had gone to pieces when you took it over. I know the mill.

SHRI T. T. KRISHNAMACHARI: We could have sold it to the hon. Member!

DR. J. P. SRIVASTAVA: It is a very great responsibility which you are undertaking. Supposing the Government is taking over a company in which there is a managing agent, and there are directors. You say, when Government takes this company over, the contract of all these will terminate. That is all right. But when Government gives it up in five years' time, to whom would Government return the mill? There is no management in existence. None of the old directors hold office. Can Government reinstate them? No. So this is manifestly unfair. Government should not, I think, terminate but only suspend the tenure of office of the directors and managing agents. That is what the Industrial Finance Corporation does. These sections have been taken from the Industrial Finance Corporation Act. But their position is very very different indeed. They lend you money and naturally if you fail to repay their loan, they want to take over the management themselves and run the concern until their debt is paid off. There is a good deal of legal force behind that. But here they owe you no money. Simply because the Minister is of the opinion that it should be taken over, it is taken over. He can be of one opinion today and of another opinion tomorrow. Here the words used are: "in the public interest". Now what is this public interest? I think that is not defined anywhere. That is an undefinable term.

PROF. G. RANGA: Strange from a Member of Parliament.

DR. J. P. SRIVASTAVA: I suppose every Member of Parliament can claim

to be a member of the public or he might be above the public. I do not know. Public interest might be anything. So, Sir, I do not know how the Minister would decide as to whether the concern is being run in the best public interest or not. And I would beg of him, if he can, to define a little more precisely in what circumstances he thinks he would be entitled to take over a concern. I think 'public interest' is a very vague expression and it will save a lot of heart-burning if it could be definitely defined. People may think in any way they like as to why his concern has been taken over. Another man who perhaps is doing ten times worse things, is going about without any trouble. So, I think, it is only right that the Minister might define this thing very clearly. He should also say in what circumstances he would consider that the company's managing agent has failed from the point of view of public interest.

Then, Sir, I would like to know from the Minister whether he considers that the Government have the capacity to manage derelict industrial concerns and bring them back to life. Have they got the capacity to manage such concerns? *(Interruption.)* So, Sir, I would be very grateful if the Minister would give me an indication of what arrangements he has in view for the management of these concerns which he decides to take over. He has a great responsibility there, as I have already stated. It is somebody else's money and assets that he is playing with. It is far better to nationalise the concern. At least you pay compensation to the man whose business you take over. He gets whatever he can get, but here you keep all his investment, you keep all his money, you keep everything intact and he cannot touch it. You take over the management, you do what you like and you are not bound to account for any loss. It may be that after five years the concern is left entirely bankrupt. Nothing is left in it, but he cannot say a word about it. He will only have to say, "Thank you very much. I have got the skeleton back." You cannot be blamed for that, because you do it

in good faith, although it may have been due to a certain lack of capacity, lack of knowledge and lack of experience on your part. So, it is very important that when you take over a responsibility of that kind, you must be quite sure that you have got the personnel who can deliver the goods. If you think that sitting in the Secretariat your permanent officials can run a concern like that, well, we will only hear the same kind of stories as we are hearing day in and day out about some of the Government-sponsored projects and concerns.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): May we not look to people like the hon. Member to teach the Government personnel, to inspire and guide them?

DR. J. P. SRIVASTAVA: Oh, yes. Therefore, the constructive suggestion is that Government must have very competent staff whose integrity and capacity nobody can doubt. Integrity is the main thing. Otherwise, in one year, whatever there may be left of the concern will disappear.

Then, I would like to know whether the Minister has under this Act power to prevent a limited company from going into liquidation, once the Minister takes over. The shareholders may say, we do not want to have the company. How can Government prevent the shareholders from exercising their statutory right to go into liquidation?

SHRI T. T. KRISHNAMACHARI: We can.

DR. J. P. SRIVASTAVA: I doubt it. If the shareholders of a company decide that they do not want to carry on the business, their right to go into liquidation is inherent and nobody can take it away from them. And once they go into liquidation, all these things will fail and the liquidator will supervene.

SHRI C. P. PARIKH: See section 18

DR. J. P. SRIVASTAVA: I do think that a measure like that must not be

conceived hastily nor used drastically. I think Government themselves will find very soon when they take over a few concerns that they have bitten off more than they can chew and they will be well-advised not to bite off more. But the important question is that we want more industries in the country. We want to increase the productivity of the country whether it is by means of organized industries or cottage industries or agriculture. We must increase our country's wealth. Industrial development is a very potent and important factor in the economic regeneration of a country. You look at the war shattered countries of Europe today. What wonders they have done. They have built new factories, replaced all their machinery and they are forging ahead with the result that in Germany, e.g., I was there recently, at X-mas day, I had never seen the shops more full.....

PROF. G. RANGA: So are our shops in the Connaught Circus.

DR. J. P. SRIVASTAVA:.....with luxury goods, the best things in the world which they had produced and there was no control or ration while people had plenty of money to buy them. A few years ago they were paupers. We want the same things to happen in India and it should be possible to do so. We have the resources, and manpower which no other country has. We have raw materials and they are only to be harnessed properly. One of the greatest obstacles to industrial development in the country is—and my friend here recognizes it and it is engaging his attention—is the question of capital formation.

AN HON. MEMBER: Character formation?

DR. J. P. SRIVASTAVA: That we have. You need not worry about it. We are all supposed to have exemplary characters, moral and otherwise. But capital formation—I am talking of lesser things than character—if you want that the country should go in for industrialisation on an appreciable

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scale, then we must have money to do it with. We talk of foreign capital. At times when you cannot raise your own money, perhaps it is not a bad thing to have foreign capital but you must remember that the foreigner who comes here does not come here for the benefit of his health. He comes here for the profits that he will make out of his enterprise and to that extent the country's money will go out of the country. Now I would like to know from the hon. Minister whether he could enforce a provision like that in the case of foreign firms who want to come here and establish their business. I am sure he will have to use his power of exemption in those cases, otherwise they will not come near us. That is one of their first stipulations and all the companies who have come here—take the Oil Companies and so on—they have secured such guarantees regarding repatriation of their capital, their dividends and freedom from expropriation. If you want foreign capital to come in, this act cannot be used against them. I say it with all authority. Those people will not come near you. I don't want to be hypercritical or obstructive. I wish really to support my friend as much as I can but he has given me precious little room to do that. I wish he would think over the points which I have raised. They are not bogies and they are meant to help him and to assist him. True, the Bill may in certain cases prove beneficial in so far as some bad managing agents and others are concerned but I think he has got still sufficient powers to deal with them. Why have a thing like this which is found nowhere in the world—a provision like this is not found in any Statute Book of any country in the world.

SHRI H. N. KUNZRU: Mr. Deputy Chairman, the Bill before us, as has been explained by the Minister in charge, raises no new question of principle. He has pointed out that the powers in respect of the management of the industries and the regulation of

the distribution and the prices of commodities are found in the Industrial Finance Corporation Act and the Essential Services (Temporary) Powers Act. The Bill cannot, therefore, be criticised on the score of principle. Again it has to be admitted that the provisions contained in the Bill make the scheme of the principal Act a complete one. But as these provisions form part of the original Bill, that is the Bill that was introduced in 1947, although they would have been adversely criticised they would have been accepted in the end. But the position now is this. The hon. Minister in charge of the Bill has given us the impression that the powers contained in the principal Act have, in practice, been found insufficient. It is not enough for us, therefore, to be satisfied with the fact that the principles on which the amending Bill is based find support in certain legislation already passed by us, nor in the fact that the amending Bill, if passed, will enable Government to exercise fuller authority to achieve the purpose for which the principal Act was passed. He has to show that in actual practice when he was prepared to take over the management of an industry, he found that the powers conferred on him by the principal Act were insufficient.

He has been at pains to explain to us why he has come forward with an amending Bill. But, I don't think that there was anything in his speech to show that a new situation had arisen which had compelled him to come forward and ask Parliament to arm him with new powers. I hope there is still time for the Minister in charge of the Bill to tell us what are the practical reasons, and not merely the theoretical reasons, that have made him ask for more powers. I think he will not consider this request unreasonable.

The second thing that I should like to know, Sir, is how he proposes to use the new powers that he is asking Parliament to invest him with. Granted that if Government mean to act,

the powers contained in the new Chapter IIIA would be necessary, we should still like to know whether they are going to be used in the immediate future. My hon. friend the Minister said that he wanted that the Bill should be a warning to people who were acting against public interest rather than that he should have to use the new powers though he might have to use them in an emergency. That is, if I may say so, a very wise attitude to adopt but he knows better than most of us that where opportunities for profit are great the risks that are involved in contravening the spirit of laws are not found to be a great deterrent. Apart from this, being a practical man, I feel sure he could not have come forward with this Bill had he not felt that a situation had arisen in which he must use more drastic powers. He may not like to say everything to us, yet, I think it is necessary that he should tell us in what way the Bill is going to be used. If it is that the amending legislation is being asked for on theoretical grounds and no practical use is going to be made of it, I do not see how the situation in future will be any better than it is today. We are anxious, Sir, that if Government ask us to increase their authority because of the circumstances that have arisen, the Minister should be in a position to justify our support by telling us in what respects he proposes to make use of this new authority.

My next point relates to the machinery that he is going to rely upon for making use of the wide powers that the Bill would confer on him. He has no doubt thought about these things and I take it, Sir, that his intention is to utilise the agency of businessmen as far as possible for his purpose but I am not sure that this agency will fully satisfy the purpose that we have in view. We have been asking for some years for an Economic Civil Service. Whatever the merits of such a proposal may be, we have not got such a service now. We can have such a service in future notwithstanding

what fell from my hon. friend Shri J. P. Srivastava. There are certain undertakings, notably the Railways, that are run by Government with at least a tolerable degree of efficiency. I think therefore that if we have an Economic Civil Service we can, on the basis of past experience, feel fairly certain that this Service will enable us to discharge those functions in the economic field, which have to be entrusted to administrators and, however great their administrative ability may be, have no experience of economic problems. It is necessary therefore to know what is the agency on which Government propose to rely in order to make use of the powers contained in Chapter IIIA. I am putting these questions to my hon. friend not as a critic but as one who agrees with the principle of his Bill and who would like him to be in a position to see that these powers can be used in order to protect the public interest. There is one other question that I should like to discuss before I come to Section 5 of the principal Act to which I have already referred in an interruption that I made when the hon. Minister was speaking. The Government are exercising various kinds of control at the present time. The amending Bill, I mean the amending legislation, if put into effect, will enable them perhaps to exercise much more control than any other single piece of legislation enables them to do. We should therefore be told how the controls already exercised by the Government have worked and if Government have exercised any control under the Industries (Development and Regulation) Act, we should have been told how that control has worked. If the Minister is in a position to tell us that these controls have worked efficiently and in particular that such control as he has exercised under the Act that I have just referred to, has been successfully exercised, then the position with regard to voting for the Bill before us would be much stronger.

SHRI T. T. KRISHNAMACHARI: What are the controls that the hon.

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Member thinks that the Government should have exercised?

1 P.M.

SHRI H. N. KUNZRU: My hon. friend knows what they are. I am speaking about section 17 of the Act. Has it been made use of at all?

SHRI T. T. KRISHNAMACHARI: I cannot make use of it. I have told the House repeatedly that section 17 in that form cannot be made use of.

SHRI H. N. KUNZRU: I fully understand that. I have already referred to that and asked him whether he thinks that a situation has arisen in which the powers contained in Chapter IIIA would have to be used.

SHRI T. T. KRISHNAMACHARI: It is so. If I take action under section 15, I must be prepared for the logical culmination and for that I am not prepared under the present provisions of section 17. It acts both ways. If you don't have ultimate powers, then you don't take the initial step. Really it is a case like this. If you don't know how to swim, then you don't get into the water.

SHRI H. N. KUNZRU: Am I to take this to mean that no directions under section 15 of the Industries (Development and Regulation) Act, 1951, have yet been issued to any undertaking?

SHRI T. T. KRISHNAMACHARI: There have been only two instances in which I have invoked the power under section 15. One was to an Indore Mill. But subsequently the mill reopened and so I did not take any further steps. I have issued direction to another group of mills in Bombay under section 15. What will happen ultimately I do not know, because investigations are now proceeding. The fact that I did not act probably in some cases in which I ought to have acted was because I could not take the logical step which that action might call upon me to do.

SHRI H. N. KUNZRU: I do not doubt it; the provisions are perfectly logical. I have already said that, and had these provisions formed part of the original Bill, they would have been accepted. But if I am asking for more information, it is only because, I suppose the hon. Minister has asked for more powers, he has felt the need for more powers.

SHRI T. T. KRISHNAMACHARI: I have not asked for more powers. I have merely asked for those powers to be made adequate. It is not a question of more powers. Powers are there in section 17, but in the manner in which they are indicated, they are not enough. Legally it does not arm me with the powers that are necessary.

SHRI H. N. KUNZRU: There is no difference between me and the hon. Minister whatever on this point. What he has said means exactly what I have said.

I shall now come to the last point, namely the omission of section 5(4)(b). I should like to read out to the House how clause (4) (b) runs: This clause relates to the consultation that the Central Government must have with the Advisory Council. It runs as follows: "The Central Government shall consult the Advisory Council in regard to the exercise by the Central Government of any of the powers conferred upon it under section 16 or sub-section (1) of section 17, and may consult the Advisory Council in regard to any other matter connected with the administration of this Act in respect of which the Central Government may consider it necessary to obtain the advice of the Advisory Council."

Now, Sir, I grant that it may be necessary for Government to act speedily in an emergency and that there would be no time then to consult the Advisory Council. But is it necessary for them to go so far as to ask for the complete deletion of sub-section (4) (b)? My hon. friend Shri

Bimal Comar Ghose said that Government could, instead of section 17, refer to section 18A (1) (a) of the new Bill. The emergency will not always prevail. All cases will not be of an emergent nature. Is there any reason, therefore, why the Central Government should be relieved of the obligation of consulting the Advisory Council in certain cases? I lay stress on this because if Government can consult the Advisory Council in certain matters before taking action, they will inspire more confidence. We want that more Development Councils should be established. We want that there should be a speedier development of industries, and we want that the legislation that we have passed should be successful. Was it necessary, to achieve this purpose to do away altogether with sub-section (4) (b)? I think it could have been suitably amended so as to enable Government to act in an emergency without any reference to the Advisory Council. I know that this deletion does not debar the Government from consulting the Advisory Council; it only relieves them of the obligation to do so. But I think both on psychological and on other grounds that what Government should have tried to do was to amend suitably sub-section (4) (b) and not to ask for its complete deletion.

SHRI C. P. PARIKH: Mr. Deputy Chairman, this amending Bill has been brought two years after the enactment of the original Act, and the provisions that are contained in this amending Bill are of such a nature that Members on the opposite side who talk so much about Government pampering the industrialists may see now whether through this Bill Government are pampering the industrialists or are compelling them by all possible methods, methods which some Members of this House and of the other House have said are too drastic, too autocratic and too revolutionary, and of a nature which might impair the progress of industrial development in this country.

Now, Sir, I will explain to the

Members of the House the clauses which are amended. Section 15 now says that instead of the consumers' interests, we have to look to the public interest. "Public interest" is a very wide term and covers everything in my opinion, because public interest will include consumers' interests, labour interests, producers' interests, and the interests of the nation as a whole. Therefore with regard to that clause there should be no objection. In section 15 the words used are: "highly detrimental to the scheduled industry concerned or to public interest". Now, Sir, these are very important words. Although persons in the industry have taken this as a very drastic clause, it has to be understood that when the interests of the nation as a whole are jeopardised or when the industry is carried on in the manner which is highly detrimental to the State and to the consumers, then naturally the Government have to interfere. I know, Sir, a number of cases and specially three cases during the last year in which Government could have undertaken the management of those industries and I asked the hon. Minister for Commerce and Industry as to why such concerns were not taken over under the Industries (Development and Regulation) Act. In one case the mill had not paid the basic pay for three months apart from the dearness allowance for six months outstanding. Does such a concern not require to be controlled? Is not an investigation necessary into the affairs of such a concern? The second instance is, Sir, that there are cases where concerns have been run at a loss of Rs. 3 lakhs to Rs. 6 lakhs a year and carried on for a period of three or four years. These concerns, I say, Sir, even by closing would have incurred a loss of Rs. 1 lakh or Rs. 1½ lakhs. It is quite necessary for the nation to understand why these concerns were being run at a loss of Rs. 4 to Rs. 8 lakhs every year. That, Sir, also is highly detrimental to the interests of the nation.

Another question, Sir, is in regard to the labour matters. Where the

[Shri C. P. Parikh.]

labour is making a demand which is reasonable, if Government does not interfere in time, the relations between the employers and employees become of such a nature that the labour takes the control of the industry. Sir, instead of having labour to take the control of the industry, it is much better that the Government interferes in this respect. And I know of instances where labour have actually taken control of the industry and the management have left the premises. Now, these are cases which, in my opinion, are highly detrimental to the economy of the country and to the industrial progress. That is why I say, Sir, this clause has been brought in. The hon. Minister has not perhaps explained that but I know, Sir, that these are the three instances which are worrying him. There may be many more which have been brought to his notice. But, Sir, the section and the provisions which were contained in the original Act—section 17—were not of a nature as to enable him to take over the industries. And I think, Sir, an industrial concern can very well go to the Supreme Court and challenge the powers which Government had under section 17. Sir, clause (6) of section 17 of the original Act says:

“Any order made under this section shall have effect, notwithstanding

ing anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.”

And, Sir, there were the rights of the shareholders, the rights of the directors, the rights of the managing agents. All these are now abrogated by the amending section 18E where all the powers are given and the shareholders cease to function. They have no powers to nominate any person; they have no powers to pass any resolution; they cease to function. In fact these powers are necessary under which Government can interfere. And I do not suppose, Sir, that the Government will take over these concerns without making an investigation. The main question is whether they should go in the process of consulting committee, whether they should go in the process of consulting certain persons after obtaining the investigation report. That is the point at issue, Sir.

MR. DEPUTY CHAIRMAN: The hon. Member may continue on Monday. The House stands adjourned till 8-15 A.M. on Monday, the 11th May 1953.

The Council then adjourned till a quarter past eight of the clock on Monday, the 11th May 1953.