

Par. 82.1.1.52

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Saturday,  
13th August, 1955



# PARLIAMENTARY DEBATES

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## HOUSE OF THE PEOPLE

### OFFICIAL REPORT

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PARLIAMENT SECRETARIAT  
NEW DELHI

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## LOK SABHA

*Saturday, 13th August, 1955.*

*The Lok Sabha met at Eleven of the Clock.*

[MR. SPEAKER in the Chair]

### ORAL ANSWERS TO QUESTIONS

#### International Voluntary Work Camps

\*703. **Shri Radha Raman** : Will the Minister of Education be pleased to state :

(a) the number of International Voluntary Work Camps that have been working in India ;

(b) their number during the current year ;

(c) whether Government are affording any facility to these Camps ; and

(d) if so, in what form and shape ?

**The Parliamentary Secretary to the Ministry of Education (Dr. M. M. Das)** : (a) and (b). So far as the information is available with this Ministry, 5 International Voluntary Organisations have been rendering actual manual service in India.

(c) Yes.

(d) Whenever requests for holding Work Camp are received grants are paid at the usual rate of :

(i) Rs. 1/12/- per head per day for Food and incidentals ;

(ii) Actual III Class railway fare or Bus fare.

**Shri Radha Raman** : May I know the total number of foreigners which these organisations are sending as volunteers for work camps in India ?

**Dr. M. M. Das** : It is not proper to call them foreigners ; some of the volunteers that are working in these camps are non-Indians, but the organisations are international. The term 'international' includes India also. There are two such organisations. The Service Civil International which held a camp with a strength

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of 35 and the World University Service which held one with a strength of 50.

**Shri Radha Raman** : The Parliamentary Secretary has just now said that the Government of India is offering other facilities to these camps in addition to what is given in the shape of third class fare etc. May I know what those facilities are and also whether these volunteers working in the camps seek the permission of the Government of India before coming here ?

**Dr. M. M. Das** : These are international organisations already working in the country. The volunteers must have obtained permission, otherwise they would not be allowed to enter the country.

**Shri Radha Raman** : May I know which are the places in which these volunteers have so far worked and rendered manual labour ?

**Dr. M. M. Das** : As I have said, the camps are being held by two organisations. The location of the camp held by Service Civil International was at Tiruvanniyur Kuppam (Madras State) and that of the World University Service was located at Wazirabad, Delhi.

**The Deputy Minister of Education (Dr. K. L. Shrimall)** : Probably there is a misunderstanding which I might clear. Most of the persons who participated in these camps were Indians. All the persons who participated in the camp organised by the World University Service were Indians, whereas in the other organisation most of them were Indians and some foreigners also participated.

**Dr. Rama Rao** : May I know how many foreign nationals exactly took part in all the 5 camps so far ?

**Dr. K. L. Shrimall** : I do not know the exact number.

**Shri A. M. Thomas** : May I suggest that question 710 also may be taken up along with question 704 ? Both are about the India Office Library.

**Mr. Speaker** : Is it convenient for the Minister to answer them together ?

**Dr. M. M. Das** : Yes.

**India Office Library**

**\*704. Shri M. R. Krishna :** Will the Minister of Education be pleased to state :

(a) whether it is a fact that the Government of India have agreed to share the books of the India Office Library with Pakistan ;

(b) if so, what is the basis on which the books are proposed to be given to Pakistan ; and

(c) what is the value of books and other articles that will be given to Pakistan ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) to (c) The whole question of the future of the Library is still under discussion.

**India Office Library**

**\*710. Shri N. M. Lingam :** Will the Minister of Education be pleased to state :

(a) whether any discussion was held with the U. K. Government with regard to the transfer of the India Office Library, London during his recent visit to England ; and

(b) if so, the reactions of that Government in this regard ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) Yes, Sir.

(b) The matter is still under discussion.

**Shri M. R. Krishna :** May I know whether the expenditure incurred in carrying these books to U. K. was borne by the Government of India or by the U. K. Government ?

**Dr. M. M. Das :** Before 1935 all expenditures were borne by the Government of India ; after that during 1935 to 1947 the expenditure was borne by the British Government and some contribution was made by the Government of India.

**Shri M. R. Krishna :** May I know whether the British Government is against giving all the books that are in the library at present and are they particular in keeping some of the books in which they are interested ?

**Dr. M. M. Das :** The British Government is of the opinion that it is a unit library and they would not like to see it

divided ; if the library is to be kept in tact it should be in England.

**Shri N. M. Lingam :** In view of the categorical reply of the Minister for Public Relations in the House of Commons that the India Office Library should remain in U. K. only, may I know if the further discussion in this regard relates to the transfer of the Library or with regard to its management ?

**Dr. M. M. Das :** The discussions are still going on and I think it is not possible for me to give details of the discussion at the moment.

**Shri S. C. Samanta :** Is it not a fact that the *Manchester Guardian* on 16th May last remarked that the library of the India Office should remain in Britain, but under the care of eminent Indian and Pakistani scholars ? May I know what is the reaction of our Government to this ?

**Dr. M. M. Das :** Our Government does not accept that the library should remain in London. Our view is that it must come substantially to India.

**Shri Raghunath Sahai :** May I know whether any reaction has been received to the suggestion of the hon. Education Minister in this matter that a tripartite conference should be held to consider the entire question, with India, England and Pakistan participating in it ?

**Dr. M. M. Das :** The hon. Minister of Education only suggested that there should be a fact-finding committee consisting of representatives of these three Governments.

**Shri Heda :** In view of the statement of the Parliamentary Secretary that the cost of the books as well the cost for carrying them to U. K. was borne by the Government of India, may I know what are the grounds on which the U. K. Government are trying to own the library ?

**Dr. M. M. Das :** I think it is not possible for us to give the reasons upon which the claim of the U. K. Government is based ?

**Shri M. R. Krishna :** May I know whether it is the policy of the Government to back the British economy with sterling balance derived from the earnings of the India Office Library ?

**Mr. Speaker :** This question need not be replied

### Delhi Road Accidents

\*705. **Shri Dabhi** : Will the Minister of Home Affairs be pleased to state :

(a) whether it is a fact that in Delhi nearly 100 people are killed and more than 500 badly injured in road accidents every year ; and

(b) if so, what are the reasons for these accidents in Delhi being comparatively higher than in cities like Bombay and Ahmedabad ?

**The Deputy Minister of Home Affairs (Shri Datar)** : (a) and (b). 76 persons were killed and 679 injured in road accidents in 1954. These figures are not higher than the corresponding figures for Bombay City. Figures for Ahmedabad are not available.

**Shri Dabhi** : May I know whether it is a fact that 65 persons have been killed in road accidents in Delhi since last January ?

**Shri Datar** : If the hon. Member is referring to 1955, the answer is yes.

**Shri Dabhi** : May I know whether one of the reasons for the road accidents in Delhi is that cyclists often ride cycles which have neither bells nor lights carrying whole families sometimes ?

**Shri Datar** : The answer is fairly correct and the Government is taking steps to prevent all these things.

**Shri A. M. Thomas** : When the Home Ministry demands came up for discussion last time, serious charges were made with regard to incompetence of the Delhi traffic police. Have the Government taken any action in this matter ?

**Shri Datar** : Government are taking all the necessary steps for minimising all these injuries, by introducing silence zones, one way traffic and a number of other steps in this respect.

**Shri T. B. Vittal Rao** : The hon. Deputy Minister said that the accident rate in Delhi is not higher than in Bombay. May I know the relative figures for Bombay and Delhi ?

**Shri Datar** : I am prepared to give the figures for Bombay. In the year 1954 there were 13,765 accidents in Greater Bombay in which 196 persons lost their lives and 3,925 persons were injured.

### Naval Hospitals

\*706. **Shri Ibrahim** : Will the Minister of Defence be pleased to state :

(a) whether there is any proposal to set up new and modern Naval Hospitals in Indian Ports ;

(b) if so, where and by what time ; and

(c) what will be the recurring and non-recurring expenditure on their establishment ?

**The Deputy Minister of Defence (Sardar Majithia)** : (a) Yes.

(b) At Vizagapatam within about 2 to 3 years.

(c) Rs. 3.8 lakhs per annum recurring for pay of establishment, medicines, equipment and hospital clothing and rations ; Rs. 11.4 lakhs non-recurring on initial construction of buildings.

**Shri Ibrahim** : May I know the medical facilities available in the Indian ports ?

**Sardar Majithia** : At the moment, so far as the Navy is concerned, we have got a sick bay. There, naturally, the specialised treatment which is available in hospitals, is not available. Therefore, they go to the other hospitals run by the Army. Under this programme which I have already mentioned, we propose to give the Navy medical facilities on par with the Army.

**Shri Ibrahim** : May I know whether the existing hospitals will be expanded or new ones will be set up ?

**Sardar Majithia** : As I said, Vizagapatam is expanding, we have already undertaken the building up of a hospital there. Similarly, in Cochin, it will be coming up within the next 3 or 4 years.

**Dr. Rama Rao** : May I know if these naval hospitals will be open to the mercantile navy ?

**Sardar Majithia** : No, it is entirely for the defence personnel, particularly of the Navy.

### निर्वाचक पदाधिकारियों का सम्मेलन

\*७०७. **श्री हेम राज** : क्या बिधि मंत्री यह वताने की कृपा करेंगे कि :

(क) अभी हाल में श्रीनगर में हुए निर्वाचक पदाधिकारियों के सम्मेलन में किन विषयों पर चर्चा की गयी; और

(ख) क्या निश्चय किये गये ?

**बिधि तथा अल्पसंख्यक कार्य मंत्री (श्री बिश्वास)** : (क) तथा (ख) श्रीनगर में हुए निर्वाचन पदाधिकारी सम्मेलन का

मुख्य उद्देश्य निर्वाचन सम्बन्धी विभिन्न मामलों के बारे में विचारों का परस्पर विनिमय था। उस सम्मेलन में रीतिवत कोई निश्चय नहीं किया गया।

**Shri Hem Raj :** In view of the fact that most of the Himalayan regions remain snow-bound from October to June, and ordinarily elections are held in December and January, what arrangements will be made for holding elections in these days ?

**Shri Biswas :** As a matter of fact, nothing was settled as regards the date of the election. The general consensus of opinion was that the election should be held simultaneously both for parliamentary constituencies and legislative constituencies in the States.

**Shri A. M. Thomas :** May I enquire whether the general frame of the two Representation of the People Bills has been discussed in this conference and if so, may I enquire whether their views were taken into consideration in finalising these Bills ?

**Shri Biswas :** The Bills had been finalised before that. But, these recommendations were all placed before that conference and discussions took place upon them.

**Shri Heda :** After this conference, may I know whether their view was conveyed to the Government about the probable date for the next general elections ?

**Shri Biswas :** No, Sir. That is a matter for the Government to decide.

**Shri Hem Raj :** In view of the fact that in the last general elections, polling stations in the hill areas were located at distances of 40 or 50 miles from the homes of the voters, may I know what arrangements will be made this time ?

**Shri Biswas :** All these difficulties were pointed out by the representatives of the various States. They will be considered.

#### Community Projects Development \*

\*711. **Shri Bishwas Nath Rgy :** Will the Minister of Natural Resources and Scientific Research be pleased to state whether Government have under consideration any Scheme for the geological survey of the areas in the Community Project Centres for an all-round development work to be carried on simultaneously in the Project Centres ?

**The Deputy Minister of Education (Dr. K. L. Shrimali) :** A statement giving the required information is placed on the Table of the House. [See Appendix V, annexure No. 18].

**Shri Bishwas Nath Roy :** In view of the statement, may I know whether any area in the Community Projects has the benefit of the Geological Survey of India till now ?

**Dr. K. L. Shrimali :** Yes, Sir. In 1953, the Raipur rural cum urban Community Project in Madhya Pradesh was visited by a senior officer of the Geological Survey of India. In 1953-54, the Ganga Kadar colonisation area in Meerut District, U. P. was visited to inspect rare salts and the incidence of minerals and to study the underground water resources.

**Shri Bishwas Nath Roy :** May I know whether the areas mentioned just now were simply inspected by the officers or were actually surveyed ?

**Dr. K. L. Shrimali :** They were visited by senior officers of the Geological Survey of India with a view to survey them.

**Shri B. K. Das :** May I know whether any geological survey work that is to be taken up in a Community Project area will be taken up as one of the items of the community project or it will be done separately by the Geological department ?

**Dr. K. L. Shrimali :** As I have already indicated in the statement, the main purpose of the Geological survey department is to make a geological survey of the whole country. If any special request is made by any State Government or by any body to the Geological Survey of India, it does go to their help. Whenever any requests are made, they do help the authorities which approach them.

#### Indian Naval Flotilla

\*713. **Dr. Rama Rao :** Will the Minister of Defence be pleased to state :

(a) whether it is a fact that ships of the Indian Naval Flotilla were sent recently to the Mediterranean for training exercises ;

(b) if so, what was the duration of such exercises ;

(c) which other countries participated in the exercises ?

**The Deputy Minister of Defence (Sardar Majithia) :** (a) Yes.

(b) Eight weeks.

(c) Britain only.

**Shri G. S. Singh :** May I know whether it is a fact that while these ships were proceeding for these exercises, two ships collided and if so, the extent of the damage suffered?

**Sardar Majithia :** Another question is coming up later. I will answer it when that question comes up.

**Shri N. M. Lingam :** May I know if it is a fact that two of our ships returned to our ports before schedule and if so, the reasons therefor?

**Sardar Majithia :** This relates to the same question. Two ships were involved in an accident. They had to return to Bombay to carry out certain repairs. After carrying out those repairs, they did join the exercises in the Mediterranean though a bit late.

### **All-India Council of Sports**

\*715. **Shri V. P. Nayar :** Will the Minister of Education be pleased to state :

(a) whether it is a fact that the President of the All-India Council of Sports circulated a note regarding re-organisation of Sports and Games in the country, at the meeting of the Council held on the 7th May, 1955; and

(b) if so, the reactions of Government thereon?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) A note on behalf of the Standing Committee of the Council was circulated.

(b) Government are in general agreement but decisions will only be taken on concrete proposals as and when they are submitted.

**Shri V. P. Nayar :** May I know whether in this note there is any indication that there should be an elaborate scheme for the coaching of trainers and players to be run under the auspices of the Sports Council?

**Dr. M. M. Das :** The note is a comprehensive one and it covers all aspects concerning games and sports of India. It also indicates the future policy that the Government should follow in this matter.

**Shri V. P. Nayar :** It may cover all the aspects. I wanted to know whether this fundamental aspect of organising the coaching of both the trainers and players has been specifically mentioned in this note.

**Dr. M. M. Das :** This note consists of several cyclostyled pages. If the hon. Member wants, I can send him a copy.

**Mr. Speaker :** Has he any objection to place it on the Table of the House?

**Dr. M. M. Das :** Certainly not.

**Mr. Speaker :** It may be placed on the Table of the House.

**Shri V. P. Nayar :** I want to know whether the Government have bestowed any thought on the necessity of having a National Institute of Physical Culture.

**The Deputy Minister of Education (Dr. K. L. Shrimali) :** That proposal is under consideration.

**Shri V. P. Nayar :** May I know whether under the particular note to which I was referring, the various States Sports bodies will be kept within the scheme or the scheme will be run under the auspices of the Central Government?

**Dr. K. L. Shrimali :** The whole scheme has not yet been prepared. The note had made certain suggestions. They are under consideration.

**Shri V. P. Nayar :** May I know whether the Government propose to consult people outside the Sports Council, who happen to know something about sports, before the scheme is finalised?

**Dr. K. L. Shrimali :** The Sports Council is a very representative body and Government do not propose to consult anybody outside the Sports Council.

### **Excavations at Tamluk**

\*716. **Shri S. C. Samanta :** Will the Minister of Education be pleased to state :

(a) whether it is a fact that the archaeological excavations carried on in Tamluk Town in the district of Midnapur have been discontinued;

(b) if so, the reason therefor;

(c) whether the coins and other articles found there have been examined;

(d) if so, the age to which they belong; and

(e) the number of places where excavation works were carried on and the depths to which the earth was dug?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) Yes.

(b) The potentiality of the site having been revealed by excavated trenches it is considered unnecessary to pursue the work.

(c) Some have been examined and others are under examination.

(d) From the neolithic down to modern times with breaks in occupations.

(e) Seven trenches were excavated. All of them were excavated down to the natural soil which was met with at an average depth of 13 feet.

**Shri S. C. Samanta** : In answer to my question Government has admitted that it belongs to the neolithic age, the Kumbha age and other ages which are older than the periods in respect of which excavations are going on in other parts of the country. May I know why more excavations are being carried on in other parts of the district and not further in Tamralipta?

**Dr. M. M. Das** : There is a proposal that archaeological sites in the district of Midnapore should be surveyed and if better sites than the present one which was excavated are found, those sites will be excavated.

**Shri S. C. Samanta** : Is it not a fact that this Tamralipta of Mahabharata-renown age is not to be excavated more efficiently while other portions of Midnapore will be excavated?

**Dr. M. M. Das** : I may submit that the excavations have shown that these sites near Tamralipta are disturbed sites because tanks were dug upon these sites. So there is a break in the occupations. So we are searching for better sites.

**Shri N. B. Chowdhury** : May I know Sir. ....

### संस्कृत-शिक्षा

\*७१७. **श्री भक्त दर्शन** : क्या शिक्षा मंत्री २६ अप्रैल १९५५ को दिये गये तारांकित प्रश्न संख्या २५८४ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) किन किन राज्यों ने संस्कृत-शिक्षा की वर्तमान प्रणाली में सुधार के सम्बन्ध में अपनी राय अब तक दी है ;

(ख) क्या सरकार ने उनकी रायों पर विचार किया है; और

(ग) यदि हां, तो इस विषय में उसका क्या विचार है ?

**शिक्षा उपमंत्री (डा० के० एल० श्रीमाली)** : (क) निम्नलिखित राज्यों ने उत्तर दे दिये हैं :—

कच्छ, मद्रास, मैसूर, कुर्ग, राजस्थान, भोपाल, झांझ और विन्ध्यप्रदेश ।

(ख) नहीं, जी ।

(ग) प्रश्न नहीं उठता ।

**श्री भक्त दर्शन** : क्या कोई ऐसी अवधि निर्धारित की गई है, जिसके अन्दर प्रान्तीय सरकारें अपनी सम्मति दे देंगी और केंद्रीय सरकार इस सम्बन्ध में अपना निर्णय देगी ?

**डा० के० एल० श्रीमाली** : इस सम्बन्ध में कोई अवधि नहीं निर्धारित की जा सकती है । हम स्टेट गवर्नमेंट्स को लिखते हैं । उनमें से कुछ का जवाब आ गया है और जिनका नहीं आया है, उनको हम ने याद-दिहानी की है । जब उनका जवाब भी आ जायगा, तो उसके बाद इस प्रश्न पर विचार किया जायगा ।

**श्री भक्त दर्शन** : क्या गवर्नमेंट के ध्यान में यह बात आई है कि संस्कृत सरीखी महान् और उच्च भाषा को राज्य का पूरा समर्थन प्राप्त न होने के कारण उसके छात्रों की संख्या घटती जा रही है, इस लिए क्या गवर्नमेंट इस विषय में शीघ्र ही कार्यवाही करेगी ?

**डा० के० एल० श्रीमाली** : साहित्य अकादमी के संस्कृत के एडवाइजरी बोर्ड का जो रेजोल्यूशन आया था, उसके मुताबिक हम ने स्टेट गवर्नमेंट्स को लिखा था । उनका जवाब आने पर इस विषय पर विचार किया जायगा । संस्कृत एक बहुत पुरानी भाषा है और हम भी चाहते हैं कि उसका अच्छी तरह से विकास हो ।

**सेठ गोबिन्द दास** : क्या राज्य सरकारों ने इस सम्बन्ध में कुछ गैर-सरकारी संस्थाओं और विद्वानों की भी सहायता ली है और सलाह ली है ?

**डा० के० एल० श्रीमाली** : यह तो दूसरा प्रश्न है ।



**Shri Thimmaiah :** May I know whether any financial help is given to any of the Sanskrit colleges that are in the States?

**Dr. K. L. Shrimali :** I shall need notice with regard to that question.

**Shri Dabhi :** May I know the names of the States where Sanskrit is a compulsory subject in the secondary classes?

**Dr. K. L. Shrimali :** I shall need notice to answer that question.

### Fire Service College

**\*719. Chaudhuri Muhammed Shafie :** Will the Minister of Home Affairs be pleased to state :

(a) whether it is a fact that Government have decided to start a Fire Service College;

(b) if so, the name of the place where it will be opened;

(c) whether any Committee was appointed to study the problem;

(d) if so, what are its findings; and

(e) the total amount spent on the Committee?

**The Deputy Minister of Home Affairs (Shri Datar) :** (a) Yes.

(b) Rampur in Uttar Pradesh.

(c) Yes.

(d) A summary of the recommendations of the Committee is placed on the Table of the House. [See Appendix V, annexure No. 19].

(e) Rupees Two Thousand and Four Hundred approximately.

**Chaudhuri Muhammed Shafie :** May I know when it will be opened?

**Shri Datar :** It will be opened in the course of a few months.

### Development of Backward Areas

**\*722. Shri Tulsidas :** Will the Minister of Home Affairs be pleased to state:

(a) whether any directives or instructions have been issued to the State Governments for giving special consideration to the development of backward areas in the schemes suggested for the Second Five Year Plan; and

(b) if so, the details thereof?

**The Deputy Minister of Home Affairs (Shri Datar) :** (a) and (b). The States are themselves expected to pay particular attention to the need for developing backward areas and to formulate proposals accordingly for inclusion in their Second Five-Year Plans. No specific directives have been issued by the Central Government.

**Shri Tulsidas :** May I know whether the areas like North Mehsana and the former Baroda State have been considered as backward areas?

**Shri Datar :** I cannot say whether they are backward areas but that is not the special responsibility of the Central Government. It is for the State Governments to improve the backward areas.

**Shri M. S. Gurupadaswamy :** May I know whether it is a fact that the Government has sent directives to the State Governments to prepare plans for the development of backward classes?

**Shri Datar :** That question is now under consideration in view of the receipt of the recommendations of the Backward Classes Commission.

**श्री भक्त दर्शन :** क्या गवर्नमेंट ने कोई ऐसी सूची तैयार की है कि प्रत्येक राज्य में कौन से इलाके हैं, जो वास्तव में बैकवर्ड हैं और जिनका विशेष प्रकार से विकास किया जाना चाहिए ?

**श्री दातार :** इससे गवर्नमेंट ग्राम इंडिया का सम्बन्ध नहीं है ।

**Shri Ramachandra Reddi :** May I know whether a list of backward areas has been called for from State Governments and if so, whether it will be placed on the Table of the House?

**Shri Datar :** That is what I stated. So far as the backward areas are concerned it is the responsibility of the States and I am quite confident that State Governments in preparing their Second Five Year Plan would take into account the improvement of backward areas.

### Central Excise Department

**\*724. Shri Sanganna :** Will the Minister of Finance be pleased to state :

(a) whether it is a fact that a scheme for the construction of residential accommodation for the staff of the Central Excise Department in Orissa is under consideration; and

(b) if so, the stage at which the proposal stands at present?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha) :** (a) Yes Sir. It has been decided to construct residential accommodation for non-gazetted staff of the Central Excise Department at stations where accommodation is difficult to secure. In Orissa priority is being given for construction of staff quarters at Cuttack and Sambalpur.

(b) Sites are being selected at these stations for the construction of staff quarters.

**Shri Sanganna :** May I know what relief in the meanwhile has been given to the Government servants who are facing the acute problem of residential accommodation?

**Shri A. C. Guha :** I do not know what the hon. Member really means. How can Government help in such cases except by trying to find out some houses for them through the help of the State Governments?

**Shri Sanganna :** What is the scope and extent of this scheme, the estimated expenditure of the scheme?

**Shri A. C. Guha :** The scheme is for the whole of India and we are trying also to get some houses for the range officers. I think the total expenditure would be several crores. We have allotted Rs. 10 lakhs now for the acquisition of lands, but I cannot give any idea as to when the whole scheme will be completed, for that will depend upon the Central P. W. D.

**Shri N. B. Chowdhury :** May I know whether there is any proposal before the Government to provide accommodation to the Central Excise staff in the tobacco-growing rural areas of Orissa apart from the two places mentioned by the hon. Minister?

**Shri A. C. Guha :** That is what I have stated, that our idea is also to provide office-cum-residential accommodation for our range-officers—that means, inspectors who are doing the tobacco work in the villages.

**Shri Sanganna :** May I know whether the work will be carried out by the Government agency or any other agency?

**Shri A. C. Guha :** Naturally, through Government agencies. We cannot leave building construction to private agencies. We are trying to get it done through the Central P. W. D., and I have said a few minutes ago that we have to depend upon the Central P. W. D. for this work.

#### Loan to Hyderabad

\*725. **Shri P. Ramaswamy :** Will the Minister of Home Affairs be pleased to state :

(a) whether it is a fact that the Government of Hyderabad have asked for a loan to re-organise and construct barracks etc., for the State Police Force; and

(b) if so, what is the amount of the loan asked for and what is Central Government's decision in the matter?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) Yes.

(b) Rs. 2.35 crores spread over a period of five years.

The Government of India have under examination the whole question of adequately housing Police Forces in the States. A final decision has not yet been taken.

**श्री पी० रामास्वामी :** क्या ये बैरक्स पुलिस आफिसर्स के लिए ही बनाई जाती हैं या कान्स्टेबलों के लिए भी हैं? अगर वे दोनों के लिए हैं, तो इनमें कितनी आफिसर्स के लिए और कितनी कान्स्टेबलों के लिए हैं और उनकी कीमत क्या है?

**Shri Datar :** It is too early to give a break-up so far as officers and constables are concerned, but Government are anxious that proper housing facilities should be provided for the constables as also the lower classes of officials.

**Shri A. M. Thomas :** May I enquire whether similar requests have been made by other States and in view of the answer that has just now been given by the hon. Deputy Minister, whether proposals have been invited from other States?

**Shri Datar :** In fact, a proposal to this effect was made at the Home Ministers' conference early this year. This question was taken up with all the State Governments and they were requested to specify the amount that they would require for this purpose. We have received their replies and the matter is now under the consideration of the Government, and especially under the consideration of the Planning Commission.

**Shri Heda :** In view of the paucity of accommodation for the police forces in Hyderabad, may I know when Government will finalise the proposal?

**Shri Datar :** We want to finalise the whole proposal as early as possible.

#### Estate Duty

\*730. **Shri Dabhi :** Will the Minister of Finance be pleased to state :

(a) whether it is a fact that Government have accepted the recommendation of the Taxation Enquiry Commission, to the effect that the period before death during which gifts *inter vivos* become liable to Estate Duty should be increased from two years to five years; and

(b) if so, when this recommendation will be implemented?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah) :** (a) and (b). No decision has yet been taken but this recommendation is being considered along with other recommendations of the Taxation Enquiry Commission.

**Shri Dabhi :** May I know the reasons which the Taxation Enquiry Commission have given for increasing this period?

**Shri M. C. Shah :** It is there in the report of the Commission. He might just look up paragraph 29 on page 248 of Volume II of the Report of the Taxation Enquiry Commission.

**Shri L. N. Mishra :** May I know what has been the return from the Estate Duty last year? Was it up to the estimated amount or behind the estimate?

**Shri M. C. Shah :** Behind the estimated amount. Up to 31st March, 1955 it was Rs. 1,25,26,757.

**Shri B. K. Das :** May I know whether any gift of this category has been liable to Estate Duty so far?

**Shri M. C. Shah :** That requires going into all these cases which have been disposed of—nearly 1,640. With regard to this we have already issued instructions to the authorities to bring the matter to our notice if there is any evasion because of this provision.

**Shri N. B. Chowdhury :** Can we have some idea of the time that Government will take to finalise its opinion on the Report of the Taxation Enquiry Commission?

**Shri M. C. Shah :** I cannot give the exact date, but we are very keen to implement as early as possible the recommendations which are accepted.

#### Re-employment

\*731. **Shri Ibrahim :** Will the Minister of Home Affairs be pleased to state :

(a) the number of retired I. C. S. Officers re-employed by the Government of India as on the 30th June, 1955; and

(b) the offices they are holding at present?

**The Deputy Minister of Home Affairs (Shri Datar) :** (a) and (b). A statement is laid on the Table of the House. [See Appendix V, annexure No. 20].

**Shri Ibrahim :** May I know the emoluments which these officers are getting besides their pension?

**Shri Datar :** They are different. But while settling their emoluments the pension that they receive is taken into account and deducted from the pay settled.

**Shri L. N. Mishra :** May I know whether there is any proposal to recast the old service conditions of the I. C. S. officers and, if so, how they are to be recast?

**Shri Datar :** There is no such proposal, and there is no need for any such proposal.

**Shri M. S. Gurupadaswamy :** May I know whether it is a desirable practice to re-employ retired I. C. S. officers when other people are available?

**Shri Datar :** In extreme cases Government have to re-employ them, especially so far as such important and very high administrative posts are concerned where long experience is necessary. In all these cases, whenever there is a proposal for re-employing any such officer, the matter has to come to the Home Ministry for their concurrence, and all the circumstances are taken into account.

#### Indian Olympic Association

\*734. **Shri V. P. Nayar :** Will the Minister of Education be pleased to state:

(a) whether it is a fact that Government have withdrawn their representative from the Indian Olympic Association; and

(b) if so, the reasons therefor?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) Yes.

(b) Government do not consider that any useful purpose will be served by nominating a representative to the Council of this body.

**Shri V. P. Nayar :** The hon. the Deputy Minister said that the Sports Council is representative of all organisations in sports. May I know whether it is not a fact that the Olympic Association withdrew its representative from the All India Sports Council and that was the reason for which Government also withdrew their representative from the Olympic Association?

**Dr. M. M. Das :** It may be a fact.

**Shri V. P. Nayar :** I am unable to ask a question because the answer is "may be".

May I know whether Government are aware that before the organisation of the All India Sports Council the representative of the Government of India in the Olympic Association submitted a scheme and tried to get the

scheme through, and when he could not succeed, the All India Sports Council was formed ?

**Dr. M. M. Das :** I am not aware of this fact.

**Shri V. P. Nayar :** May I know whether Governments are aware that in the World Olympiad no Indian team can take part representing India, unless such teams are recommended by the Indian Olympic Association ?

**Dr. M. M. Das :** That may be a fact, but I cannot see what relation that has got here.

#### **Institute of Armament Studies, Kirkee**

\*735. **Shri S. C. Samanta :** Will the Minister of Defence be pleased to state :

(a) the number of Technical Staff Officers who have been trained in the Institute of Armament Studies at Kirkee since its establishment ; and

(b) the steps that the institute has taken to promote the dissemination of basic knowledge in Defence Science amongst the Army ?

**The Deputy Minister of Defence (Sardar Majithia) :** (a) 10.

(b) The most important step in this direction is the training of Technical Staff Officers from the Army. The Institute also participates in the various Army Exercises and sends scientists to the various Army Establishments to understand their problems on the spot. Symposia and discussions on scientific subjects are also held from time to time in which the Army also participates among others.

**Shri S. C. Samanta :** May I know what categories of personnel are given training in this Institute, and what benefit they derive out of the training ?

**Sardar Majithia :** I have not quite grasped what he means by categories, but, as I said, there are officers who are trained in this Institute. Apart from other courses, ballistics is one of the subjects of their study. They check up how the armaments behave under various conditions, and all that research is carried out to improve the weapons and the technique.

**Shri S. C. Samanta :** May I know whether this Institute has collaboration with the existing Universities in India which have also got the training ?

**Sardar Majithia :** Professors from the Universities take part in the symposia and therefore, in this way they do come together. But they do not form an integral part of this Institute.

**Shri S. C. Samanta :** May I know whether the papers are printed and distributed amongst the different scientists for examination ?

**Sardar Majithia :** As I said, this refers to armaments employed by the Army and they come under the category of secrecy, and therefore it is not disseminated to the public.

**Shri Joachim Alva :** As this Institute is a brand new one, was care taken to select officers and to send them abroad for training and experience ?

**Sardar Majithia :** Admittedly, it was started off in 1952, and the training of officers started off in 1953. But no foreign training is needed, because our officers are fully capable of understanding the problems.

#### **Finance Corporation**

\*737. **Shri Radha Raman :** Will the Minister of Finance be pleased to state whether it is a fact that Government have agreed to the Delhi State Government forming a Joint Financial Corporation with the Punjab Government ?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha) :** A proposal was received from the Delhi State Government for the establishment of a State Financial Corporation. After taking various facts into consideration the Government of India advised the Delhi State Government to form a Joint Financial Corporation with the Punjab Government after amendment of the State Financial Corporations Act, 1951, proposals for which are under consideration.

**Shri Radha Raman :** May I know what difficulties or considerations are responsible for this decision of the Government to have a joint Corporation and not separate Corporations for the States of Delhi and Punjab ?

**Shri A. C. Guha :** It has been the estimate both of the Central Government and of the Reserve Bank that for a small State like Delhi it would be a very costly affair to maintain a separate State Financial Corporation. We have estimated from the figures submitted by the State Government that the average size of the loans would be about Rs. 10,000 only, and so the applicants will have to pay not only the interest but also the processing cost of each loan which, surely, would be very much high in such small loans. The Delhi State Government were advised to combine with the Punjab Government, and after some discussions which went on between the two Governments, ultimately the Delhi State Government accepted this suggestion.

**Shri Radha Raman :** May I know whether Government have given their full thought to the growing need for industrial enterprises in Delhi and also to the question of offering such facilities as may be possible, after this corporation comes into being ?

**Shri A. C. Guha :** As I have already stated, this whole matter was discussed by the representatives of the Delhi State Government, the Finance Ministry of the Central Government and also of the Reserve Bank of India. All relevant facts were considered, and after the discussion, the State Government of Delhi accepted the proposal of having a joint State financial corporation with the Punjab Government, which of course would be enlarged to a certain extent to provide for the necessities of the Delhi State.

**Shri A. M. Thomas :** May I know whether any other Part C State has got a finance corporation of its own, or a joint finance corporation with any other State ?

**Shri A. C. Guha :** No. Part C State has got a finance corporation of its own at present. The Act also does not permit joint corporation between any two States, but we are contemplating to amend the Act to provide for the setting up of combined corporations.

#### Andaman and Nicobar Islands

\*738. **Shri Ibrahim :** Will the Minister of Education be pleased to state the steps that are being taken by Government to improve the standard of education in the Andaman and Nicobar Islands ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** The Government of India appointed a Committee of educationists which visited the Islands in April, 1955, to study the educational conditions obtaining there and to submit report on the expansion and improvement of the existing educational facilities there. The report of the Committee is awaited.

**Shri Ibrahim :** May I know whether there is paucity of Hindi teachers in the Andaman and Nicobar Islands, and if so, when it will be removed ?

**Dr. M. M. Das :** There was some paucity of Hindi teachers. Last year there was a question in this House. That question got some publicity, and we received large number of applications from Hindi teachers all over India offering to serve in the Andamans. We have sent those applications to the Chief Commissioner, of the Andamans and he has prepared a panel of teachers who will be appointed.

**Shri Ibrahim :** May I know whether scholarships have been given to the students of the Andaman and Nicobar Islands, and if so, their number ?

**Dr. M. M. Das :** I want notice.

**श्री धुलेकर :** क्या भारत सरकार ने वहाँ पर कम्पलसरी प्राइमरी एज्यूकेशन कर दी है ?

**Dr. M. M. Das :** It is difficult to introduce compulsory primary education there, because of the type of the country and the aboriginal tribes that inhabit these islands. But there are only 24 primary schools in the Andamans.

**Shri Matthen :** May I know whether any arrangements are being made for education in Malayalam for the settlers who have been taken to the Andamans from Travancore-Cochin ?

**Dr. M. M. Das :** I shall be glad to answer that question, if I get notice.

#### Arid Zone Advisory Committee

\*739. **Shri S. C. Samanta :** Will the Minister of Education be pleased to state :

(a) whether India is a member of the UNESCO advisory Committee on Arid Zone ;

(b) whether the Jaswant College at Jodhpur was given an associated status in the UNESCO Arid Zone Programme in 1952, on the recommendation of the Advisory Committee ;

(c) if so, how far the zones in Rajasthan have been benefited by it ; and

(d) the amount of technical assistance so far received by the Jaswant College for conducting research works ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) Yes.

(b) Yes.

(c) The research undertaken in the Jaswant College with the assistance of UNESCO is not yet complete and it is not therefore possible at this stage to assess its benefits.

(d) The College has received from UNESCO selected reports on research concerning development of Arid Zones.

**Shri S. C. Samanta :** May I know whether any foreign experts are also participating in the research work at the Jaswant College ?

**Dr. M. M. Das :** No. So far as our information goes, there are no foreign experts.

**Shri S. C. Samanta :** May I know what sort of plants will be planted in the arid zones in Rajasthan, in respect of which research is being carried out?

**Dr. M. M. Das :** The research is going on ; and until the researches are completed, that cannot be said.

**Shri S. C. Samanta :** May I know whether foreign plants are being experimented upon, or indigenous plants?

**Dr. M. M. Das :** I want notice.

**Mr. Speaker :** The question list is now over. We shall take up questions in respect of which Members concerned are absent, and authority has been given.

### Taxation Research

**\*709. Shri Joachim Alva (on behalf of Shri Gidwani) :** Will the Minister of Finance be pleased to state :

(a) whether any research is being done by Government in the field of levy and collection of Central taxes;

(b) if so, the expenditure incurred in this connection during 1954-55 ; and

(c) if the answer to part (a) above be in the negative, whether Government propose to start such an organisation?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat) :** (a) to (c). There is no special organisation for undertaking a research into the levy and collection of Central taxes in India, but these are studied and kept under review in the normal course. The Taxation Enquiry Commission have, however, recommended the setting up of a Tax Research Bureau and this recommendation is under consideration of the Government.

**Shri Joachim Alva :** Is it because of lack of officers or of lack of building space that this research section has not been set up so far? Do Government consider that it is time now, in view of our having put up a building for the Central Board of Revenue, to have a section like this?

**Shri B. R. Bhagat :** As yet, this was the normal responsibility of the Department concerned. But the recommendation is being considered, and pending a decision on this question, it has been decided that a small research cell be established in the Central Board of Revenue to study the revenue and other results of the various changes in income-tax law from time to time.

**Shri Joachim Alva :** In view of Government having appointed public relations officers for the taxation department, do they not consider it advisable to have this research section immediately?

**Shri B. R. Bhagat :** This is being considered.

### Scheduled Tribes

**\*729. Shri M. S. Gurupadaswamy (on behalf of Shri Kamath) :** Will the Minister of Home Affairs be pleased to refer to Statement II laid on the Table of the House in reply to Starred Question No. 1448 on the 21st December, 1954 and state :

(a) the amount spent in 1954-55 on the execution of development schemes in Madhya Pradesh for the Welfare of Scheduled Tribes in that State out of the Central Grant-in-aid sanctioned for the purpose ; and

(b) why the amount sanctioned was not fully utilized?

**The Deputy Minister of Home Affairs (Shri Datar) :** (a) The State Government have reported that the Central grant-in-aid of Rs. 28 lakhs sanctioned for the year 1954-55 for the welfare of the Scheduled Tribes has been fully utilised.

(b) Does not arise.

**Shri M. S. Gurupadaswamy :** May I know whether more grant will be given for the uplift of the Scheduled Tribes in Madhya Pradesh?

**Shri Datar :** So far as Madhya Pradesh is concerned, for the current year we have sanctioned a ceiling of Rs. 37 lakhs; and actually a sum of Rs. 33,58,000 has been sanctioned.

**Shri M. S. Gurupadaswamy :** May I know how many persons from amongst the Scheduled Tribes will be benefited as a result of these schemes?

**Shri Datar :** It will be very difficult to say how many people will be benefited. A very large section of the Scheduled Tribes will be benefited by this.

**Shri M. S. Gurupadaswamy :** What is the approximate number?

**Shri Datar :** It is very difficult to give it State-wise.

**Shri Bhakt Darshan :** May I put Q. No. 732 ?

**Mr. Speaker :** Has the hon. Member got authority?



**Shri Bhakt Darshan:** Yes, Sir.

### History of Freedom Movement

732. **Shri Bhakt Darshan** (on behalf of **Shri Krishnacharya Joshi**) :

Will the Minister of Education be pleased to state:

(a) the progress made in collecting data and compiling the History of Freedom Movement in India; and

(b) the number of States which have co-operated with the Board of Editors in this connection?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) The Board of Editors who have been assigned the work of compilation of the History have collected a large volume of material and are still collecting more material.

The Board have also prepared a draft collated account of the first phase of the Freedom Movement and have in hand the preparation of a collated account of the second phase.

(b) 25.

**श्री भक्त दर्शन :** इस विवरण से मालूम पड़ता है कि कुल २५ राज्यों में से कम से कम दो या तीन ने अभी तक कोई सहयोग नहीं दिया है। मैं जानना चाहता हूँ वह कौन से राज्य हैं जिन्होंने सहयोग नहीं दिया है।

**Dr. M. M. Das:** I have got a list of the States which have set up the provincial organisations. I will have to go through it.

**Mr. Speaker:** He may just mention the names of those States which have not given co-operation.

**Dr. M. M. Das:** If I have to go through the list, it will take time, because it is a list of 25 States who have set up the organisations.

**श्री भक्त दर्शन :** क्या यह सत्य नहीं है कि इस सम्बन्ध में पिछले कई वर्षों से प्रयत्न किया जा रहा है; और क्या यह भाशा की जा सकती है कि भगले वर्ष तक जब कि सन् १९५७ में हमारे स्वाधीनता संग्राम के १०० वर्ष पूरे होने वाले होंगे, यह पूरा कर दिया जायेगा ?

**Dr. M. M. Das :** So far, we have appointed one of the scholars to write a history of the so-called Sepoy Mutiny of 1857. I think that volume will be completed within about a year.

**Shri S. L. Saksena :** Has this Committee asked the various State Governments to keep safe the records of the political cases connected with the 1942 movement for a proper study and proper writing of this history ?

**Dr. M. M. Das:** They are kept very carefully by the State Governments, and the organisations are examining those records.

**Shri S. L. Saksena:** I mean the records of court cases. I am told that they have been destroyed.

**Dr. M. M. Das :** In the courts ?

**Shri S. L. Saksena :** Yes.

**Dr. M. M. Das :** I require notice.

**Shri Achuthan :** May we just have an idea of the time within which this history will be completed, and may I also know in what all languages it is being written ?

**Dr. M. M. Das:** It will be at first written in English.

### Short Notice Question and Answer

#### Devaluation of Pakistan Rupee

**S. N. Q. 4. Shri Ramachandra Reddi:** Will the Minister of Finance be pleased to state:

(a) the effects of Devaluation of Pakistan Rupee on Indian export trade and economy; and

(b) the losses to the Indian Exchequer envisaged by the abolition of Export Duty on Indian Jute Manufactures ?

**The Minister of Finance (Shri C. D. Deshmukh):** (a) The possible effects of devaluation of Pakistan Rupee on Indian export trade and economy would be :—

- (i) any commodities for which both India and Pakistan are competitors in overseas export markets, e.g., jute and cotton, competition from Pakistan will become more intense;
- (ii) commodities which are imported by India from Pakistan will become cheaper to Indian importers and consumers; and
- (iii) commodities which Pakistan imports from India will become more expensive to the importer and consumer in Pakistan.

These effects could in part or in whole be offset by an increase in Pakistan domestic prices or any other measures, such as, price control or an increase in Pakistan's export duties which tend to raise the export price of Pakistan goods.

(b) The budget had taken credit for an amount of Rs. 710 lakhs; on this basis, the proportionate loss for the balance of the year would be about Rs. 450 lakhs. It is however, not possible to calculate how much would have been realised as against the budget estimate in view of the possible effect of devaluation mentioned in reply to part (a) above.

**Shri Ramachandra Reddi:** May I know what are the principal goods that are imported from Pakistan to India, and the probable value of the same?

**Shri C. D. Deshmukh :** Our main imports from Pakistan are raw jute, raw cotton and hides and skins. The figures have varied from year to year. They were of the order of Rs. 109.3 crores in 1948-49 and declined to Rs. 44 crores in 1949-50-51 and revived again to Rs. 87 crores in 1951-52, then fell again to Rs. 19.4 crores in 1954-55.

**Shri M. S. Gurupadaswamy:** May I know whether there is any proposal to conclude a trade agreement between Pakistan and India after the devaluation of the Pakistan currency?

**Shri C. D. Deshmukh:** Trade agreement is not handled in my Ministry; it is handled by the Commerce and Industry Minister. I would not know.

**Shri K. P. Tripathi:** May I know if it is a fact that Government removed the jute duty on the anticipation that jute prices in Pakistan would sag? As devaluation has not brought down the jute price in Pakistan, do the Government consider that their action in removing the duty was rather hasty?

**Shri C. D. Deshmukh:** I would not say that it was hasty, because we could have no conception of what Pakistan would choose to do, and therefore, it was necessary for us to take a decision on the data available to us and on reasonable expectations.

**Shri G. D. Somani :** Have the Government considered the effect that the devaluation of the Pakistan currency will have on the export of textiles from this country, in view of the fact that Pakistani cotton will be available at cheaper prices to those countries competing in export markets with India?

**Shri C. D. Deshmukh:** We have not considered it specifically, but all these matters are under constant review, and if

we find that as a result of developments there are difficulties in selling our exports, then we shall have to consider what steps to take.

**Shri Heda:** May I know whether, taking into consideration the overall calculation of our export and import trade with Pakistan as well as our export trade in the common commodities where there is competition and also the unofficial market rate between the Indian and Pakistani rupees, by the devaluation of the Pakistani rupee we are to gain something or lose.

**Shri C. D. Deshmukh:** It is asking the question which I have answered in another form. Generally, I think trade will probably improve between the two countries because the black market will be discouraged now by the adjustments that have taken place in the value of the Pakistani rupee, and that certainly is an advantage to both countries.

**Shri Ramachandra Reddi:** May I know how much raw cotton has been imported into India within the last three years?

**Shri C. D. Deshmukh:** I am sorry I have not got figures here in regard to raw cotton.

**Shri Sadhan Gupta:** May I know whether, in view of the fact that the Finance Minister's 'reasonable' expectations have proved unreasonable, the export duty is going to be restored?

**Shri C. D. Deshmukh:** I do not think it is right to say that they have proved unreasonable. It may be that on a short view they appeared to be unnecessary, but it seems desirable to await developments before taking any further action.

## WRITTEN ANSWERS TO QUESTIONS

### Central Excise Department

\*708. **Shri Sivamurthi Swami:** Will the Minister of Finance be pleased to state:

(a) whether any rules have been framed for the promotion of the employees working in the Central Excise Department; and

(b) if so, the basis on which these rules have been framed?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):**  
(a) Yes Sir.



(b) Except for promotion from Lower Division Clerk's grade to Upper Division Clerk's grade which is made on the basis of seniority-cum-fitness, promotions in all other higher grades both in Executive and Ministerial cadres are made on the basis of selection on merits on the recommendation of the Departmental Promotion Committee. The Departmental Promotion Committee for Class II and Class I officers is presided over by a Member of the Union Public Service Commission. The Departmental Promotion Commission for Class III officers is presided over by the Collector of Central Excise and a nominee of the Central Board of Revenue sits as a member.

### Oil Wells

\*712. **Shri K. P. Sinha:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the quantity of crude oil obtained from the Oil Wells at Naharkatiya (Assam) per day; and

(b) its cost per gallon as compared with the cost of the imported crude oil?

**The Deputy Minister of Education (Shri K. L. Shrimali):** (a) and (b). Information is being collected and will be placed on the Table of the House as soon as it is available.

### Andamans

\*714. **Shri Raghavaiah:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that an additional allowance of 33 1/3 per cent. is given to employees of Government transferred from the mainland to the Andaman Administration;

(b) whether it is also a fact that such persons are allowed free transport, quarters etc.;

(c) whether Government have received any complaints against the discrimination from the local people; and

(d) if so, what action has been taken thereon?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) and (b). Yes.

(c) and (d). There were some representations asking for the grant of Andaman Special pay to the local people also but in view of the fact that recruits from the mainland brought there to serve for a limited period of time are cut off from their homes and are put to great hardships and often have to set up a double establishment, only they are granted some extra allowance and amenities

### Headmasters' Seminars

\*718. **Dr. Ram Subhag Singh:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that some Regional Seminars of Headmasters, Inspecting Officers of Secondary Schools etc. were held during this summer vacation; and

(b) if so, how many such seminars were held?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) Yes.

(b) Four (Darjeeling, Coimbatore, Aurangabad and Ranchi).

### Central Universities

\*720. **Ch. Raghupir Singh:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that a Reviewing Committee has been appointed to go into the finances of the Central Universities; and

(b) if so, what are its recommendations?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) Yes. The University Grants Commission have appointed a Reviewing Committee to go into the finances of the Central Universities.

(b) The Committee has not yet submitted its report.

### Mineral Oil Deposits

\*721. **Shrimati Ila Palchoudhury:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether it is a fact that a vigorous programme for finding out new mineral oil deposits in the country has been launched; and

(b) if so, the names of the States where it has been launched and the agencies through which it has been launched?

**The Deputy Minister of Education (Dr. K. L. Shrimali):** (a) and (b). A statement giving the information required is placed on the Table of the House. [See Appendix V, annexure No. 21].

### Women's Education

\*723. **Shri C. R. Narasimhan:** Will the Minister of **Education** be pleased to refer to Chapter No. XXXIII of the First Five Year Plan and state the steps

taken or proposed to be taken for implementing the recommendations therein for the advancement of women's education by affording them special opportunities for private study and taking up higher examinations as private candidates?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** The matter concerns the Universities which are autonomous bodies and the State Governments.

### भारत सिक्क्यूरिटि प्रेस

\*७२६. श्री बी० एन० मिश्र : क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार को यह शिकायत प्राप्त हुई है कि भारत सिक्क्यूरिटि प्रेस से गत तीन वर्षों में बहुत अधिक संख्या में करेन्सी नोटों की चोरी हुई है; और

(ख) कितने करेन्सी नोटों की चोरी हुई है और सरकार ने इस सम्बन्ध में क्या कार्यवाही की है ?

**राजस्व और रक्षा व्यय मंत्री (श्री ए० सी० गुह) :** (क) तथा (ख). पिछले तीन वर्षों में करेन्सी नोटों की चोरी के केवल एक मामले की सूचना इण्डिया सिक्क्योरिटी प्रेस, नासिक रोड से दी गयी है।

२६ फरवरी १९५५ को एक संख्यांकित ताब, जिसमें दस दस रुपये के चालीस नोट थे, चुरा लिया गया। यह मालमा पुलिस के सुपुर्द किया गया और उसने अब तक सात चलते हुए नोटों का पता लगाया है। सूचना मिली है कि पुलिस ने इन नोटों को जब्त कर लिया है। इस मामले में करेन्सी नोट प्रेस का एक कर्मचारी गिरफ्तार किया गया है और उसके विरुद्ध प्रथम श्रेणी के रेजीडेण्ट मिजस्ट्रेट, नासिक रोड की अदालत में मुकदमा चल रहा है।

चोरी होने के तुरन्त बाद, रिजर्व बैंक को सभी खोये हुए नोटों की संख्याएं सूचित, कर दी गयीं और उसने निगम-विभाग के अपने सभी कार्यालयों, सभी राजकोष-कार्यालयों

और भारतीय राज्य बैंक को भी सूचना दे दी है। भविष्य में इस प्रकार की चोरियां न हों इसलिए करेन्सी नोट प्रेस में सब प्रकार की सम्भव सतर्कतापूर्ण व्यवस्था कर दी गयी है।

### State Bank of India

\*727. **Th. Jugal Kishore Sinha :** Will the Minister of Finance be pleased to state the number of applicants who have so far applied for the transfer of shares of the State Bank of India to them, in lieu of compensation payable for the shares of the Imperial Bank?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha) :** 258 upto 8th August, 1955.

### Unrepealed Central Acts

\*728. **Shri S. V. L. Narasimham :** Will the Minister of Law be pleased to state whether Government propose to compile and publish the unrepealed Central Acts alphabetically?

**The Minister of Law and Minority Affairs (Shri Biswas) :** No.

### Chilka Lake

\*733. **Shri Bhagwat Jha Azad :** Will the Minister of Natural Resources and Scientific Research be pleased to state :

(a) whether it is a fact that Government propose to make a survey of the Chilka lake and the hills to the West of it;

(b) if so, the purpose of the survey, and

(c) when it will be taken up?

**The Deputy Minister of Education (Dr. K. L. Shrimali) :** (a) Yes, Sir.

(b) To arrive at the basic geological data of the area and to investigate the possibility of the occurrence of economic minerals.

(c) As soon as possible during the Second Five Year Plan period.

### M.E.S. Officers

\*736 **Shri Raghavalah :** Will the Minister of Defence be pleased to state :

(a) whether it is a fact that certain officers of the M.E.S. in Cochin have been charged with misappropriation of funds, bribery etc; and

(b) if so what action Government have taken against them ?

**The Deputy Minister of Defence (Sardar Majithia) :** (a) Yes.

(b) The matter is under investigation.

### Imperial Bank Shares

\*740. { **Shri Krishnacharya Joshi :**  
          **Th. Jugal Kishore Sinha :**

Will the Minister of **Finance** be pleased to state :

(a) the number of applications received by the Reserve Bank from the share-holders of the ex-Imperial Bank of India for compensation during the month of July 1955; and

(b) the amount so claimed?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha) :**  
(a) 1,865.

(b) Rs. 2,21,50,516-2-4.

### Audio-Visual Education

\*279. { **Shri S. N. Das :**  
          **Shri P. N. Rajabhoj :**

Will the Minister of **Education** be pleased to state :

(a) whether the programme for the development of audio-visual education during the Second Five Year Plan has been formulated by the National Board for Audio-visual Education;

(b) if so the important features of the programme; and

(c) what are the other important decisions taken by the Board in its last sitting?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) Yes, Sir.

(b) and (c). A statement is laid on the Table of the House [See Appendix V annexure No. 22].

### National Research Development Corporation

\*302. **Shri S. N. Das :** Will the Minister of **Natural Resources and Scientific Research** be pleased to state :

(a) whether the National Research Development Corporation has granted a licence to a German Firm for a new process, for preparation of an Ion exchange material from coal, developed at the Fuel Research Institute, Dhanbad;

(b) if so, the terms and conditions of the issue of the licence; and

(c) whether any other firm has also been granted licence for the purpose ?

**The Deputy Minister of Education (Dr. K. L. Shrimall) :** (a) Yes, Sir.

(b) A statement giving the required information is laid on the Table of the House. [See Appendix V, annexure No. 23].

(c) Yes, Sir.

### Maharaj Pramukh of Rajasthan

344. **Shri Balwant Sinha Mehta :**  
Will the Minister of **Home Affairs** be pleased to state :

(a) who has succeeded the late Maharaj Pramukh of Rajasthan;

(b) whether the successor will retain the title of the Maharaj Pramukh or he will be recognised only as a ruler; and

(c) the total amount that his successor will get as emoluments or privy purse, etc. ?

**The Deputy Minister of Home Affairs (Shri Datar) :** (a) and (b). His Highness Maharajadhiraja Maharana Bhagwat Singhji has been recognised as the Ruler of Udaipur in succession to is late Highness Maharana Bhupal Singh. The office of Maharaj Pramukh of Rajasthan held by the late Maharana of Udaipur was personal to him and with his demise the office has ceased to be.

(c) Rs. 10 lakhs per annum.

### Detenus

345. { **Shri D. C. Sharma :**  
          **Shri Ibrahim :**  
          **Pandit D. N. Tiwary :**

Will the Minister of **Home Affairs** be pleased to lay a statement on the Table of the House showing the total number of persons detained, State-wise, at present under the Preventive Detention Act ?

**The Deputy Minister of Home Affairs (Shri Datar) :** I lay a statement on the Table of the House showing the total number of persons in detention, State-wise, on the 31st July, 1955 [See Appendix V, annexure No. 24].

### Lignite Deposits

**346. Shri C. R. Chowdary:** Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) whether any investigation has been undertaken to ascertain the availability of lignite deposits in Amalapur Municipal area in the East Godavari District Andhra; and

(b) if so, the steps that have been taken by the Centre in this regard in consultation with the Andhra State Government;

**The Deputy Minister of Education (Dr. K. L. Shrimali):** (a) and (b). A statement giving the required information is attached. [See Appendix V, annexure No. 25].

### Judges

**347. Shri Ibrahim:** Will the Minister of Home Affairs be pleased to state:

(a) the number of retired High Court and Supreme Court Judges appointed by the Central Government in various posts as on the 30th June, 1955; and

(b) the offices which they are holding?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) and (b). A statement is laid on the Table of the House. [See Appendix V, annexure No. 26].

### Manipur Police

**348. Shri Rishang Keishang:** Will the Minister of Home Affairs be pleased to state:

(a) the scales of pay of the Police Constables and Officers in Manipur;

(b) whether the Assam scales of pay are being followed in the Police Department in Manipur;

(c) if not, the reasons therefor; and

(d) when the Assam scales of pay will be introduced?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) A statement is placed on the Table. [See Appendix V, annexure No. 27].

(b) Yes.

(c) and (d). Do not arise.

### वन महोत्सव

**३४६. श्री छमर सिंह डामर:** क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि सेना

कर्मचारियों ने वन-महोत्सव कार्यक्रम में जुलाई १९५० से कितने वृक्ष लगाये?

**रक्षा उपमंत्री (सरदार मजीठिया):**

८,२०,८६८.

### I.A.F. Mercy Missions

**350. Sardar Iqbal Singh:** Will the Minister of Defence be pleased to state:

(a) the number of mercy missions carried out by I.A.F. of dropping supplies to people marooned in inaccessible areas during 1954 and 1955; and

(b) the number of para-medical flights undertaken to rush aid to inaccessible areas in times of emergency during the same period?

**The Deputy Minister of Defence (Sardar Majithia):** (a) Two.

(b) Nil.

### Foreign Aid

**351. Sardar Iqbal Singh:** Will the Minister of Finance be pleased to state:

(a) the amount of assistance received by India from foreign countries under various Schemes and Plans during the last twelve months in the form of:—

(i) equipment for training institutions;

(ii) technical experts;

(iii) training facilities for Indian students in various countries; and

(b) the extent of similar aid that India has given to other countries during the same period?

**The Minister of Finance (Shri C. D. Deshmukh):** (a) The technical assistance received by India under the United Nations Technical Assistance Administration Programme, the Point Four Programme and the Technical Co-operation Scheme of the Colombo Plan, with which the Ministry of Finance are concerned, is shown below:

(i) *Equipment for training institutions (during 12 months ending 31-3-1955)*

Equipment of the value of Rs. 8.96 lakhs was received under the Colombo Plan and the Point Four Programme.

(ii) *Technical Experts (during 12 months ending 31-7-1955).*

U. N. Technical Assistance Administration Programme . . .	4
Point Four Programme . . .	35
Colombo Plan . . .	16

(iii) *Training facilities for Indian candidates (during 12 months ending 31-7-1955).*

U. N. Technical Assistance Administration Programme . . .	20
Point Four Programme . . .	154
Colombo Plan . . .	98

(b) Training facilities for 169 nominees of the South and South East Asian Countries and services of 4 Indian experts to these countries were provided under the Colombo Plan during the 12 months ending 31-7-1955.

### Stenographers

**352. Shrimati Ila Palchoudhury:** Will the Minister of Home Affairs be pleased to state:

(a) the total number of temporary and permanent Stenographers employed in the Central Secretariat of the Government of India; and

(b) the number of Stenographers who have been serving as temporary hands for the longest period in the Central Secretariat and the period for which they have been working as temporary hands?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) The number of posts, permanent and temporary, in the Central Secretariat Stenographers' Service is as follows:—

	Gr. I	Gr. II	Gr. III
Permanent	47	95	509
Temporary	68	91	523

(b) One for 11 years and 11 months, one for 11 years and 4 months and five others have not yet been confirmed because they have so far failed to qualify at the Union Public Service Commission Stenographers' Test.

### न्यायालय की भाषा

**३५३. श्री कृष्णाचार्य जोशी :** क्या गृह-कार्य मंत्री यह बताने की कृपा करेंगे कि आन्द्र वर्ष की कालावधि में अंग्रेजी के स्थान पर हिन्दी को लाने के बारे में संविधान के उपबन्ध के अनुसार क्या न्यायालयों में हिन्दी का धीरे धीरे अधिकाधिक उपयोग किया जा रहा है?

**गृह-कार्य उपमंत्री (श्री दत्तार) :** संविधान में ऐसा उपबन्ध नहीं है कि हिन्दी को

अंग्रेजी के स्थान पर न्यायालय की भाषा बनाया जाय। अनुच्छेद ३४५ के अन्तर्गत राज्य का विधान मंडल उस राज्य के राजकीय प्रयोजनों में से सब या किसी के लिये प्रयोग के अर्थ उस राज्य में प्रयुक्त होने वाली भाषाओं में से किसी एक या अनेक को या हिन्दी को अंगीकार कर सकता है।

२. अभी तक प्राप्त सूचना के अनुसार निम्न राज्यों में हिन्दी न्यायालयों की भाषा अथवा अन्य भाषाओं में से एक, के रूप में पहले से ही प्रयोग की जा रही है अथवा अधिकाधिक प्रयोग में लाई जा रही है

१. बिहार

२. मध्य-प्रदेश

३. उत्तर-प्रदेश

४. हैदराबाद

५. अजमेर (न्यायिक आयुक्त के न्यायालय के अतिरिक्त)

६. भोपाल (न्यायिक आयुक्त के न्यायालय के अतिरिक्त)

७. दिल्ली

८. विन्ध्य प्रदेश (न्यायिक आयुक्त के न्यायालय के अतिरिक्त)

३. अभी कुछ राज्यों से सूचना की प्रतीक्षा की जा रही है और कुछ ही समय में वह मभा पटल पर रख दी जायगी।

### Re-employment of retired Officials

**354. Shri A. N. Vidyalkar:** Will the Minister of Home Affairs be pleased to state the number of class I officers who joined service under the Government of India after retirement from the service under the State Governments during 1951, 1952, 1953, 1954, and 1955 so far respectively?

**The Deputy Minister of Home Affairs (Shri Datar):** The number of officers who, having retired from

State Services, joined Civil Class I posts under the Government of India after the age of superannuation is shown below :—

1951	.	Nil.
1952	.	2
1953	.	9
1954	.	1
1955	.	Nil.

This does not include appointments made in the Railways for which figures are not readily available.

### भारतीय स्वाधीनता संग्राम का इतिहास

३५५. श्री एस० एन० बास : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि १८५७ के भारतीय स्वाधीनता संग्राम का प्रामाणिक इतिहास तैयार करने की दिशा में अब तक क्या प्रगति हुई है ?

शिक्षा मंत्री के सभासचिव (डा० एम० एम० बास) : इतिहास लिखने का कार्य डा० एस० एन० सेन को सौंप दिया गया है और उनको यह कार्य ३० जून, १९५६ के पूर्व ही पूरा करने को कहा गया है ताकि यह १० मई, १९५७ को छप सके।

### खनिज-निक्षेप

३५६. श्री के० सी० सोधिया : क्या प्राकृतिक संसाधन और वैज्ञानिक गवेषणा मंत्री यह बताने की कृपा करेंगे कि :

(क) सागर जिले और उसके आसपास के किन किन स्थानों में १९५४-५५ के मौसम में भारतीय भूतत्वीय परिमाण द्वारा खनिज-निक्षेपों का पता लगाया गया था;

(ख) वहां पर उपलब्ध उन निक्षेपों की प्राक्कलित मात्रा क्या है ; और

(ग) क्या उनमें से किसी खनिज पदार्थ के सम्बन्ध में कोई बड़े पैमाने का कारखाना स्थापित किया जा सकता है ?

शिक्षा उपमंत्री (डा० के० एल० श्रीमाली) : (क) से (ग). आवश्यक जानकारी विवरण-पत्र के रूप में साथ ही प्रस्तुत की जाती है। [देखिये परिशिष्ट ५, अनुबन्ध सं० २८]।

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LOK SABHA

Saturday, 13th August, 1955

The Lok Sabha met at Eleven of the Clock.

[Mr. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

11—58 A.M.

COMPANIES BILL.—Contd.

Mr. Speaker: The House will now proceed with further consideration of the following motion moved by Shri C. D. Deshmukh on the 9th August 1955:

"That the Bill to consolidate and amend the law relating to companies and certain other associations, as reported by the Joint Committee, be taken into consideration."

Shri Mathean (Thiruvellur): Before I go into the question of the company law proper, let me say a word or two regarding some remarks made by my hon. friend, Shri K. P. Tripathi, yesterday.

[SRI MATHEAN SORRAMA SIVA in the Chair]

Shri K. P. Tripathi is a very honest gentleman and is so earnest about the cause he has taken up that I always try to join hands with him, even though intellectually I may not be able to see eye to eye with him. I support his recommendation that the workers must have a representative on the board. I believe that according to 230 L.S.D.

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the Bill, Government can nominate one. I also agree with him that a government organisation, as is contemplated by the Bill, is definitely better than a statutory organisation proposed by the Company Law Committee. I am not giving my reasons already repeated here. My main reason is this. If and when Government constitutes committees or commissions or nominates people, I have always found—regarding business matters—some representative or representatives of the so-called managing agents, against whom many of the provisions of the Bill are meant, coming in. Even from outside they can create a lot of mischief. They even influence the Government. I certainly ask for an organisation where there is no chance of their coming in.

12 NOON

I am sorry to differ from my friend Mr. Tripathi's observation which I consider was unnecessary and irrelevant. I refer to the remarks about the U.K. High Commissioner's representation regarding Kolar Goldfields. I am afraid it is a bit irrelevant because it does not come under company law.

Shri M. S. Gurupadaswamy (Mysore): It is a company.

Shri Mathean: The real point about the so-called representation, as I understand it, is this. There was an agreement between the Government of Mysore and the Kolar Goldfields Company in 1949. Please note that it is after independence. It was not fostered by the Britishers to help their British managing agency company. A committee was appointed by the Mysore Government to go into the question whether the managing

[Shri Matthen]

company has implemented that agreement. They gave a report that the managing agency has not implemented and that they have gone against the agreement. In answer the Kolar Goldfields Company has challenged the observations of the Mysore Government committee. I do not say that the observations of the Mysore Government committee are wrong or that the challenging by the managing agency company is right. But, if the U.K. High Commissioner or any sane person asked them and when there is such an important point upon which the recommendation for nationalisation has been challenged, is it not right to look into the agreement? The agreement, as I understand it, provides for arbitration. All that the High Commissioner of U.K. has asked for is an invitation of attention to that section. It is a material thing. Our Prime Minister has said on more than one occasion that we have to implement agreements—especially where foreign countries are involved—even when it is a bit prejudicial to our interests. Is it worth while putting us in the wrong by taking action not resorting to the important clause of arbitration as provided for between the company and the Mysore Government in 1949?

Shri K. P. Tripathi (Darrang): My point, Madam, is that if the U.K. High Commissioner says that here was the agreement and this agreement has not been fulfilled and, therefore, it should be fulfilled, then it is all right. But if the U.K. High Commissioner goes further and says that if this is not done then British capital will be scared away, then it is a threat. That threat should not have been given. That is my contention.

Shri Matthen: Is it worth while to alienate a friendly foreign power like the British Government by putting us in the wrong?

Shri Joachim Alva (Kanara): What about their alienating us in the matter of Goa?

Shri Matthen: Goa does not come into company law, I am afraid. I am just entering into company law proper. May I request you to forgive me if I strain a bit of my modesty and tell you that I have some experience of company formation and company management and as such I can appreciate the various voluminous sections a little more than a lay Member can. I am only inviting the attention of the hon. Minister to this personal aspect.

Madam, I appreciate the splendid work done by the Joint Committee, more particularly, the hon. Minister who had to pilot it through conflicting opinions. The difference of opinion was so strong and passions were so much roused—as I understand—on certain occasions that it was a pleasant surprise when I heard that they were able to produce a more or less unanimous report, so soon. At one stage, my information was that it might go on for much longer a time. Credit goes chiefly to the hon. Minister who, I have observed on several occasions, is capable of taking a democratic and objective decision even when his advisers did not see eye to eye with him. I wish to record my appreciation and offer my congratulations to the Joint Committee and, as I said, more specifically to the hon. Minister.

The Committee understood the background of the company administration now in our country and especially the abuses and fraud displayed by the so-called big managing agency houses. The Committee has tried to plug the sources of abuse as far as is humanly possible. If at all, it has erred a bit on the other side in certain cases by providing some restrictive clauses—there are only a few—which may impede the progress of sound company management. But I do not blame it for, the abuse was so scandalous, disgraceful and palpably fraudulent that I in their position would have gone further and erred more in my righteous indignation. I can understand a poor man in need committing dishonest acts. But, these business

houses are the property of multi-millionaires of the country. I am referring only to the famous Indian managing agency houses, 90 per cent. of whom have been dishonest and fraudulent in the administration of their managed companies. So, I do not at all blame my friends who insist on the abolition of the managing agency system altogether, even though, I am convinced, as many others are, that such a step will impede the progress of Indian economy which we all are so anxious to build up.

The most important matter in the mind of every Member of the Joint Committee was the managing agency system. This is a unique feature of company management in India which we copied from the British people and not from Britain. There is no such thing as a managing agency system in I.K.; their companies are managed by the directors duly elected by the shareholders, as it ought to be. But when they started industrial and planting ventures in India, especially after the East India Company disappeared from the Indian picture, the distance separating India from Britain in those days was so long and the means of transport and communication so slow that the directors in England and Scotland had to entrust the day-to-day management and control of these Indian businesses to some British firms in India, for obvious reasons, and resorted to the managing agency system. This is the genesis and justification of the managing agency system and it is a unique one in India, and I am glad to give a chit to the British agency houses that they looked after the best interests of their companies even though, their work was rank exploitation of Indian resources.

When our Indian businessmen took over joint stock companies, the cleverer among them resorted to managing agency system and provided for it in the articles of association not because there was any distance between their residence and the place of business, but because they wanted to perpetuate their managing agency right in their

family, and pass it on to posterity, however undeserved that posterity may be. I cannot say that this motive was disgraceful or dishonest, but the methods resorted to by most of them, especially the big houses, was scandalous. There are honourable exceptions. The reputable and established Indian managing agency houses have made a real contribution to the development of Indian economy, especially Indian industry. They have provided technical, managerial and financial advice and assistance and top-level control to the companies under their management and have contributed much to the development of industries for the benefit of all interests concerned. But, note these are exceptions only.

The vast majority of the managing agency companies are, as Mr. Novel Paton, Chairman of the Bombay Chamber of Commerce, said, "These have been disgraceful instances of maladministration, even downright fraud." If you but read the memorandum submitted by the Bombay Shareholders' Association, which the hon. Finance Minister described when he introduced the Joint Committee Report, as the main inspiration for this Bill, if you will only read this—of course, there are dozens of other memoranda and oral evidences exposing worse instances of maladministration—you will understand the background of the Government and the Joint Committee that is responsible for all the numerous restrictive provisions. I am sure that the whole House will support this report, but what I cannot understand is why these unscrupulous multi-millionaires were not prosecuted, at least under the Penal Code. Instead of that, our honourable leaders, including some Cabinet Ministers, have been openly receiving their hospitality whenever they visited these important cities, thereby giving them encouragement in their nefarious activities. This lack of action on the part of the Government is the real crux of the question, if you want to improve company management. Our present Acts, especially the one of 1938 and of 1951, contain ample

[Shri Matthen]

restrictive provisions. Believe me that, the fact of the matter is that there was no administration of Company Law worth mentioning—up till now there is no such administration—and penalties and punishments provided in these Acts were never implemented or enforced. There was, in fact, no executive machinery at all to carry out the prosecution of the management of a company that were guilty of violations of the provisions of the Act. The Companies Act was a statute, the implementing of which was entrusted to State Governments, and State Governments had no machinery whatsoever to implement the Law, except in respect of carrying out the bare registering of the companies. Even here no separate officer was appointed in several States. The Registrar of Assurances, who was the officer of the State Government, was entrusted with this work and he took no interest. He had no initiative and the result was that many violations of the Company Law went unpunished in the absence of suitable or adequate machinery. It is thus clear that the real blame for what has happened—the fraud committed by these notorious managing agency big houses—is due to what was omitted to be done in the past, and they must be put down to non-implementation of Company Law rather than to the lack of restrictive provisions. That is the main point I wish to stress. It is a pity that this aspect has never been stressed even by hon. Members of the Joint Committee in their minutes of dissent to this report—the lack of enforcement of the clauses. Therefore, I want to stress this point more than any others to the hon. Finance Minister—the success of the new Companies Bill will depend on how well, how sagaciously, sensibly and boldly the machinery created by the Joint Committee will function. It is a new department of Government. In a sense, the only justification for amending the Law is the creation of this machinery to administer it, now that the administration of Company Law has been centralised and taken over from the

State Governments completely. Otherwise, we shall only add to the list of statutes without, in any way, improving the conduct of the companies in our country. These managing agencies or secretaries or managers have plenty of money to purchase the best brains to circumvent the provisions, however stringent they may be.

Having said so much about the seamy side of managing agency administration, I must in fairness to myself and to my country have the courage to give the devil its due. As I have said before, the reputable managing agency firms, and in certain cases even the disreputable ones, have contributed a lot to the development of Indian industries. At a time when we are working up the Plan—we have in view not only the Second but several new Plans—for the development of our production for raising the standard of living of our people which is most miserably poor, we will be doing a great disservice to the country if we end this managing agency system without finding a substitute to provide for the functions which the good ones have been doing. Otherwise, as my friend, Shri Avana-shalingam Chettiar, said at the Party meeting the other day, the implementation of a socialist plan may be only the distribution of poverty and hunger. I will, therefore, support the recommendation of the Select Committee in the matter of managing agency.

Capital formation is still in a very unsatisfactory stage in the private sector. This is so in spite of the fact that there has been a kind of sustained boom on the stock market, as the hon. Finance Minister said the other day. In fact, the prices have shot up beyond what may be considered reasonable levels. Even under these conditions, I find it is not possible to obtain capital for new companies. It must be admitted that while managing agents have fallen short of expectations in many cases, in the matter of procuring capital they have played

so insignificant part in the running of companies which are, in many instances, undercapitalised. They have come forward with advances of money or personal guarantees of bank loans to companies under their management.

It is not to be expected that the members of the board will be prepared to give personal guarantees as the managing agents have done and will be doing. It has been found that the board of directors has shown ample disinclination to take responsibility in this matter of guaranteeing bank loans. The stake of managing agents is quite substantial in the company itself and they have vested interests in running it properly, upto a certain point. I am glad, therefore, that a further lease of five years has been granted to managing agents and the position is to be reviewed at the end of the Second Five Year Plan. I recognise the need for retaining clauses 197, 347, 348, 350, 351 and 354 regarding managing agencies' remuneration. An overall limit of eleven per cent. has been placed on total remuneration. I am also happy that in respect of minimum payable in the event of absence or inadequacy of profits, revisions already made are to be suitably amended. It is important to recognise the need for taking expert advice for running some big companies efficiently which are presently badly off and it is not obviously possible to secure the services of experts, competent technical men, and trained directors for any ridiculous or low remuneration. In several cases, it will be necessary to give attractive remuneration in the interest of the company itself. It is, therefore, a matter of gratification that provision as regards minimum remuneration is likely to be modified.

There is a lot of truth about the managing agents somehow swarming the board with their nominees, so that they may continue to conduct the affairs of the company in such a manner as to benefit them. Hence provisions are being made for special representation of minority interests as provided in clause 264 and clause 407

which provide respectively for the articles of association opting for a system of proportional representation and for appointing not more than two persons as directors of the company by the Government for not more than three years, in certain circumstances, if found necessary. At the time when a company is promoted, the promoters or management draw the articles of association either themselves or with the aid of lawyers. It is too much to expect that they will be solicitous about minority rights and provide for proportionate representation in the articles of association. We shall thus be thrown back on clause 407 for protection. It seems to me that clause 264 giving the option to a company for a system of proportional representation with a view to help minority interests is unrealistic in its conception. It must be made obligatory.

Another suggestion that I would like to make is regarding the voting power on preference shares. It would have been quite in order if the recommendations of the Company Law Committee of 1952 had been adhered to. These provide for voting rights on preference shares when the dividend on preference shares were in arrears or when the rights of preference shares were sought to be changed. No exemption need have been given to existing companies in respect of voting rights on preference shares and secured a continuance of the *status quo*. I believe there is really no need to leave undisturbed the present voting rights on preference shares of existing companies, as is sought to be done under clause 89 which negatives section 86, in the case of existing companies. I will request the Finance Minister to consider this point.

One word more about the private companies and I have done. I do not quite appreciate the restrictions placed on *bona fide* genuine private companies which were not there so far. I quite understand certain special provisions in the case of private companies which are managing agency companies or which have public limited companies

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as their shareholders. In the case of other private companies it has been provided that neither the balance sheet nor the profit and loss account should be audited by a qualified auditor, nor were they required to be filed with the Registrar. Clauses 219 and 223 provide that copies of balance sheet together with auditor's report should be filed with the Registrar and that a qualified auditor must audit the accounts. A private company may be formed even with two members and a very large number of such companies have been founded in the United Kingdom and elsewhere and they have played no insignificant part in the trade and commerce of the country and most of them are family concerns where outside capital is not at all concerned. I should think that every incentive should be offered for formation of private companies, as for public companies. The Taxation Enquiry Commission has made drastic recommendations which have been implemented in the Finance Bill of this year which will take care of the taxation of the private companies. The edge has thus been taken of the grievances of the private companies escaping the higher slabs of personal super-tax. An advantage of private company is that its confidences are inviolable. I do not see much point in insisting that the private companies' balance-sheet should be filed with the Registrar. In fact, it would be quite difficult to make a distinction between private companies which are managing agents or which transact business which intrude on public companies' affairs and those which are family concerns. The latter should be exempted from the obligation to file balance-sheet and such things.

About audit, section 227 lays down that it is upto the general meeting to decide whether or not the accounts of a branch should be audited. As its branch office accounts are not being properly audited quite a large amount of manipulation in the company balance-sheet takes place because branch accounts are not audited and

returns of stock etc. in branches are certified by the managing agents. This, in the past, has led to a lot of abuse. The question, therefore, arises whether it should be made mandatory that branch accounts should be audited in every case not being satisfied with the statement by the manager. The provision of the words "unless the company in general meeting decides otherwise" should be deleted. After all, the general body meetings are thinly attended to the point, the company having to drum up a quorum. I think it would be wise to delete this clause in section 227(1).

I have one or two points about investigation into the affairs of the company. This clause provides that a requisition for investigation into the affairs of the company can be made by 200 members of those who are holding 1/10th of the share capital issue. I consider 200 quite a large number when the shareholders are so diffused all over in this sub-continent of India. It is an awful task to get 200 members. I propose that one hundred is a large enough number for them to establish the *bona fides* of the request for an investigation. One hundred cannot be considered a turbulent minority to give trouble to the company.

Clause 235 deals with application by members for investigation into the affairs of the company. This clause provides that an application for investigation by a member may result in the Central Government calling upon the applicant to give a security of not exceeding Rs. 1,000. I suggest that this amount should be reduced to Rs. 500. After all, such a deposit is intended to establish the *bona fides* of the shareholders asking for the investigation. Thousand rupees is nothing; it will not be sufficient even to pay one man. This will not serve the purpose Government have in view while it may frustrate the requisitionists.

One word more about the appointment of a liquidator.

**Mr. Chairman:** He has taken more than half an hour.

**Shri Matthen:** I am just finishing. It has been provided in this section that managers of a company at their meeting may nominate a person to be a liquidator of the company for the purpose of winding up the affairs and distributing the assets. It is better that all such persons should have no previous connection with the company. It will be advisable to provide that such a person should be other than the one who has been a director, auditor or officer of the company within a period of three years preceding the date of liquidation.

**Shri U. M. Trivedi (Chittor):** This Bill which is now being presented to us appears to me the result of a good deal of confused thinking. The subconscious idea all along this Bill is that we as a nation are persons full of dishonesty, we have no chances of evolution, that from one stage to another we are degrading ourselves and that we are downright nepotists who cannot act independently and cannot apply our mind in a dispassionate manner.

The curious definition of 'associate' and 'relative' that has been embodied in this Bill speaks volumes against our integrity and honesty. Nowhere, in any part of the world it is like this. Long, long ago there was a theory under the Evidence Act that when a person at any time gave evidence for and on behalf of a person in whom he was interested, that interest itself was sufficient to justify the conclusion that his evidence was not truthful. It is with that end in view that an ordinary witness was always to be questioned: "How are you related to him? Are you members of the same club? Are you a relative of his?" And, the matter ended there. Advocates of small standing or low understanding would end the cross-examination at that stage. It was sufficient for them to say that the witness had an interest. Now, that idea of interest has changed. At least it has changed tremendously in England and our High Courts have also held—

it was held in 1923 at Calcutta for the first time—that interest itself must not be a ground to discard the evidence of any person. The whole of the evidence must be judged as the evidence of anybody else and we can then come to the conclusion whether that evidence is reliable or not. Unless and until it can be proved that the witness had perjured himself by telling something which is not the truth his evidence ought to be believed. It is this conception which has grown and which has grown in a country where evolution of a particular type of integrity and honesty has developed. Unfortunately, in our country, due to the Muslim rule and the rule of the British, a sort of involution had set in and we do not know whether we will stop this involution. It is up to us and up to every countryman of ours to stop it. We must evolve ourselves. We must rise above it and not think in terms of dishonest people all around us. Simply because a man happens to be a merchant, a trader or a bania for the matter of that—the most contemptuous term we generally use about traders—we can't call him dishonest; that is too much for us. We must believe people. We cannot run down a man because he belongs to a caste. We are clamouring that a casteless society has to be built up; a socialistic pattern of society has to be built up. Therefore, we cannot today go back and say that because a man is a merchant, a trader, a dealer or a director and carries on an independent business as such or a profession or a trade as such, is to be dubbed a dishonest man. In our country we have got some people who are related to Pakistani nationals or nationals of other countries. It may be that a father is working here and his son is in Pakistan; yet we do not say that, on account of your relationship with that man or your being his associate you are being driven out of your job that you are holding. We treat him as our own national and we allow him to remain a national even though he is related to a national of the other country. How can we trust such



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people and not trust our own people for the sake of providing them with certain jobs or certain other things which an ordinary prudent man would trust giving them? He has not got any machinery like the Union Public Service Commission nor has he got the various State Service Commissions, as the States have got, to judge whether a particular man is honest or not. He comes into contact with certain persons who are near and dear relatives or friends and with whom he has business contacts. It is with such people that he has to deal and in such people only he can repose his trust. Always for doing good trade with others, for good relations with others and entering into contractual relations with others some sort of trust is required to be reposed and it is this trust which we say by the provision under this Bill, that he shall not repose.

It is on this principle that I say it is very wrong to put down these provisions in this Bill. If we make up our mind that our country should prosper, if we make up our mind that the private sector must also be trusted—and it has often been said that it is now the desire of the Government and certainly it is now the desire of the country although it may be the desire of certain faddists or bookworms that the private sector must be done away with—then I say with emphasis that there is enough time for us to think about it and think about the consequences which may flow from nationalising all and sundry industries and other occupations in our country. It is therefore up to us to see and allow the development of a national character. That cannot be done by always distrusting people who have been put in particular positions in life.

It is with these few preliminary remarks that I shall offer some of my criticism about this Bill. Now, the Government under this Bill is usurping too much powers. I should say, they will be a burden on the Government and they will be a source of

trouble in operation to those who run companies. A friend of mine, who is a managing agent of not a very big concern, was telling me that, those who at any time become managing agents in India now believe, if they are Hindus, that they must have been the greatest sinners in their previous lives and it is for the sins committed by them in their previous lives that they have now become managing agents.

Shri Punnose (Alleppey): So that they may commit more sins.

Shri U. M. Trivedi: So that they may suffer for the sins they have committed, that is the logic and not what the hon. Member says.

Shri L. N. Mishra (Darbhanga cum Bhagalpur): The tragedy is, they are not suffering.

Shri U. M. Trivedi: My submission is that we should not drive them to feel like that.

We say in one breath that the managing agency is a useful system, and in another that it should be ended. If it has not proved useful, I challenge and ask what other alternative this Company Bill is going to provide for running a concern? You bind down the managing director and you bind down the secretaries and treasurers. You do not allow a managing agent to run a concern. You distrust him. Then, what is the other method that you are going to allow for running a company? So in one stroke we may say that we do not want this law at all. This will not be a Company Law because it has not provided any law under which they can work.

Shri T. N. Singh (Banaras Dist.—East): It is only a law for managing agents and nothing else.

Shri U. M. Trivedi: I agree. In that case, why not make a law for managing agents, incorporate it in the Indian Penal Code and be done with it? Why put it in the Company Law and why

have a big change about it? That is what I submit.

**Shri T. N. Singh:** Your suggestion is worth considering.

**Shri U. M. Trivedi:** As Shri T. N. Singh has said, I also feel that this is a law for the managing agents.

There is one other thing. I have seen that at some places there are mistakes in understanding the provisions of this law. I have not understood the provision where it is said that the secretaries and treasurers must always be a firm and not single individuals. If a managing agent can be an individual why not a secretary or a treasurer? Why do you put down that for all times and under all circumstances the secretaries and treasurers will be a firm? Then again, there is difficulty if a partner of a firm is the associate of another. Then also there is trouble for him.

When we go a little further and analyse this Bill, we find dubious provisions. At one place we find a provision to this effect: when a private company at any time ceases to be a private company and becomes a public limited concern instead of a private limited concern, then it has to issue a prospectus and a statement in lieu of prospectus. If those companies commit a mistake or a mis-statement of fact and tell a thing which is not true, which is not correct, in a statement in lieu of the prospectus, then they can be caught and sentenced. They will be dealt with as criminals and the penal provision is applied to them. When we go a little further, we find another provision. It is a peculiar provision. If any wrong statement is made in a statement which is in lieu of prospectus and not in the prospectus itself, no visitation of a criminal nature or even civil liability is attached. Why this peculiar provision? Why in the case of a private limited concern, you catch hold of a man for doing the same thing as in a public limited company and why the inhibition is not applied in the case of those who are running public limited company?

Of course, this is a very long Bill and it takes certainly very long, with all the desire to be as short as possible. It is not possible for me to be very short about this Bill. Then the question comes with regard to the floating of a company and giving of an opinion by an expert. A provision is made in clause 56 of the Bill that an expert who can give opinions must be of this type, namely, he should be a person unconnected with the formation or management of the company. The provision is like this:

"A prospectus inviting persons to subscribe for shares in or debentures of a company shall not include a statement purporting to be made by an expert, unless the expert is a person who is not, or has not been, engaged or interested in the formation or promotion, or in the management, of the company".

I wonder why such a provision has been made and inserted in this Bill. This provision is not found anywhere either in the English Act or in the original Indian Act. Why this provision? This is, as I might say, another show or a declaration of our feeling that we are not honest. Who will come and run this show? If an expert, if a man who knows the business, is not prepared to take the risk of joining the company, if he is not prepared to take the risk of joining in a venture which he can formulate, which he can lay down and of which he knows so much, will the floating of a company by a person who is not an expert or who is not allowed to join it, be conducive to make the people feel that their monies which they are going to invest will be safe? It is only that expert and the knowledge which he possesses and his personality that count and in whom some confidence can be reposed by the public. But if he becomes a detached person, and that detached person will not be an interested person—somebody else will have to pay for getting his opinion. If such an opinion is to be got at, and to be purchased, the value that can be attached to the words of

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a man who works selflessly is lost, the moment when he has to be paid in rupees, annas and pies. Further, the confidence that can be developed in a company to be floated by the very experts who formulated the scheme, with the experts being kept outside the scheme, will be much less than it could otherwise be. Therefore, such a provision of law is not good. Therefore, I say that we should be very careful in formulating all the ideals that we want to place in this Bill.

A long list is given in Appendix VI showing the clauses in which the Central Government is referred to, and the nature of reference, and where the Central Government has got some sort of reference. It is a big list and extends to four pages. At every stage, if you have got an interference by the Government, then we come to the conclusion and this conclusion alone, namely, that it is the desire of the Government that there shall not be any floating of a company.

There is another peculiar provision of law made in this Bill. Up to now, all memoranda of companies only indicate what the objects of the company are and what they want to do. There can be multi-purpose companies; a company need not be concentrated on only one industry; it can have several businesses and several different trades under it. Yet, the form of memorandum that has been laid down in this Bill is like this: if anybody wants to float a company, he must adopt this model and he has to take this as a model. The model form lays down that a person can start only one company with one object, and for every other object in view, he will have to float another company. Then a further limitation is put upon it, namely, that a managing agent can have under him not more than ten managing agencies or, in other words, not more than ten companies. He may have companies, each with Rs. 25,000, 25,000 and so on. That means that a man can run a company for Rs. 2,50,000 and not more. A very peculiar position arises in that

we are putting so many handicaps for a person to run his business and for a person who is interested in doing service in his own way. We have got three modes of service. His service to the country may be by *tan man* or *dhan*. We do not want to differentiate between these three. Some perform the service by their body, or rather, bodily, some mentally and some by their wealth. It is these persons who through their wealth want to perform some service to the country. Do not distrust them unnecessarily. It is not necessary that we should distrust them. If they want to perform a duty, give them an opportunity to perform it and do not create a feeling in their minds that they are not to be trusted because they belong to a particular category. It is by this approach that the whole Bill and the managing agency system are unfolded according to the various provisions that are contained in the Bill. After all, what are we going to provide for the managing agents? A managing agent is going to get only a sum of Rs. 50,000. So many officers get that salary of Rs. 50,000 per year, and do we provide that a Government servant's relative shall not be appointed to any Government job? Do we provide that if a man who is a relative is appointed, he must be removed from service? By virtue of this are we not doing something which offends against the provisions of our Constitution if we say that because a man is born at a particular place or in a particular family, he cannot choose a particular employment? Here the particular employment is being refused to him by virtue of descent only. Why go to that extent? There are so many persons in this world who will refuse to make any recommendations for their own children, but who will go out of their way in making proper recommendations for proper persons; and that proper person may happen to be his own brother. Because he happens to be the brother of a particular man, it should not be said that he is not competent. Competency is the inherent factor in a man himself and

It is not dependent on whether he happens to be the brother, father, mother or any other relative of a particular person. Therefore, my suggestion is this. I know it is too much for me to ask that the Bill at this stage after having gone through all these processes must have such a big alteration. But alteration will be needed even if we have to waste some more time over it; some radical changes will have to be introduced into this Bill, so that we may not be castigating the whole nation by making a provision of law which is not commensurate with our desires for the future. This Bill, as it stands today, is not going to be helpful to us very much. At every stage, when we want to start private companies, there will be interference from the Central Government, if not from the State Governments.

At one particular place we have been quite inexplicit, very vague and indefinite. It is said that for a company the name must not be 'undesirable'. What is this undesirable factor? Who is to determine the desirability or otherwise of the name? One person sitting will say it is undesirable, but then perhaps the Minister saheb may say it is all right. If you allow a human factor to judge what is desirable or undesirable, it will always depend upon his own whims and fancies and his own attachments in a particular way. Why not be as specific as the English Law or as the Indian Law was? You have to put something specific as to what would be undesirable, something suggesting that it is a Government-sponsored measure, something which in any manner implicates the Government by virtue of that name. Then, there may be some reason for your putting the word 'undesirable' here.

I am not going over the whole Bill as it stands; I am offering at this stage only such criticism as will help the Government to formulate a correct appreciation of what they have done, what they ought to do and what they ought not to do. In a general way, so far as the Company Law is con-

cerned, I have felt that a law, which puts inhibitions upon certain persons from carrying out their professional vocation on account of their being in any manner connected with someone or other running that business, must not be there. It ought not to be there. That portion of it must go.

I have got one more small criticism. Those of us who have studied a little of the Company Law and have understood the provisions are puzzled by this new definition of the word 'debenture' given in this Bill. Any promissory note, any hundi or anything written by anybody would become a debenture under the present Act and create a lot of trouble for the persons who are running the show and to others also. Then there is the question of irregularities—some penal provisions and inhibitions are very necessary in this regard; we have not penalised the breaches of those inhibitions. For example, I will point out a small prohibitive provision which says that a private company of less than two persons or a public company of less than seven persons shall not be allowed to be run. What we have done is only this much and no more. Supposing such a thing happens, the only thing is that they will be liable for the debts that they have incurred after the company with less than the minimum quota of members is allowed to run. But they might have no debt and they might have merely to get money from others. Why allow such a company to run? Why not make a provision in the law itself saying that such persons shall not be allowed to run the company and sue its debtors? That also requires to be looked into. It is not enough for us to put it in a negative form saying it shall not be allowed to be run; but some further deterrent prohibition must be put.

**Shri N. P. Nathwani (Sorath):** The debate in this House has mainly centred round the question of managing agency system and its abolition. Some Members desire that it should be abolished right now; others say that some time-limit should be fixed after

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which it should not continue to function. The Joint Committee has taken a middle path. While the Joint Committee has decided to continue this system, it has tightened the restrictions by removing several loopholes, so that the provisions cannot be misused by those who are in charge of the affairs of management to serve their personal ends. So far as the future of the system is concerned, however, there is no express provision in the Bill as it has emerged from the Joint Committee. However, the spirit and intent of the Bill are quite clear and there is a definite indication of bias against continuing the system. If one reads closely the provisions of clauses 323, 325 and 329, this should become tolerably clear. While, therefore, the system is going to exist for some time, so that there may not be any vacuum created, still.....

Shri M. S. Gurupadaswamy: Where is the question of vacuum? There are managing directors.

Shri N. P. Mathwani: But there would be a sudden break with the past. I am using the word in that sense. This system has been there for a long time and if it is abolished, it may lead to some sort of chaos. Therefore, the Government are willing to give some time during which the thing can be adjusted. As I read the provisions of this Bill, there is a definite bias against the continuance of the system. If any hon. Member is interested, he may compare, for instance, the language of clause 325 with the language of the existing section 87 CC; when a new appointment is to be made or when a managing agency is to be re-appointed, it shall be void unless previously approved by the Government. Government also shall not accord its approval unless certain conditions are complied with. On the whole I think this is a good thing which the Joint Committee has done. If, however, during the next few years, the managing agency system works well and its performance is

found to be satisfactory in the context of the Second Five Year Plan, it may survive. Its performance will be watched very carefully. But, today the die is cast and it is loaded against them. That is how I read the provisions of the Joint Committee.

1 P.M.

My hon. friend Shri Morarka and I have differed from the other Members of the Joint Committee on some questions. One of them is about the method of appointing directors. Of course, the Joint Committee has made improvements on the existing law. They have suggested a system of proportional representation; but they have left it to the option of the company or the shareholders. We have suggested that this principle of proportional representation should be made compulsory. In making our recommendations, we have been guided by the consideration that the directors occupy a central position in the structure of joint stock companies. As the Bhabha Committee has observed at page 64 of their report, the reform of the directorate is the key to the reform of the Company law. I want to emphasise the words, "reform of the directorate". But, as the controversy has mainly raged on the question of the managing agency system and its malpractices, it has created an impression amongst some of the Members as well as outside public that with the abolition of the managing agency system or with its rigid control, the abuses which have crept into the companies' management will disappear. Because the controversy has mainly centred round this question, it has obscured the fact that the directors occupy a central position, that they are the real masters, that they are the final authorities and that the managing directors or the managing agents or the other managers always act subject to the superintendence, control and direction of the Board of directors. Therefore, we have to address ourselves to the task of the reform of the directorate, because the abuses and malpractices which are to

be found in company management are not peculiar to companies which are managed by managing agents alone. They are to be found in companies which are managed by the directors also. This state of affairs will continue to exist so long as certain individuals or groups of individuals have a controlling interest in the affairs of a company. With this control, they can swamp or pack the entire Board of directors with their nominees and with this absolute power at their disposal, this majority will be able to misuse their powers, and pervert the provisions of the law to serve their ends. Therefore, the mere removal of the managing agents would not achieve the desired end. Thus, if you have a company which has a group of individuals with a controlling interest, this group would have the entire control over the Board of directors. The malpractices which are very familiar will again appear. If the companies are controlled by them, these malpractices take the usual forms of interlocking or giving of loans, and what would be worse, shady transactions, underhand dealings, getting of secret commissions or deriving of secret profits, and so on.

I am aware that the Bill makes ample provisions for checking these abuses and malpractices. I am also aware that there are various clauses specifically dealing with the investigation of fraud and preventing mismanagement of companies or the oppression of the minority by the majority shareholders. For instance, clauses 233 and 234 provide for investigation of charges of fraud or mismanagement by the Registrar and the Central Government respectively. Again, in clauses 397 and 398, power has been given to the Board as well as to the Central Government to prevent mismanagement or conduct of the business in a manner prejudicial to the interests of the company. I am also aware that in clause 407, the Central Government has equipped itself with the power to appoint two directors if the circumstances require that the Government should intervene.

But, in my humble opinion, these provisions, though valuable on paper, would remain inoperative in practice for the following reason. The Government can give protection only when sufficient evidence is produced of fraud or mismanagement or oppression. If you go and place facts which merely create a doubt or suspicion about mismanagement, they would not be able to intervene in the matter. Therefore, apart from the difficulties of organising the shareholders and taking proceedings in a court of law or before the Central Government, it would be very difficult for the shareholders to give sufficient particulars to enable the authorities to take suitable action. There may be a general feeling of dissatisfaction that the management of a particular company is not being run honestly or in an efficient manner. But, still, in the absence of relevant particulars, the authorities would find themselves helpless. Therefore, if our suggestion is accepted, namely that there should be cumulative voting, that is to say, if the shareholders are given as many votes as there are candidates, there is a fair chance of a minority or groups of minorities being fairly represented on the board of directors. Today, the position is different. Only one vote is given to each voter, so that a party which controls a majority of the votes or even 40 per cent. may succeed in getting the entire Board into its hands. If our suggestion is accepted, it will have this benefit that the representatives of the other groups would be able to associate themselves in the company management with the representatives of the other groups and would be able to check any malpractices. Here, I say that it is better to prevent malpractices than to punish those who have indulged in them subsequently. Their very presence would act as a deterrent to the other directors of the majority group in misusing their powers, and trying to get private profits or mismanaging the affairs of the company. The Government and the other authorities also would be thereby spared the necessity of taking action under these various provisions. Again, it would also create confidence

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in the investing public. They would feel that even 10 per cent. or 15 per cent. of them would be able to organise and be in a position to send one of their representatives on the Board, who would acquaint himself with the affairs of the company, and having got inside information, would be in a position to expose them if there are mispractices.

There are objections to this suggestion. Why? So far as I can see from the notes written by my hon. friends Shri Tulaidas and Shri G. D. Somani, they seem to suggest that if this principle is accepted the Board would not be homogenous and the management would not run smoothly. This objection is entirely misconceived, and based on misapprehensions about a conflict of interests between the representatives of the minority and majority groups on the Board. There could and should be no disharmony or conflict between those representatives. (Interruption) My hon. friend is impatient. He knows very well the line of argument. I am coming to his pet analogy just now.

Shri Banaal (Jhajjar-Rewari): How do you know my pet analogy?

Shri N. P. Nathwani: I know.

I was submitting that really there is no antithesis between the interests of the representatives of minority and majority groups, because the interests of all the shareholders are identical. They are all members of the company and whatever is in the interests of the company is also in their own interests. The interests of shareholders, whether they are in a minority or in a majority, can therefore never conflict. It is only when extraneous circumstances prevail that a cause of friction arises. It is when the majority group, taking advantage of its position as majority, tries to misuse and pervert the provisions of law to serve their personal ends that the cause for friction arises. Here it must be borne in mind that by accepting our suggestion you are not depriving the majority group of their right to remain in possession and charge of the management.

The possession would be the possession of majority. Therefore, so far as the policy of conducting the business is concerned, they can carry on according to their own light. Only, other representatives who would be associated, would be able to contribute also in the discussion, just as in a partnership also the majority view prevails, but certainly other partners can contribute their knowledge and their experience.

Some of the critics of the system which we have suggested referred to the analogy of a coalition government. I need not refer to the argument which I heard at one place, viz., that this is something like Liaquat-Nehru Government. But, such an analogy is entirely misplaced. In a coalition government the parties may be communal, may be regional, may be province-wise, may have different loyalties and even different ideologies, but in a company management, however, all the directors have the same interests, viz., the interests of the company and its shareholders.

Critics have raised a further objection that in the corresponding U.K. Act on which our Act is based there is no provision for proportional representation. But, in the United Kingdom, conditions are entirely different. They have found the system of a single vote for each candidate quite satisfactory. It has given them an efficient and satisfactory management. The Cohen Committee thus observes in the introductory part of their report at page 7. This is how the whole report begins, and we can compare and contrast the conditions which prevail in our country. They say:

"We are satisfied by the evidence that the great majority of limited companies, both public and private, are honestly and conscientiously managed."

Why? The reason seems to be the lack of concentration of shares in the hands of a few individuals or groups. Thus, there is fair representation on the board of directors there. No parti-



cular group is in a position to command a majority of votes and swamp the board by its nominees. In the United Kingdom there are numerous shareholders and the average shareholding is quite small. This will be obvious if we look at the table given at page 77 of the Cohen Committee's report. It is very interesting to note how small is the average holding today in England. If we refer to page 77, there figures of total capital and number of shareholders in respect of ten big companies have been given. We find there that the proportion of capital of shareholders holding less than 500 shares each is about 88 per cent. These figures were collected a decade before the Cohen Committee submitted its report, and in the report they say that subsequently the size of the average holding has decreased. Therefore, the number of persons holding less than 500 shares would constitute more than 90 per cent. of the shareholders in English companies. Therefore I submit that in our peculiar circumstances we should adopt this particular system because.....

**Shri Altekar (North Satara):** On a point of information. What is the percentage in India?

**Shri N. P. Nathwani:** I have not been able to gather any definite figures, but it is well known that a group of individuals, a group of families have been able to hold more than 25 to 60 or 70 per cent. of holdings in so many companies. The system of proportional representation is widely prevalent in the United States of America. Several States there have followed this system. Its industrial development has advanced. It has worked very well. Nobody has complained about the system not having worked, or not having been found satisfactory.

There is another point also on which we have disagreed with the other Members of the Joint Committee, and it is in respect of auditors. The Bill makes certain provisions for securing the independence of auditors. For instance, their right to be re-appointed is given. They cannot be removed,

till the next annual meeting except with the approval of the Government. But we feel that these provisions would be still further strengthened by giving power to the Government to supersede the auditor appointed by the company in suitable cases. Our suggestion is prompted by a desire to strengthen the independence of the auditors because in the first instance an auditor would be appointed by the board of directors. Now, the board of directors are the persons who have got a controlling interests. The auditor who has been appointed will be labouring under a sense of obligation and though there might be changes in the constitution of the board from time to time, still the controlling interest being the same, the whole board would be in substance the same. Therefore, in order to induce the management to grant more independence to the auditors, it is necessary that Government should come forward and have this power of appointing an auditor in place of the one appointed by the company.

What are the objections against this? They say that we are trying to destroy the freedom of contract, that we are trying to impose on the company an officer who is not of its own choice. But we have got ample provisions under this Bill whereby we have sought to do the same thing. For instance, in clauses 407 and 408, not only have the court and the Central Government been given power to terminate, but even to prevent the appointment of managers, board of directors, managing agents even secretaries and treasurers. Therefore, I do not see any substance in this argument, viz., that we should not impose upon the company an officer who is not of its own choice. Such a thing would happen only in rare cases, but in the meanwhile it would act as a deterrent. Then, the second objection, which I was able to gather, is this that there is an Institute of Chartered Accountants, and any delinquency on the part of an auditor should be left to be dealt with by that Institute. Let them deal with it, but



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when we are dealing with the safety and safeguards of public investors, why should such a provision not be made? The Institute may deal with it. I do not say that they should not deal with it. Let them have their own rules. But that is no reason why we should not guard the interests of the public.

Now, I come to the last point which we have dealt with in our minute of dissent, namely the difference in the treatment given to the preference shareholders. While in the future, i.e. after the commencement of this Act, the preference shareholders have not been given the right to vote on any matter in which they are not directly interested, yet the rights of the existing preference shareholders have been preserved. I cannot understand the reason or the logic behind it, because if it is a question of disturbing the existing rights, then we have taken away the existing voting rights, which are the main test or indicia of power in the shareholders.

Before I resume my seat, I would like to say a word about the provisions relating to secretaries and treasurers. I am not very happy about those provisions, but I would like to deal with them when the clause by clause discussion comes up.

Shri Raghavachari (Penukonda): This Bill has come before this House after long deliberations and long consideration by the public. And the whole atmosphere is charged with set ideas for and against particular clauses of this Bill. But what I really feel is that the real matters which should engage the attention of the House must be how far the difficulties, the troubles and the mischiefs that exist in company administration at present may be prevented, and safeguards provided therefor. That is what we have to look for, rather than look into certain words and phrases and urge arguments for or against them.

Before I go on to those particular matters on which the attention of the House must be riveted, I would certainly welcome many of the provisions that are contained in this Bill. This Bill is said to be a mammoth Bill containing 649 clauses; and a lot of comment is made of the size and the volume of the Bill. I for one feel that many of the old schedules which were mostly concerned with procedural matters regarding day-to-day administration—have now been put into the Bill as clauses, and that is what has contributed to the mammoth size of this Bill. If you take away those clauses and concentrate only on the real matters, then you will find that the real points at issue will be only about forty or fifty clauses, and that is a very small number indeed. Therefore, our aim should be to consider only those provisions, and not to lose ourselves in the other details. As I said earlier, the real points for consideration should be: What were the troubles, difficulties, inconveniences and dangers that we have suffered from, and for which we have to provide safeguards now? Do these safeguards really guarantee no reversion to the old, but a real advance without those defects?

I propose to address myself only to a few aspects of the matter. The first point that I would take is this. The hon. Finance Minister stated that some of the real teeth which exist in the managing agency system have now been rubbed off. That is what he said. We know from experience how the country has had many troubles because of these powers. And what were those powers? The most important and the most objectionable power which the managing directors had was the right to nominate their own directors on the boards. And secondly, they, having taken considerable trouble in securing the finances of the company, naturally they wielded a control over the shareholders; they always managed a majority, with their power to nominate some of their directors on the board, and also by the other share-

holders within their influence electing a few more of their own choice. In this way, they had full control over the affairs of the boards. This was the real danger that the managing agency system had.

My hon. friend Shri N. P. Nathwani was very anxious that the real interests of the companies should be the main objective; and if so people could never feel any irksomeness or irritation as between groups and groups, for everybody's objective must be the same. But the real difficulty so far has been, as we know it from experience, that people, when they have power, have always used it not in the interests of the institution only but in their personal interests or the interests for the moment. That is unfortunately how the thing has gone on. No doubt, the Joint Committee have provided for some of these things which really contributed to the mismanagement not to be now there. But what makes me feel strange about this matter is this. In trying to take away the managing agency system, Government have succeeded in establishing themselves as the greatest managing agency. That is the most unfortunate thing that I feel, as I see throughout this Bill. They want the managing agency system that has contributed so far for the mischief and mismanagement of companies, to go. But all these powers are now sought to be concentrated in Government, and they can exercise them as they please. We find that the whole thing is entrusted to a body of people, and that body has to exercise all these powers. I do not know the exact figures, but I should expect that all these companies have an issued capital running to a few thousand crores of rupees; and their management is to be entirely subject to the whims and fancies of Government or the particular agencies which they may create. To my mind, this is really very undesirable. The Bhabha Committee recommended the setting up of a statutory body to supervise the exercise of these powers. And even Government in their original proposal wanted to have these powers to them-

selves only temporarily, that is, for a period of three years. But now the Joint Committee have succeeded in recommending the retention of these powers permanently by the Government. The hon. Finance Minister was mentioning the other day that the more he thought about this recommendation of the Joint Committee, the more he felt that they were very wise. But for my part, the more I think about this matter—generally we find so much of mismanagement in the administration in the country—the more I fear the same thing must repeat itself in this also.

Therefore, the real thing that I would urge is that as regards these special powers and this extraordinary exercise of all the powers which they have taken away from managing agencies and concentrated in Government, the body that should scrutinise, discharge and administer and exercise those things must be another body, not the Government or a limb of the Government entirely under the control of the executive. No doubt, a Government can be expected to manage matters better than private groups or individuals; I perfectly see that there is something to be said in its favour. But the real difficulty, as we see, will be that the Government are also composed of human beings, and pressures and other considerations do come; and we have often seen political considerations coming into the picture. We really do not know what the advice of the particular body—Advisory Commission—which they are going to consult would be and what action or decision Government have taken on that. The public have no chance to know. Therefore, what I would suggest is this. We have in the matter of the tariff policy of Government a Tariff Commission. The Commission does make inquiries and make its own recommendations. It publishes its recommendations which should be proper in the circumstances. Then the Government have the liberty or option the public know what it is, what it is the public know what it is, what it is that a body composed of independent

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people have said about the matter and how the Government have accepted or not accepted it. Therefore, the Parliament and the public will be in a position to know how exactly these things are being dealt with. But in the matter of an Advisory Commission or a section of this Government, only the Government know what it is that it has recommended; the public would not know. That is something which is really taking away from the powers of the public justifiably interested in it. Therefore, I would object to the proposed system continuing or that provision being incorporated and becoming law. I would like a change to be introduced in this matter, as suggested by me before.

Coming to the system of managing agency itself, as I said, one ought not to be guided merely by the term. Saying 'it is managing agency'; therefore, I am against it' or 'we want to have the managing agency' is not the real matter. The point is that the powers which were exercised wrongfully must not be there. They have, no doubt, provided some safeguards against all those things. Again, in this matter, I fail to see what exactly they have succeeded in achieving when they have introduced the new secretaries and treasurers, another class of people who actually take the place of the old managing agents except that the right to nominate their own directors on the board is not there. The managing agency covered so many aspects of the work of company management and the real thing that contributed to the mischief was the wrong exercise of those powers I already mentioned. Therefore, when you are putting another name, secretaries and treasurers, who come and do all the rest of the thing which the managing agency was doing, is there any charm in abolishing the managing agency? That is a most ununderstandable thing. As somebody put it—I think it was the Finance Minister himself—secretaries and managers could have been appointed even without the legislation containing

some provisions about it. Though Shri A. M. Thomas yesterday wanted to urge that it was not possible to do so under the existing law, I take a different view. I think it perfectly possible under the law, as it is, to appoint secretaries and treasurers without any special provisions. Therefore, by simply removing the managing agency system on sentimental grounds the real trouble is not solved.

Now, what are the safeguards which they have provided in the matter of the management of company business? The first thing that they have provided for is the abolition of shares with disproportionate voting right.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

It is provided in clause 87. But the unfortunate position is that in clause 88(4), they have again provided this power into the hands of Government to permit their use. Under clause 87, they have prohibited disproportionate voting rights; then under clause 88(4), they have provided:

"The Central Government may ..... exempt the company from the requirements of sub-sections (1), (2) and (3) wholly or in part, if in the opinion of the Central Government the exemption is required either in the public interest or in the interests of the company or of any class of shareholders therein or of the creditors or any class of creditors thereof."

So all sorts of conceivable interests under which this disproportionate voting right can be exercised have been mentioned here and all that power is vested in the Government, though they say it is all taken away from another agency.

In this connection, I would like to submit one thing. The essential control of a company must be in the willingness or the consent or the opinion of the shareholders. If the shareholders can have their own

way, they elect their directors and therefore whatever is done through the directors is their responsibility. Now, the fundamental principle is one of majority. We know about that wonderful mathematics in democracy. In democracy, 51 is equal to 100 and 49 is equal to zero. If in a House of 100, 51 join together, then the 49 are removed out of existence, and everything can go on. That is the magic of mathematics in democracy. Of course, I am not quarrelling with it. That 51 may consist of people who have no heads or sense. That apart, the reason why they do not want to have this is because this has not today worked always very well and satisfactorily. Therefore, they want to provide for a better state of affairs, namely, proportional representation. That is another thing. The Bill wants to bring in this principle of proportional representation, on which Shri N. P. Nathwani was elaborating now. I have also considered that aspect, and I find that though this is not to be found in the democracy that we have adopted here, or in the United Kingdom, this system appears to be working fairly well on a large scale in America in the management of their affairs. I would also be willing to go to the length of saying that instead of leaving this principle of proportional representation to be contained in the articles of association by the consent of the shareholders, insistence on that kind of representation and election might be introduced in the Bill, with some hopes of better management. Then minorities and other sections, smaller groups, have a chance of co-operating and knowing and contributing towards the proper working of the companies. Therefore, I personally feel that proportional representation is a principle which must be introduced more into the management of these companies. That would be a guarantee against the mismanagement which now we find. Certainly clause 407 which they have introduced cannot secure this benefit at all. If you examine clause 407, it simply says that at the request or on the complaint of a certain section of

shareholders the Government might nominate two members on to the board and they say the affairs would thereafter be regulated. In this state of the magic of the mathematics of majority-working, what can these two poor people whom we are thrusting on the board of directors do there? It is zero because the others are there in a majority. It will always be not less than three because the board is never less than five. Government by putting these two people there—and that too against all principles, without the consent of the shareholders, against the principle of democracy—they simply thrust the two people there who can do nothing. I am also afraid this power can be exercised by the Government most mischievously, not for achieving the purpose for which they have taken the power. The request is not required from a group or proportion of the shareholding of the company. The Government can put any two members as directors. What is it that they could do? They always could quarrel in the meeting of the board of directors. The other directors have a majority, have the resolutions passed and these people come out without any purpose being achieved. It would certainly be much better to introduce this principle of proportional representation as the solution for this problem rather than resort to the exercise of such powers as in clause 407 by the Government.

I also considered whether it was necessary that this clause should be there. It may be that in some cases some oppressive management does take place and therefore there is reason for interference. But in that very chapter under the earlier clauses there are provisions to resort to courts and the court, if it is satisfied, may pass necessary orders. I also feel that instead of this power vesting in Government what is contained in clause 407 may well be incorporated in the clause under the powers of the court—the powers a court may exercise in appropriate cases for rendering justice that would be much

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more desirable than vesting in the Government this power.

Then, we shall consider what exactly has been achieved by the managing agency abolition. I see that all existing managing agencies will automatically get abolished in 1960. The Government can also terminate them earlier if they issue notifications regarding companies doing a particular class or kind of business, wholly or in part. If there had been a general requirement that it must be a general prohibition, it was easier. But if it is in part or whole of any class of business done by a company there is some danger. After all, a company may be doing in part a kind of business which is going to be prohibited and a large part of its other business which is not objectionable. Because the provision says "in part or whole" it would be affected. That is how the clause reads.

Then about this notification. The wonder about this notification is that the effect will be given only three years after it is published and the other date is 1960. We are in 1955. So, if before August 1957 a notification is issued, the thing will be operative from August 1960 or three years after notification. The process of framing the rules and deciding what class of business should be notified and all that, I am afraid, would take a long time and it is also possible that it will not be notified in time and the notification will go into the next year and so on. The managing agency will thus generally continue for the present.

The question is whether all of them will cease on a particular date. There is power given to Government to permit the re-appointment or a new appointment of a managing agency. If we examine that, it means that if the Government is satisfied or if the managing agency satisfies Government in any particular that it will not work mischief—the language is

so wide and comprehensive—the managing agency may be allowed to be renewed or re-appointed.

So far as I can see the mind and the way in which the Government is being managed all these years—when they say they would do many things, in practice things go on as they are and nothing will be done. Therefore, I am afraid that this managing agency system will continue because the initial difficulty they have to face is to finalise about the class of business which they should prohibit. That causes considerable difficulty and it will be delayed. Afterwards, there are other considerations. So, permission will be granted and the managing agency will continue. I am not sorry because I am not sentimentally against the managing agency. The real thing is the teeth. If the teeth of the managing agency are taken away I will have no objection at all for its continuance. They may call it managing agency rather than simply call it the secretaries and treasurers. Managing agency thus continues with all its defects.

The only other matter that I wish to press, besides the things that I have submitted, is about the kind of restrictions they want to place the managing agents under in the matter of fixing their remuneration and in the matter of limiting the number of companies that they could manage. These are some of the aspects about which provisions have been made. For instance, let us take the question of ten companies. The Joint Committee have reduced it from the original proposed 20 to 10. That is something for which we must thank them. Still, I do not see why it should be so. The usual argument is dearth of capacity and deficiency of people of experience. I am not very much impressed with that argument. I wish the number was much less.

I want to point out one thing. You have said 10. Supposing I am now a managing agent of 20 companies and

you have fixed 10 as the maximum limit, what prevents me from amalgamating all these companies and making them less than ten? Have you succeeded in anything; rather have succeeded in circumventing the provision.

Then there is the question of remuneration. It must not be more than a percentage of profits, in some cases they have said 11 per cent, in some cases 10 per cent and if it is the secretary 7½ per cent and if it is the director it is 5 per cent and so on. It goes on from 5 to 11 per cent. All these limits refer to cases where there are profits. They have also said that in cases where there are no profits, Rs. 50,000 is the maximum. The hon. Finance Minister told us that for the sake of hard cases he may even consider a change of that maximum. Of course, the maximum will be changed. But, what I am concerned with is this. This requirement that it must be a certain percentage of the profits is, in practical working, bound to lead to some inconvenience; for the profits are going to be declared at the end of the year and these people are to be paid from the beginning of the year. I do not know how the matter is to be worked out. In the cases of companies which have already balance-sheets or the previous years with some profits, one can understand, but what about new companies which have started today? They may not be in a position to declare profits at all. Even in the case of old companies which had declared profits, circumstances might force them now to work at a loss. Therefore, in these matters, the Rs. 50,000 maximum will have to be applied. Apart from very big companies where more than Rs. 50,000 is required, ordinarily this amount seems to me to be too huge a figure.

I would like to suggest that they might consider some percentage of share capital as the guiding factor in prescribing the maximum of the remuneration that should be paid to the directors or the management in the companies, whether they declare

profits or not. Otherwise, this will lead to too much erring on the other side.

The other matter that I would like to submit is this. There has been so much agitation in the country and even yesterday Parliament had a discussion on the question of salaries—the permissible differences and the need for a uniform level. The highest paid man must not be paid very high—that is the kind of agitation that is on. Now we have got 11 per cent of profits as the maximum of remuneration that can be paid to the management and this might go to thousands for a director. There is nothing to prevent it for it depends upon the size of the profits in the business. The Taxation Enquiry Commission wanted Rs. 30,000 as the maximum remuneration for any individual, and yet the Bills that we are introducing are providing for the continuance of vast differences between one and another. No doubt it may be said that the Company Law is not the agency through which this levelling down on bridging up of the incomes can be enforced. Why not we, as far as possible, when we are providing for such maximum and minimum, attempt also to bring them nearer? This may not be the best method but that is certainly one way in which it can be attempted.

There was something said about auditors. I have received some representations—the provisions under clause 225(1)(b) make mention of a proposal to recognise auditors with foreign qualifications as auditors in this country. Our country has produced a number of auditors and the number is increasing and I am sure there are more in the field than really we need to take work from. Still we want to bring more people from outside here and give reciprocal rights, etc. I say that our people are not likely to benefit by these rights in other countries whereas more foreigners will come into our country. This traffic will be only one way traffic. I would submit that that provision may well be omitted.

Shri S. S. More (Sholapur): On this particular measure it is absolutely necessary that we should go to some of the essential principles on which we are visualising the development of our economy. India is predominantly an agricultural country and what we need is rapid industrialisation of the country. When we emphasise the industrialisation of the country, the question of agency does become relevant; and of some importance. In Western countries, industrialists went from one stage of expansion to another under the principle of individualism. *Laissez faire* was the principal guiding principle and it was believed that all these individuals running a race of competition, guided by the motivating force of self-interest, would arrive at a certain position which will be to the advantage of the country, and Adam Smith was very particular to emphasise this aspect of competition. Later thinkers have said that the principle of competition does not work when particularly there is a tendency on the part of the industrialist or commercial classes to develop monopolies, cartels, etc., which kill competition in its very bud. Therefore, another idea has come to the forefront. What is that idea? It is planning. Government representing a popular will feel that the march must be a regulated and disciplined march, and unless there is some force to regulate the pace of our march, the objective will not be reached. If planning has to be done, there must be some controlling authority. What is the controlling authority? It is the popular government represented by the people. If that government is to be representative and has to be in charge of planning, a predetermined integrated march on all fronts is needed, because the National Planning Committee has stated that planning cannot be one-sided and it is always an integrated march on all fronts. If planning has to be on all fronts, then there must be some authority like the Government for determining the rates of our progress on the different fronts. If we accept this

principle, then we must give some powers to the Government. I may have many grievances with the present Government in regard to the way in which they are working out their plans, but theoretically, as a student of politics, I cannot find fault or condemn the Government, particularly under the institution of democracy. So, planning has to be done. Our First Five Year Plan, for instance, has stated—I am quoting from the Planning Commission Report—that along with the development of the public sector, they have also development programmes for 42 industries in the private sector. Why this division into public sector and private sector? It is because under the Britisher we have entirely in the private sector. Excepting the Railways and the Postal Department, which constituted a major portion of our public sector, the private sector was being developed. But what was the position of the private sector? The private sector in the country had to run in competition with Lancashire and Manchester, the Imperial Industrialists, and, therefore, though we had some grievances about the private sector, we were still nursing it as the nucleus from which the industrial development of this country may take place. Therefore, we started the plea of *swadeshi*. The late Shri Gokhale said—and he said very wisely—that India was a poor country and our resources were small and therefore whatever resources were available whether in the public sector or in the private sector, must be utilised very carefully. I would quote from his address on this movement at Lucknow in 1907. He said:

"Our resources are small and our difficulties are enormous. It behoves us, therefore, not to throw away any co-operation from whatever quarter it may be forthcoming."

2 P.M.

We must accept this principle. It is a principle not of moderation because it was declared by a moderate but even the extremists as far as socia-



lism is concerned have to be realistic and take stock of our resources. When the Government's resources are not enough other resources will have to be tapped. It is the first principle of economy that when a country has meagre resources and is undeveloped, greatest economy has to be observed and all available resources have to be mobilised for the purpose of augmenting the resources for the purpose of developing the strength which is required for the rapid industrialisation of the country. As we progress, possibly more and more resources are made available but all the same in the initial stages we have to follow this policy of economy like a housewife coming from a poor family. We have to see that even the smallest grain is not allowed to be wasted and is not thrown into the dust-bin. From that aspect I propose to view and I propose to decide our attitude to the private sector.

I am one of the critics of the private sector. I am also one of the critics of the Government which functions in the public sector. But all the same can we at this stage say that we do not want any private sector or can we at this stage say that we want all industries to be nationalised? There are a thousand and one industries which are undeveloped and which could not even be touched in the fringe by our economic resources. Can we say that we spurn the co-operation which is likely to be given to us by the private sector? I will in very emphatic terms say: 'No'. But there is one condition. The private sector has to play its role in an independent country. It might have functioned in this country on very selfish principles of profit. Just as in this country there have been liquor addicts, our private sector and particularly the managing agents have proved themselves to be profit addicts going for higher and higher profits at everybody's cost in this country. It has been their guiding star but in this country when independence has come and when the Constitution has laid down justice—social, political and economic—it is

of great importance that the private sector must be in tune with the objective and controlling principles of our planning and our political and economic circumstances. The American Constitution has said that life, liberty and happiness are the hope of the American people and there the courts whenever they come to decide any particular matter never relax their vigilance to see whether a particular Act is consistent with this life, liberty and happiness objective of that Constitution. I would say that the private sector has to be nursed and at the same time private sector has to be seriously and on occasions almost ruthlessly controlled.

When we talk about controlling and regulating the private sector, many people think that we are born enemies of the private sector and particularly Messrs Tulsidas and G. D. Somani who have appended a minute of dissent to this Bill have stated that many people are possessed with the idea of abolishing managing agents. They say that the Joint Committee has approached the problem with a bias.

Shri V. P. Nayar (Chirayinkul):  
Political bias.

Shri S. S. More: I do not see how far they could condemn the whole Joint Committee of possessing some bias. Shri Bansal was there; Shri Morarka was there; so many other doughty champions of the managing agency system were there. But Messrs Tulsidas and G. D. Somani were pleased to say that, they have been saying that without companies you cannot flourish. I doubt that proposition because I find in England and the continental countries there is also a co-operative way—a big—of development and developed by co-operative methods. When you start a company from the point of view of the co-operative way—a big way—of developing large industries. Big concerns producer, the interest of the producer dominates naturally. Some one invests money and more and more profit becomes the objective. He is out to exploit the country for getting higher and higher profits. But the co-



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operative way goes the other way. Co-operation serves not for profit but for service and particularly the interest of the consumer has to be looked to. When the consumers come together and start big ventures, all sorts of malpractices that we see in the other system are hardly to be found there.

Leaving aside that, let us come to the essence in company administration. As far as a company's activities are concerned there are four elements—the shareholders are there; the directors are there, the managing agents are there and labour—the fourth element—is there. What is our responsibility as the sovereign Parliament of this country which is out to bring in a silent revolution? It is our responsibility to reconcile all these conflicting interests so that we shall manage our way to progress without any bloodshed or without any serious conflicts. That point has been emphasised by the Planning Commission. They say that unless industry is regulated to the advantage of the country, peaceful, bloodless march towards our social objectives will be impossible. So, I approach this particular measure from this point.

My objection is to the very size of this Bill. This volume is very discouraging and threatening—I would say. More than 600 clauses are there and I do not know whether the number of clauses will be equal to the number of Members of both the Houses together. The total number of Members is 750. If some Members further go on amending, it is quite possible and I am quite hopeful that the clauses in this Bill may exceed that number. What has been the effect? The effect is that the essential and important points and important provisions in this Bill are clouded and concealed like a grain of wheat being concealed under a heap of straw. The Bill has become far from simple; it is difficult to follow intelligently the whole scheme of the Bill. I am perfectly in agreement with Messrs Tulaldas and G. D. Somant—and I hope that this will be the only

and the last point of my agreement with them—when they say that smaller companies will be at a disadvantage. I do agree with them there because no promoter actuated with the best of motives, if he thinks of starting a company, will be encouraged. He will have to see this book, this big tome and he will be discouraged; anything may come out of this. He may see anything and everything. Like the juggler's bag, anything is likely to come out of this. My submission is that I would recommend the arrangement of the Civil Procedure Code. There the fundamental and essential matters are given as sections and the subordinate matters—matters not as important as the sections—are given in the form of orders and different rules. If that arrangement had been followed it should have been much to the advantage of the country and particularly those who undertake the formation of floating of companies.

I am not prepared to say in a very unthinking manner that everyone who is out to float a company is a rogue of the first water. I will give him a trial. He is out to invest his money possibly, to invest the money of somebody-else. You know what was said of the "New Deal" in America. Roosevelt started the "New Deal" and Harry Hopkins was in charge of that. It was complained by many people that Harry Hopkins was very clever in spending the money of others. We may say that some of the directors or some of the managing agents are always very clever in speculating with the money of somebody-else; but, all the same, if one is out to float a company we must give him as much help as possible and I think that this volume will not be a helpful factor. It will be a discouraging factor; a factor which will keep him always in some sort of uncertainty and in some sort of fear, secret like a 'ghost in the corner'.

With these words I would like to touch upon the main provisions in the Bill. The time at my disposal will not

permit me to go into the different aspects because this is a complete whole and there are different facets which would require some attention from us. But, I will not take very much time of the House and exploit your indulgence, Sir, to that extent.

My first submission is that, as far as the share capital is concerned, I do appreciate the changes which have been made by the Joint Committee, that there will be only two classes of shares or two kinds of shares—the equity shares and preference shares. Further, it has been provided that as far as equity shares are concerned there will be no differential voting power. This provision is absolutely essential in the interests of equity and equal treatment for all. Through some of those who are interested have challenged the wisdom of this provision. I personally feel that it is absolutely necessary.

As far as preference shares are concerned, I do, also in a broad manner, agree to what has been suggested by the Joint Committee.

Now, let us go to a matter in which I am more interested and that is with regard to directors and the managing agents. The Bhabha Committee—that is the Company Law Committee—was very right in saying that the directors occupied a sort of pivotal position in the whole structure of a company. They further stated that these directors are to some extent not only the agents of the company but the trustees of the company. I would go a step further and say that these directors should be taught; they should be persuaded to feel and to behave like the trustees of the hundreds of shareholders and, beyond that, the common man in this country because even the shareholders do act for the common man in the country. Therefore, these directors should behave not only as trustees of the company, but they should also behave as the trustees of the shareholders directly and as the trustees of the people at large indirectly and in a remote manner. Therefore, as far

as the directors are concerned some of the provisions in the Bill are very essential.

But, what happens? The directors,—many of them—are sleeping directors. The number has to be determined. What has been the practice uptill now? The managing agents were permitted to appoint a certain number of their own nominees on the board of directors and the rest of the directors were to be elected by the shareholders. But, no genuine election in the real sense of the term took place. To facilitate all, the proxy system was there. No shareholder was approached directly. He was only approached for the purpose of getting his proxy and the moment the bundle of proxies was secured by this group or that group it was utilised for securing the election of their own men.

Sir, I should like to make a suggestion that if the directors are the representatives of the shareholders they are like the executive government of a democracy and the shareholders are like the members of the legislature controlling the executive. I do not look at the proxy system with favour. I would say that the proxy system should be eliminated as early as possible, and the shareholders should be encouraged to participate directly; they should take live interest in the affairs of the company. Then someone would say: "How are they to be approached? How can they afford to go to the place where the meeting is to be held in the office of the Board?" Here I would make a suggestion which may seem to be very revolutionary and rather an extravagant suggestion. On my part I would say that the law must provide that at the time when directors are to be elected and on such other important occasions the poor shareholders—they have not the necessary funds—should be paid T.A. and D.A. allowances. Sir, we as Members of the Parliament cannot function without some salary. We cannot function without some daily allowance. Look at the other committees where we work. We work on the

[Shri S. S. More]

Committee of Office; of Profit. We know the constitution of these committees. In every Committee the Member is paid some allowance at least to cover his out-of-pocket expenses. I would say that when huge companies dealing with crores of rupees of this country are transacting business it is necessary in the interest of the company that proper vigilance and watch ought to be exercised by the primary members, that is the shareholders. It is, therefore, absolutely necessary to arrange for the payment of their out-of-pocket expenses if they so demand. This will encourage their personal attendance at the meetings of the Board. This will work as an incentive and make the shareholder have direct contact with the board of directors.

Now, what is the present position? We are only asking the shareholders: "Take care for your own dividend. Do not bother about other matters". When the electorate, when those, whose representatives are dealing with the destiny of the nation and the finances of the nation, are given a bait under the opium feel of dividend, what happens is that democracy does not function. Supposing tomorrow Shri M. C. Shah who is sitting on the Treasury Bench says that the Members of this House can go to their own professions or to their homes and that they will carry on business, then what would happen?

Shri M. S. Gurupadaswamy: Proxy.

Shri S. S. More: Even here I may be permitted to send a man by proxy. Then I do not know what sort of collection we shall find here. Even in this House, though elected by a large electorate, we do not take particular care to remain present in the House with the result that the quorum bell has to be rung on so many occasions. If this is the case in our sovereign Parliament, if this is the interest shown by Members of our sovereign Parliament as far as public responsibilities are concerned,.....

Shri M. S. Gurupadaswamy: Sovereign indifference.

Shri S. S. More: .....then we can imagine the state of affairs in a company. I will not curse the shareholder if he does not take sufficient interest in the affairs of the Company. Instead of putting in controls to be operated from the top I would rather go to the bottom and activate the lowest strata of our Company Law structure—I mean the very foundation of it. I would say that the sleeping director, so to say, should be made a very rare thing. If a man is out to sleep at the board meetings, he might be punished, and there should be some clause by which we must say that if certain abuses are practised, malpractices are resorted to in the affairs of a company, not only the managing agent but all the directors collectively, who have shown the greatest indifference in the affairs of the meetings and who have slept when they have no reason to sleep, must be punished, as those directors must be made equally responsible for the lapses. Then possibly the things will improve.

There is one more point. As far as this Bill is concerned, we are very generous. We are very catholic. We have not mentioned that the directors should belong to a particular nationality. I am not taking a parochial view or a narrow-minded view of the matter. I feel that if foreign capital comes to this country, even without these things that capital will be much more covetous about profit and therefore I would say that such foreign capital, when it is accepted, must be accepted with caution and with the greatest suspicion. I would say that we must have some rule or clause here which will say when a company is started, certain percentage of the directorate should be of the nationality of the country, that is, of India.

I would refer to page 36 of the Company Law Committee's report wherein they directed the attention of the Government to this aspect specially.

[SHRIMATI SUSHAMA SEN in the Chair]

With your permission. Madam, I shall read the relevant portion:

"We have left the definition of 'company' in the present Indian Act unaltered but we consider it necessary to draw the attention of the Government to the definition of this term in the company legislation of some other countries, where one of the legal requirements of a company is that one or more directors of the company should be persons of the nationality of the country in which the company is formed and registered. Thus, the General Corporation Law in the State of New York provides that—

"The business of a corporation shall be managed by its board of directors, all of whom shall be of full age and at least one of whom shall be a citizen of the United States and a resident of this State".

Then they have quoted the Swiss practice thus:

"Similarly Swiss legislation lays down that—

"the sole director of a company, and if there are more, the majority of directors must be of Swiss nationality and domicile. For holding companies, if the main purpose is investment outside Switzerland, Government may grant exemption from this requirement. Violation of the law may give cause for judicial dissolution".

I would say that we should emulate, copy, the example of Switzerland. Switzerland, compared to us, is a far advanced country and yet it has insisted that in any company which has to carry on its activities in the country, the majority of the directors should be of Swiss nationality, and I feel we shall not be very wrong, we shall not

be accused of narrow nationalism if we adopt some such provision.

Then I come to share qualification. Clause 269 does prescribe that a director shall have necessary share qualification to the tune of Rs. 5,000. But something is left unsaid. I would rather say that as the Bhabha Committee has recommended, these directors should have the shares under their beneficiaries and not for somebody else. I shall not be going far if I say that in Maharashtra which is particularly a poor tract of the country, many companies have been floated, but what is the practice? In order to attract capital from the poor Maharashtrians, some prominent men are approached by the promoters and they are requested to accept the directorship of a particular company. Then, they ask, what about qualifying shares? But the reply is: "Do not bother about qualifying shares. We shall announce your name and we shall see that some shares are purchased in your name", and so, some shares are put in the company's record in the name of the persons. Many eminent economists have thus been put on the top of the list, as directors, and with what result? They never had any personal interest in the affairs of the company. On the contrary, unscrupulous floaters of the company utilised the prestige that these names carried, for the purpose of attracting capital and eventually, not having any personal stake in the company, those men became indifferent. The company's affairs were not properly observed or watched and the company went into liquidation. If we ever write the history of different companies in Maharashtra, we will find that the number of companies which have been floated and which have sunk will be larger than the number of companies which are floated elsewhere. My submission is that this is one of the points which should be taken into consideration.

I would further say that the managing agents should not be permitted to have any nominee on the board of

[Shri S. S. More]

directors. But I find in this Bill that there is a thing wedge, a thread of appeasement running, because the Government, when they are out to take some powers for themselves, want at the same time to appease the managing agents. They should not have any power. If they have not given any power of putting their own nominees, then they will have no chance of swamping the whole board of directors and convert it into a packed house.

Government, in order to fight against this dictatorship, this so-called tyranny of the managing agents by the aid of a nominal majority, have put in clause 407. They say that in certain circumstances, Government will appoint two persons. There again, Shri Tulsidas and Shri Somani say that the homogeneity of the administration will be affected; if Government put two persons on the committee, they may not run smooth with other members and the homogeneity of the whole affair will be affected. The efficiency of the company will be affected and the constant feuds will result in something detrimental to the interests of the people. My suggestion is that if managing agents are not permitted to appoint their nominees and every director is made to get elected to the board of directors by what I call the democratic method of election, there must be some other system of electing the representatives. Here, if the managing agents control 51 per cent. of the votes, then the whole list that they give will be included in the board of directors. Here, I would support and recommend a suggestion which has been made by Messrs. Nathwani and Morarka that there must be some system of representation. All the shareholders may not have the same view. Different viewpoints of the shareholders must also be reflected in the board of directors. That is the essence of democracy and therefore I would suggest that we must have some system of voting by which this objective will be obtained and served.

Now, what will be the system? There are two or three eminent systems which may be canvassed for our support. There is the individual system: every director is required to secure the highest number of votes given in a cumulative manner. Then there is the list system. Every party will give a list of its own directors and on the basis of the votes secured a particular number of directors are elected.

Mr. Chairman: Your time is up.

Shri S. S. More: I am gring very fast. You can use your indulgence in giving me more time. I am not exploiting the position like a managing agent.

My submission is that we must resort to cumulative voting and if not, to the method of proportional representation by a single transferable vote though the latter might be difficult to operate. But let the vote be cumulative. Let every voter have as many votes as the number of directors and let every director face the electorate by securing their votes. That is my submission.

There is one more provision which I appreciate. The Bill provides for some age-limit. In clauses 279 to 281, some age-limit is prescribed. I do welcome that provision. Senility does come in at a certain stage.

Shri M. S. Gurupadaswamy: At what stage?

Shri S. S. More: Shri Gurupadaswamy will have to wait for some years to find out 'at what stage'. My submission is that this age-limit is a necessary provision. The Bhabha Committee recommended it pleading that in company management, younger people ought to be brought in. I would only request the Government to amend the constitution to prescribe some age-limit, if not all members, at least to Ministers who are supposed to be the board of directors as far as administration is concerned. Labour

ought to be given some representation and that should be by direct method. In order to make the labour representation effective. I would suggest that all labourers in a company should be compulsorily forced to organise themselves into some union so that they can collectively elect their own representative.

I am not against the expression "managing agency". A rose called by any name smells so sweet all the time. So, the nomenclature of the managing agency is not defective. It is the opportunity we gave to these managing agents for exploiting the situation that is responsible for the present state of affairs. I agree with my hon. friend Shri Tulsidas Kilachand in his observation that it is the fact of the administration not being sufficiently vigilant which has brought matters to a head. That means the managing agency must be severely controlled; you must deprive them of the power of putting their men on the Board of Directors; their remuneration should be curtailed further. The Committee have said that a managing agent can still have twenty companies. I believe that in this respect we must emulate the great Ram. एक पत्नी वत् was the cardinal principle of his life. Let कम्पनी वत् be the principle of managing agent: one managing agent for one company be the rule that we prescribe.

These are some of the suggestions we have to make. I feel that when we come to the clause by clause consideration of this Bill, I shall be in a better position to make some more constructive suggestions which will be acceptable to Government.

Shri Morarka (Gangangar-Jhunjunu). I propose to deal first of all with the various suggestions that the Joint Committee have introduced in the Bill; secondly, I propose to meet some of the criticisms which have been voiced against this Bill, both in the Press outside and the House inside; and then, finally, with your

permission, Madam, I would like to say something about my minute of dissent.

Coming first of all, to the question of what the Joint Committee have done with the Bill, I must remind that at the time when the Bill was referred to the Joint Committee, many hon. Members in this House criticised that the provisions regarding the managing agency system were too liberal. They felt that the Committee should re-examine all these provisions with a view to tightening them up if not completely abolish the managing agency system, and when the Bill comes to the House it must come in a different form, so far as the provisions relating to the managing agency system were concerned. I would in this connection like to draw the attention of the House to some of those improvements which the Joint Committee have effected regarding the managing agency system.

First of all, the Committee has introduced the provisions giving power to Government to name industries in which, in the opinion of the Government, it is no more necessary to have the managing agency system. Once the Government issue such a notification, then after a certain date managing agency system in those industries would cease to exist. Secondly, they have said that even in those industries where the managing agency would not be prohibited, but where it would be allowed to work, before a managing agent is appointed, Government approval will have to be obtained, and Government will not give their approval unless they are satisfied that it is not against the public interest to have that public limited company managed by a managing agent. They will also satisfy themselves that the person seeking approval is a fit and proper person and that he satisfies the qualifications laid down for that purpose. If after scrutiny of his qualifications, Government does allow a person to be appointed a managing agent. I do not think there is room for apprehension on anybody's part

[Shri Morarka]

that wrong people will be allowed to continue as managing agents. Thirdly, it has been laid down in this Bill that one person, or his associates or relatives, cannot manage more than ten companies; that means they cannot be appointed managing agents of more than ten companies. Fourthly, managing agencies cannot be inherited. One of the serious charges against the managing agency system is that it is inheritable, that it passes from father to son and from son to grandson. It has now been laid down in the Bill that such a provision even in the existing agreements would be void, and if any managing agency is to pass by means of inheritance or demise, it must come for approval of Government.

Not only that, it has now been specifically laid down that Government may appoint inspectors to inspect and investigate into the affairs of the managing agents, and if necessary, also of their associates. This I regard as a very important and vital power, because under such investigation everything can be looked into and brought to light. Even after all these safeguards, if hon. Members feel that this Bill does not go far enough and that the managing agency system requires further check, then I think the best course for us is to abolish the system completely once and for all. Otherwise we must give a reasonable chance for the system to survive.

The House will remember that when the Bill was first brought on the lines of the recommendations of the Bhabha Committee the remuneration fixed for the managing agents was 12½ per cent. As against this what the Committee has suggested in the Bill is 10 per cent. What even this 10 per cent. comes to I shall show a little later when I come to deal with some of the criticisms that have been levelled against the Joint Committee Report.

The Joint Committee realised that the composition of the Board of Direc-

tors is by far the most important aspect of the company law. The managing agents also work only under the supervision and control of the Board of Directors. If there is a strong Board of Directors in a company, the chances of malpractices and the chances of arbitrary rule by the managing agents are comparatively less. It is only in those companies where the Board of Directors is weak, or where the managing agents have full control over the Board of Directors, that most of the defects arise. It has therefore been laid down in the Bill that a managing agent cannot have more than two directors on the board, and if the Board of Directors consists only of five directors, he cannot have more than one director. More important than this is the provision that if any of the associates or relatives of a managing agent is to be elected to the Board of Directors, he would require 75 per cent. majority as against 51 per cent. which would be required for any other person. I submit that this is a very important provision which has been introduced in the Bill and it will provide ample safeguards for the rights of the shareholder and will ensure better management.

Then it has been laid down that so far as directors are concerned, one person cannot be a director of more than 20 companies. It has also been laid down, on the lines of progressive legislation in other countries, that after a certain age a person would not be entitled to become director unless the shareholders pass a special resolution. It has been said by the Committee that while it is necessary to lay some age-limit, this rule should not be made too rigid to debar capable directors from taking part in the management.

Another important matter to which the Joint Committee addressed itself was the question of minority shareholders. The Committee was very anxious to provide some means by

which the minority shareholders are protected. Though in a permissive manner, the Committee for the first time in clause 264 accepts the principle of proportional representation; secondly, the Committee has provided in clause 407 that when there is a complaint and when Government is satisfied that there is any sort of oppression, they can appoint up to two directors representing the minority on the Board. Then, for the first time the courts have been given powers to order that the shares of the minority must be purchased by the company, in certain circumstances or the court may give such other relief as it thinks proper under the circumstances of the case. This according to me is a very valuable safeguard both in the interests of the majority as well as in the interests of the minority.

Last but not least comes the new provision concerning proxy. Hereafter it would be possible for every shareholder to nominate anybody else whom he likes, whether he is a member or not of the company, to represent him in Board meetings. That means, it would be possible for a person who is not quite conversant with the affairs of the company, with the company management or with the accountancy system to appoint any other person whom he likes to represent him in the company meetings.

The next important thing, that the Joint Committee has done is about the auditors. It is laid down for the first time that auditors will have to be appointed before the statutory meeting is called and even before the statutory report is presented to the shareholders. It has also been laid down for the first time that an auditor should be appointed for each and every private company. Some hon. members have said that it would become irksome for the private companies to subject them to compulsory audit. I would come to that criticism a little later. As far as I am concerned, I say that this provision coupled

with another provision, namely, that the auditors will have to be independent and will be free from the control of the shareholders or the ruling majority, would mean a great step in the improvement of company management.

It had been acknowledged by the Joint Committee that publicity is the best watch dog of democracy and on that principle, the Committee has included many provisions with regard to the prospectus, balance-sheet and various other matters which require that full publicity should be given to the affairs of the company, for the benefit of the shareholders of the company. They do not want that under one pretext or another, the management of the company should be carried on behind the closed doors, the shareholders not knowing what is going on. It is for this very reason that we did not think it proper to have another class called the "private exempt" companies in this country.

Some hon. Members wanted to know what the Joint Committee had done regarding the implementation of the resolution for a socialistic pattern of society which had been adopted. I say that the Joint Committee has introduced four important measures in this direction. First of all, they have put an overall limit on the remuneration under clause 197. It is worth reminding the House that when the Bill was first introduced, there was no provision of this kind. The Bhabha Committee made no recommendation for such a limit. I will deal with the detailed implications of this provision a little later. Similarly, they have also provided that one person cannot be a managing agent of more than 10 companies, managing director of more than 2 companies, manager of more than 2 companies or a director of more than 20 companies. The Bill also prohibits completely the holding of any office of profit under the company for a person who happens to be a managing agent or a director.

Then, hitherto the difference between private companies and public



[Shri Morarka]

companies was not known *ex-facie*, on the face of it. For the first time the Bill provides that a private limited company will have to add to its name the word 'private'. That means, now onwards, you would be able to know merely by seeing the name whether a company is private or public. This would be of great advantage. It would be of great benefit to the public when they deal with any company to know whether it is private or public, because in the two cases their rights and obligations are different.

I now come to the criticisms that have been made against the Joint Committee report and against this Bill. The first and the most important criticism is made against clause 197. This clause provides for two things: firstly it says that the overall remuneration for the managing agent, managing director, or manager etc. shall not exceed 11 per cent of the net profits. Secondly, it provides that in case a company makes no profits in any year, this sum should not exceed Rs. 50,000. There has not been much criticism about this 11 per cent; but there is lot of criticism so far as this Rs. 50,000 is concerned. It has been contended that in the case of those companies which have got big capital and which require technical help, it would not be possible to justify this limit of Rs. 50,000. I feel that this criticism is not without force.

My hon. friend Shri Asoka Mehta said that he found from a Reserve Bank bulletin that the average commission earned by the managing agencies was between 13.5 and 14 per cent of the net profits and that there is not much difference between this and the limit of 10 per cent laid down by the Joint Committee. This criticism of the hon. Member was not very intelligent or learned. He had not cared to study the figures very carefully. In the first place he should know that the 13.5 or 14 per cent has been mentioned without defining what 'net profits' are. Nobody ever

knew what should be regarded as net profits of a company. It was an arbitrary thing. Some people calculated it without deducting depreciation, some people deducted depreciation and some people did not make any allowances for taxation at all. It is for the first time that we have provided in this Bill the definition of 'net profits'. In other words, hereafter there is no scope for any arbitrary interpretation on the part of the managing agents as to what 'net profits' are. This narrows down the scope for those people to increase the remuneration in whichever way they liked. From the very report to which Mr. Asoka Mehta referred, namely, the Reserve Bank bulletin, we find that in industries like jute, cotton textiles, chemicals etc. the managing agents earned a commission of as much as 20 per cent of the net profits. But now, in those companies the managing agents will not be allowed to charge more than 10 per cent. In other words, the criticism of the hon. Member, Shri Asoka Mehta, falls flat, because in the textile industry alone, the average commission of the managing agents would come down as much as 20 per cent to 10 per cent. If he does not regard this as a socialistic gesture, I do not know what he means by saying that by fixing the limit at 10 per cent, we have not taken sufficient care to reduce the remuneration of managing agents. The recommendation of the Bhabha Committee was that a managing agent should not be given more than 12½ per cent of the profits or Rs. 50,000 in case the company makes no profits. So far as the managing director, manager and other officers of the company were concerned, the Bhabha Committee made no recommendation. It is the Joint Committee which thought it fit that in order that this provision may not be circumvented by the managing agent in one way or the other, an overall limit should be put and therefore they have said that whereas the managing agent can get Rs. 50,000, still the overall limit

should also remain Rs. 50,000, if the company does not make profits. In the case of a new company with a big capital, which has got a managing agent, I think it would be really hard and impracticable to observe this condition. Therefore, I feel there is ample justification for the Government to be given the power, in cases of necessity to exempt any company from this limitation.

The next criticism is about private companies. It is said that the private companies which have so far been free from all these irksome conditions and from any statutory liability to publish a balance-sheet or to have qualified auditors, will have to subject to all these things and therefore this type of provision would discourage the formation of such companies. My answer is that a private limited company firstly has the advantage of limited liability. Secondly, they secure another advantage of the continuity of the company. They secure a third advantage, that is, the transferability of the shares. If a person wants to have these privileges, certainly, he must be prepared to pay the price. What is the price that he is paying? He must have the accounts audited. He must file a copy of the balance sheet with the Registrar. With great respect, I must say that this is not a big price that he is paying and that is not the small privilege which he is buying. In our country, the conditions are quite different from those prevailing in England or elsewhere. There, the family concerns may be run on a different basis, and so, the Government of the day might have thought it desirable and proper to exempt those companies from these provisions. In our country the family conditions are different. Sometimes even brother has to be protected from another brother.

In one paper I read a comment that in the mofussil areas, in the villages, you cannot get qualified auditors, and therefore this provision would impose a real hardship. I ask, how many companies are there in the villages

and mofussil areas? All these big concerns are in the cities and towns. We have got enough qualified auditors there. If a person is a shareholder of a company, is he not entitled to know the financial position of the company and how the affairs of the company are going on? That is the least that we must provide for. Those who raise all these objections in the name of discouragement to family concerns, etc., are only trying to make a bogey of it.

The third major criticism is about the powers of the Government. They say that Government have been vested with such vast powers that Government will misuse those powers, that Government will become an engine of oppression and that the powers may be used for the benefit of the party in power. Hon. Members who make this criticism have not cared to study what these powers are. I have analysed them and made a research into these clauses. There are in all 90 and odd clauses dealing with these powers. Out of these 90 and odd clauses, 13 deal with powers of investigation. It is not disputed by anybody, not even by the critics, that these powers of investigation should be given to anybody other than Government. After all most of the powers are police powers and who can exercise them, except the Government? They must be exercised either by the Government or by an authority appointed by the Government. They certainly cannot be exercised by a private individual. Then, there are 10 clauses which deal with the directors, with the appointment of the managing directors, with their remuneration, increasing their remuneration, dismissal, compensation, etc. We have seen how anxious the hon. Members are about the remuneration of the managing directors. Who should regulate this? Not a private individual; not any authority. These are vital powers that must be exercised by the Government. It is only the Government which can exercise these powers impartially, without any fear. For the last 3 or 4 years now, we have already given these

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powers to the Government. Of course, there is the Advisory Commission. We have provided for that in this Bill also. Has there been any abuse of the powers? Has it ever been said that the Government have used these powers with a partisan feeling or for party purposes?

Then, there are 11 clauses which deal with the managing agent. Here again, this House is most anxious to do away with the managing agency system. One of the clauses, clause 223, deals with the doing away of the managing agent as and when conditions warrant industry-wise. Who should decide this? Government or somebody else? These are very vital powers and there is full justification for these powers being vested in the Government and Government alone.

There are some clauses which deal with liquidation. Who should supervise the liquidation proceedings. Certainly not an autonomous body. The appointment of the liquidator and the Registrar, all these things have got to be done by the Government. There are 2 or 3 clauses which deal with cross financing or interlocking of funds of the companies. It has been said that this is a very big vice in this country. It has been said again and again that interlocking should be discouraged at all costs. While on the one hand we say that this vice should be completely eradicated, and at the same time, we do not want the Government to have this power, we want this power to be given to somebody else, how, then, would the Government be able to discharge its responsibility? There are 5 or 6 clauses dealing with protection to the minorities, very vital clauses. It is only the Government which can be trusted, as the custodian of the public interests, to discharge this parental duty towards the minorities.

I now come to my last point, that is, my minute of dissent. In my minute of dissent, I have raised 3 points. The first is about cumulative

voting, the second is about preference shares and the last is about the power of the Government to appoint auditors. I shall first deal with cumulative voting. My hon. and learned friend Shri N. P. Nathwani dealt at length, this morning, with the various aspects of this question. I would like to say something more on this question. The anxiety of the hon. Members here and the public outside to abolish the managing agency system arises from what? Not because they are against the name managing agent. Not because they are against the name managing agent, but because according to them, the system is so bad and it is full of so many abuses and it provides so many opportunities to the people to abuse. That is why they want to do away with this system. I would request you to see whether these abuses are such that they are peculiar only to the managing agency system or whether they are such that they would be found even in any other alternative form of management. I think that should decide the issue.

There are five or six points which are considered against the managing agency system. First of all, it is said, that this is a costly system. Then, it is said that the managing agents charge commission on all sorts of things, on sales, on purchases, on giving employment, on taking loans, and so on. Then, it is said that the funds of the company are interlocked and that the managing agents use the funds of the company to their personal advantage and not for the benefit of the company. The next complaint is that the Board of directors is packed with their nominees and relatives and then, it is said that this system is a heritable system passing from father to the son, from the son to the grandson and so on. The final argument is that the managing agency agreements are generally for a very long period, 10, 15 or 20 years, almost for a normal human life. I ask any Member in this House to point out whether any one of these defects is

such that it cannot be perpetuated in any other alternative form of management. If it can be perpetuated, then why do you ask for the abolition of the managing agency system alone? Ask for a remedy that is the real one. Ask for something more fundamental, more radical, than a mere change of nomenclature. In the place of the managing agency system, you have devised secretaries and treasurers. We would have that system now. In what way is it better than the managing agency system? Only the future will tell. I do not think it makes any difference at all. I do not want to deal with that point at the moment. I say only this. If you do not have the managing agency system, if you do not have secretaries and treasurers what would you have? The management of the company must necessarily be carried on by a Board of directors. What is the Board of directors? It is the shareholders who are electing the Board of directors. If they are going to elect the Board in the way in which they are electing today, that is, by a simple majority and giving the minority—even big minority—no representation at all there whether it is the managing agency system, whether it is the Board of director, or whether it is the managing director, it would make no difference. What is necessary is something more than that. You must ensure, you must devise a system by which on the Board of directors you will get persons who are not only representative of the majority block, but who have got independent views, who are independent of the majority or controlling blocks, whose judgment will not be coloured by the views of the majority block, who will not exercise their authority according to the wishes of the majority block, whose discretion will not be fettered by the majority block or the minority block.

**Shri A. M. Thomas (Ernakulam):** Do you mean to say that there should be a tyranny of the minority over the majority?

**Shri Morarka:** If you will kindly bear with me for two minutes, I shall answer your question.

If you want to have an independent Board of directors, if you consider this a vital necessity, the only way you can have it is by the system of proportional representation. I do not say—it would be a very big claim to make—that once you adopt this method of proportional representation, all the defects will be wiped out, or that it would be perfect or that the company management would become above suspicion or anything like that. Far from it. But, that would be one of the most vital steps towards improving our company management, towards making it perfect and in the right direction.

My hon. friend from Ernakulam was very vocal yesterday. He was saying, if you adopt this system, homogeneity would be broken and the persons would not be able to work in co-operation. In the same breath, he was arguing for the adoption of a system in which labour would get a place on the Board. I submit this is a dangerous argument. If you are going to reject cumulative voting on the argument of homogeneity of the Board, tomorrow you would not be able to take in the labour representative on the Board, on the same argument. If you reject this suggestion, it should be on the grounds of justice or fairness to the minorities or others. What guarantee has my hon. friend from Ernakulam to say that labour...

**Shri A. M. Thomas:** It is high time that you realise that labour is the major partner.

**Shri Morarka:** I have very little time now; I shall tell the hon. Member afterwards.

3 P.M.

The point is this. If you accept this argument of homogeneity of management, tomorrow you won't be able to have labour represented on the Board. And you cannot have representatives of the Industrial Finance Corporation, you cannot have Government nominees, you cannot have anybody else whom you like and whom you con-

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sider necessary for regulation, control and management of the company

Before I sit down, I must invite your attention only to two things. One is that while the Joint Committee have very kindly accepted this principle of proportional representation, they have thought it fit that since this is the beginning, we should make haste slowly, and we should keep it only as a permissive provision. I should have been contented with that. I would not have strained the attention of the House on this point at this length, but my fear is that if this is left permissive as it is drafted, it would only remain on the statute-book. No person is going to give it a practical test, and if this proportional representation is not going to have a practical test, to that extent the scheme would be self-defeating.

I shall sit down after quoting two authorities on this point. One is Pandit Gohind Ballabh Pant who in 1936 in this very House, on an occasion not dissimilar to the present one, when the amendment of company law was being discussed, said this:....

Mr. Chairman: But is it going to be a long one?

Shri Morarka: No. This is what he said:

"Then, I have a proposal which may be styled as more or less revolutionary. I am prepared to accept that it is so and I like it all the more because it is revolutionary for great changes of a genuine type for the good of the people cannot usually be brought about except through revolution. This revolutionary proposal of mine in this matter is to the effect that the directors should be elected by the system of proportional representation by means of a single non-transferable vote in accordance with rules to be framed under the section which gives such power to the Governor-General. It seems to me reason-

able that every group which is strong enough to return a director should be able to do so."

There is another quotation from a very eminent author from America, one Prof. Ballantine, who said this:

"If the privilege of cumulative voting....."

—which is equivalent to proportional representation—

".....is to be granted at all for the protection of the minority, it should be mandatory and not merely permissive at the option of the incorporators or the majority group. Nor should majority shareholders have the power to withdraw the privilege by amendment of the charter or otherwise."

Shri Jhunjhunwala (Bhagalpur Central): I must express my gratitude for the arduous task the Joint Committee has performed under the able chairmanship of my hon. friend Shri Pataskar. While I say so, I cannot help saying that in spite of this voluminous book produced by this Joint Committee, I carry the feeling that it will have a futile effect in so far as the objective is concerned.

An Hon. Member: No.

Shri Jhunjhunwala: My hon. friend says "No". I shall just now prove my proposition by concrete instances. I want to say before I proceed further that the business community—I am also a humble member of the same class, and I am proud that this class has been able to do a great service in the past and is doing even now in giving material happiness in this country. But, at the same time, it pains me and I cannot help expressing my feeling that it has done greater injustice—as I attach greater importance to moral values in life—to the people at large in this country by setting dishonourable tradition of anti-social activities. It is not proper that the administration should blame the

business community, and the business community should blame the administration. There must be co-operation between the two. Instead of blaming each other, they must look to their own shortcomings.

I was just now saying that the Bill as reported by the Joint Committee will prove futile. Lord Chief Justice Cohen's Committee is of the view that legal doctrines afford sometimes illusory protection to shareholders, and I fully subscribe to this view. I shall give concrete instances in this respect. Shri N. C. Chatterjee who will be reluctant to say anything against the business community has said:

"In England Mr. Justice Cohen's Committee was appointed by the President of the Board of Trade in June 1943. After taking oral evidence and considering the Memoranda submitted by experts the Cohen Committee was satisfied that the great majority of limited companies, both public and private, were honestly and conscientiously managed. I wish we could say the same thing for India."

He says that in India they are lacking in honourable traditions. This is my view too and if I had to say anything, it is not with any pleasure, but with great pain.

I had occasion during the time of control to go to my constituency and explain to them that they should co-operate with the Government and see that people are not exploited. The anti-social activities have been so much ingrained amongst the people that they cannot see now that they are doing anything wrong. When I was explaining to some of the traders, one trader honestly asked—I cannot suspect his honesty—"You are telling us that we could not make more profit, but is not our duty to make as much profit as we can?" This is the feeling that they carry and this is the creed, this is the background with which our

traders, industrialists or anybody are carrying on their business. In every profession, be it industry, be it trade, be it a legal profession, be it a doctor's profession, be it anybody's profession, everywhere money is the predominating motive power. The spirit of service to the country and people at large should not be subordinated to this extent to money motive. Service to the country and people at large should be the predominating motive. But the spirit of service motive has disappeared. That should be restored. We have to build up the nation, and our nation must have a high background of morality to elevate itself. If we cannot put an end to these anti-social activities, then there is no use of producing more. Our independence was won not with any material or brute force but with the force of the soul. And it is to be regretted that this soul force is now disappearing rather than developing not only in the business sphere but everywhere.

My hon. friend Shri U. M. Trivedi said that he had once the occasion to meet some managing agent; and that managing agent, when he saw this Bill, told him that he was repenting that he had committed some sins in the past and that those sins were having their effect now. I wish this repentance had dawned upon our industrialists earlier. I shall be happy even if it has dawned now; but I am doubtful if at all it has. If this repentance had been there, then there would have been no occasion for Government to bring in a measure of this character.

I quite share the feelings of my hon. friends Shri Tulsidas and Shri G. D. Somani who have given a minute of dissent in regard to the difficulties and fears under which they shall be working; they will always be under the fear as to what may happen to them the next day; for if they committed the slightest mistake, they would be caught hold of. I share that view. But who is responsible for such measures? But as I had the occasion to point out once before. I would say on the present occasion also that those gentlemen who have got big organisa-

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tions should frame some rules of conduct amongst themselves so that these fears may go. And Government will not be able to take any step against them if they could reform themselves. So, there need not be any fears on this account.

I had the opportunity of working in some controlled industries, where all these fears were there. Our most valuable time used to be wasted only in looking to the Government's business, namely taking permits, this, that and the other. I have had experience of that, and so I quite realise the anxiety of my hon. friends. But as I have said, it is no use throwing the blame on Government or throwing the blame on the business community. My hon. friend Shri N. C. Chatterjee may be very reluctant to say anything against this community. He has said that mere legal doctrines afford sometimes illusory protection to shareholders, and that unless some real power is given to the shareholders and the shareholders take an interest in the management, there is no hope for any reform, however voluminous a book we might produce. In the minute of dissent of my hon. friends Shri Morarka and Shri N. P. Nathwani a definite suggestion for proportional representative has been given. I share this view. Some fears have been expressed in this regard on the ground that there will be no homogeneity. I also feel that there may not be homogeneity if there is any interference in the affairs of a company by an outside body. Therefore, I also want that there should be absolute non-interference. Otherwise business cannot go on. I quite realise it. But why should they apprehend that the representative of minority shareholders will interfere to the detriment of the company where their interest is the same. Anyway, I cannot help saying that the managing agents have not fulfilled the confidence that has been reposed in them by the shareholders and they must suffer the brunt of it. Even in very small matters, they re-

sorted to mean actions against the shareholders.

I would like to give you an instance in this regard. I had no mind to give one or two stray examples when numerous cases of such, though not of similar malpractices exist. I am quoting this instance before you of which I have personal knowledge to acquaint as to how far the managing agents can be oppressive to the shareholders. My hon. friends Shri Tulsidas and Shri G. D. Somani may be quite honest, and my hon. friend Shri Nevatia also may be quite honest, and I have nothing to say against them. But on the whole, I want to enquire as to what they have to say regarding their fellow-people when they find this sort of oppression being indulged in by them.

Shri S. S. More: They encouraged them.

Shri Jhunjhunwala: My hon. friend Shri S. S. More may know that, but I do not know.

The hon. Finance Minister gave us the example of the Kandyen kings and their *adhikars* and said that these *adhikars* had been given the powers to behead without assigning any reasons one person every year. Even the Government has not got such power to do anything without assigning any reason and our Finance Minister does not expect such powers to be given to them. But the Finance Minister is tolerating such powers being usurped by the managing agents to refuse transfer of shares without enquiring any reason to the detriment of the shareholder concerned. Just as these *adhikars* had the power to behead anybody they liked once a year without assigning any reasons—and the Finance Minister added that he did not think anybody would agree to give such powers to Governments—so also, the managing agents have taken the power to refuse to transfer shares to anybody without assigning any reasons, not only once in a year but all the year round. The remedy that the shareholder has is to prove before the court that it was done mala

*fide*. This is the sort of power that is tolerated to be given to the managing agents. I know of a case where a managing agent wanted to reduce the power of some of the shareholders who could have a ten per cent. share. He wanted to purchase those shares, and that too at a nominal rate. He changed the memorandum and the articles of association suitably. One of these ten per cent. shareholders applied to him asking for a transfer of his shares. This transfer was only a family arrangement, and there was no *mala fide* motive in the mind of the shareholder. He simply wanted to divide the shares amongst the members of his family, saying so many shares should be transferred to this name, so many should be transferred to that name, and so on. That was all. Nothing beyond that. But he did not transfer them. He said, 'You give me your shares. What rate? Say, the face-value. Rs. 100 or say Rs. 150'. What was the value, the actual value of those shares? It was ten times the face value if the value of all assets be taken into consideration. But if it were sold in the market, it could be sold at least five times the face value. Now, what can the shareholder, the poor shareholder, do? Some Samani or some Tulsidas approached him.

**Shri Nevatia (Shahjahanpur Distt.--North cum Kheri-East):** He can sell it in the market.

**Shri Jhunjhunwala:** In the market, we should realise, where the shares are not transferable, they are not quoted in share-market and people are reluctant to buy them.

**Mr. Chairman:** The hon. Member should address the Chair.

**Shri Jhunjhunwala:** But then he is interrupting me. You ask him. He is saying that he should be prepared to sell it. I ask him, will he purchase?

Some Samani or Tulsidas called that shareholder and told him, 'Well, you offer the managing agent four times

the price. We shall purchase many agent's shares in your name, and we shall take it'. That shareholder really offered to the managing agents 'I am prepared to purchase your shares at Rs. 400'. Then he said, 'No, I cannot sell'. Then the managing agent approached the shareholders through some common friend. The common friend belonged to the class of Shri Nevatia, who now says that it could be sold. He said that 'it is inconceivable that you can ask the managing agent to sell his shares. You are only an ordinary shareholder. You take two times the price and go'. This is what 'Mr. Nevatia' did. The transfer of shares was refused. Then he went to the court for getting the shares transferred. He was advised to go to court for that purpose. He had not much money. He was living at a far off place. The registered office of the company was in some port town. He wrote to some friend of his to contact some solicitor and enquire as to what would be the charges and expenses to be incurred. The solicitor told him that if it was sent for enquiry, it would cost Rs. 1,000; other wise, if it was transferred at the first instance, it would cost only Rs. 500. So he thought it worthwhile spending Rs. 1,000. Then he went there and he got the suit filed. The court, after the first hearing, said, 'well, this should be transferred to court for taking evidence.' It passed an order like that, that the case be transferred to court for taking evidence. All right. Then he thought that the expenses would come to Rs. 1,000—it did not matter. Then the case came before the same Judge for taking evidence. Though the Judge had passed order that evidence should be taken, the other party again was allowed to argue, and after argument, the court said...

**Mr. Chairman:** He has five minutes more.

**Shri Jhunjhunwala:** I shall just complete this in five minutes. The court said, 'The shareholder is asked to file a regular suit. Evidence will not be taken at this stage'. The share-



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holder's counsel submitted that there have already been four or five hearings and already a year has elapsed. This may be regarded as a regular suit and evidence taken. The Judge said, 'Where is the hurry about it'. Filing of the suit means another ten to fifteen thousand rupees at least and four years—for getting the decree. The solicitor, who had assured him that it would cost Rs. 1,000, sent a bill for Rs. 5,000. Now, see the plight of this shareholder.

So, as was saying, protection under this legal doctrine is an illusion. It is only illusory. This is one of the instances I have given.

Now, I shall give one more example of how the managing agents are oppressing the minority shareholders, by swallowing up their reserve. The other day, my hon. friend, Shri Asoka Mehta, was referring to inter-investment. I know of a case where a managing agent purchased the shares of a company out of the fund of mother company's reserve. The company the shares of which were purchased was one in which his son-in-law was involved. That was a losing concern. The reserves of the mother company to the extent of Rs. 20 lakhs were invested in that company by means of purchasing his shares and those of his son-in-law at a premium of 20, 30 and 40 per cent. when that company was a losing concern. I do not know whether my hon. friend, Shri Tulsidas, or my hon. friend, Shri G. D. Somani, will be proud of this inter-investment. Shri Asoka Mehta had pointed out the other day that some one was proud of interlocking. If anybody feels proud of such interlocking then it is for the Members of Parliament to judge as to what to do with them.

Now, with one more remark. I will finish. That is regarding the question of the administration of this Bill by an independent body versus a government department. After hearing the Finance Minister, I am thoroughly

convinced that it should be administered by a government department. But as I have said before—and I have no time to point out the way in which the Government Department has functioned before—I repeat that if it functions in the same way, then this administration and this long Bill will be only illusory.

My hon. friends, Shri Asoka Mehta and Shri N. C. Chatterjee, attributed motives to the administration, that with such powers in hand, political pressure might be brought to bear on the people. This is most uncharitable, and it betrays what they will do when they be in power.

Shri V. G. Deshpande (Guna): That is correct. That is the real fear.

Shri Jhunjhunwala: Let him carry on with his fear. Shri N. C. Chatterjee who said this and who raised this point, has more than once said that they have no apprehensions so long as the Congress Government is here...

Shri V. G. Deshpande: No, no. This is our apprehension.

Shri Jhunjhunwala: Shri Asoka Mehta said that it is true that all parties carry on their business by charity from these millowners....

Shri V. G. Deshpande: No, no. They should not be allowed to give any charity.

Shri Jhunjhunwala: Please do not interrupt. That was what Shri Asoka Mehta had said. This to my mind is no less dangerous as they will owe allegiance to these people when they come in power. In the end I shall say that I am in favour of provision regarding proportional representation. But, as some apprehension has been expressed by Mr. Thomas—I had not considered this question properly—some measure must be found out whereby the minority shareholders must be given some voice in the management. They must know as to what is going on behind the curtain: they must be given full information

on whatever points they want. Unless that is done, under the apprehension of suffering some material loss because of unhomogeneity there is the greater loss of spreading immorality and of promoting the anti-social elements in the country. They will be doing great in justice.

With these words.....

**Mr. Chairman:** The hon. Member's time is up; he must stop now.

**Shri Jhunjhunwala:** So far as my criticism regarding different provisions of the Bill is concerned I shall do that when the Bill is taken up clause by clause in the light of my general observation I have made.

**Shri Tek Chand (Ambala-Simla):** With the present Companies Bill the country enters the second century of Company law legislation. Over a century ago, to be precise, in 1850, this country had its first company law. It was a small measure but essentially it was the first recognition of corporate responsibility. It was for the first time in this country that corporate entity as a juristic person, apart from those who constitute the corporation, received its legislative recognition. This measure we are adopting today, if I mistake not, is the seventh among the major statutes on company law, apart from several amending measures that have endeavoured to tackle the principal problem.

I do not say this country or the framers of this particular Bill have imitated the like legislation in England. But it is curious that every company legislation in this country has come always after some important legislation on similar lines has been thought of and enacted in England. It was in 1844 that England enacted a major company legislation for the first time, I believe. It was followed in 1850 by company legislation in our country. Again, it was in 1908 that a major Act was enacted in England and it was in 1913 that we came with the present Act. There was a major amendment in England in 1929 followed by a major amendment in our country in 1936. England has passed a

new consolidating law in 1948 and in 1955 we follow by our present legislation. I find no fault in it. I offer my felicitations to all those who are responsible for bringing this about, and those who have planned and who have drafted this measure.

This measure is voluminous; I do hope it is equally luminous. It is ponderous; I doubt if it is perfect. It is colossal; I wish it were equally clear. The pride of place, so far as controversy is concerned, has been taken and discussion has been concentrated upon the desirability or otherwise of the managing agency system. I have also a few observations to make and a few comments to offer. But, my fears are that whereas we have concentrated, to the exclusion of some equally important measures, on the idea of retention or abolition of the managing agency system, we have overlooked many a cranny, and many a crevice through which there is considerable and extensive seepage and leakage of the public funds. They have not received the same suspicious attention which they deserve.

Regarding the managing agency system, a good bit has been said in this House. I remember Shri N. C. Chatterjee likened the managing agents to sharks. I differed from him. Shark, I said, was a very honest animal. The shark has its target, goes for it, devours it and consumes it. I will not compare the managing agent to the shark. I feel that the managing agents can be compared to leeches. They imperceptibly sting, you hardly feel it. The moment they do so, slowly, gradually and almost imperceptibly they begin to bleed you. Their thirst is unslaked. You cannot appease their appetite till they have swelled themselves and till there is no more blood to be found. But the question is, whether they are sharks or leeches, are they to be exterminated or are they to be retained minus their teeth, and their fangs. But, if their fangs can be pulled out, they can still be serviceable. They have long beaks, talons and claws; blunt them and file them. And, an endeavour has been made in that direction.

[Shri Tek Chand]

Speaking for myself, I feel confident that we are sufficiently successful in pering their sharp nails, inblunting their pointed beaks. Their susceptibility to cause injury, has been very much lessened. Therefore, the choice before the country is not whether they are an unmitigated evil or an unmixed blessing. A correct note has been struck by the Government in their endeavour to find out measures whereby they contend that the system may usefully be retained and not abolished. The managing agency system should be permitted to exist to serve and not to boss over. So far, they had been enjoying all the cream leaving the skimmed milk to the shareholders. Now, they will have a little bit of cream, no doubt, and the shareholders are going to have their proper share of what they are bound to get. But, some hon. Members thought that the retention of the managing agency system is not in consonance with the ideology that we have accepted, that it is a system that runs counter to the socialistic pattern of society. I can understand their good motives but not their logic. So long as the private sector has a place in the economy of this country, so long as the companies manned by individual shareholders have to exist, the question is how best that system can be fashioned. The managing agents have a certain advantage. They possess the know-how; they have the savoir faire; they have a certain amount of experience and that experience has to be harnessed for the utilisation of the industrial enterprises that are to be floated and with the encouragement of the Government they should exist in much larger numbers than we have got them at present. Whereas I offer full accord to the policy of the Government, I am not particularly enamoured of clause 331, sub-clause (5). I feel that that is a measure which is unduly harsh. It smacks of vindictiveness and cruelty. You say that after a specific date, managing agency beyond ten concerns is not going to be recognised. If you had said that, I would have been happy and absolutely ad dem with the

Government. But what you say is that after that specified date, you propose to impose a fine of Rs. 1,000 per day per company in excess of the limit prescribed. I am happy that the hon. Finance Minister is in the House. Picture to yourself a managing agent who is sick, a managing agent who has gone abroad, a managing agent for the time being who might have missed the date. You propose to visit his lapses with a fine of Rs. 1,000 per day per company in excess of the clause is almost vindictive in the extreme. It deserves to be palliated, if not entirely removed.

Regarding those crevices and crannies alluded to by me, all the wrath or indignation has been concentrated on the managing agency system. We have conveniently forgotten company promoters and we have totally disregarded the liquidators. A company is enfeebled in its infancy by the company promoters —by some of them, not all. A promoter is a person who likes to pass off, maybe an old junk of machinery, maybe a dilapidated property for which there is no market. He proposes to transfer it to his friends, may be some alter ego of his own. But what is the check that this legislation provides against such an activity. The answer probably would be: Turn to our clauses 43, 55 and schedule II. We have provided for experts and their consent has to be obtained beforehand. I say that neither paragraph 12 of schedule II, nor paragraph 16 of schedule II, nor clause 43, nor clause 55 have alluded to this particular trickery of theirs, which is very common and which saps the very vitality of a company the moment such a concern is born and sees the light of existence. Paragraph 16 provides that along with the prospectus there should be the dates, there should be the names of the parties and the general nature of the contract entered into. The general nature of a contract would be that such and such building on such and such road or machinery or factory has been sold by A.B.C. to X, Y, Z. The shareholder will not be any the

wiser. My suggestion is that copies of such contracts, if it is inconvenient to print them along with the prospectus, should be made readily available to the shareholders, who may be scattered all over the country and who can not be expected to travel, say, from the Punjab down to Cochin, in order to inspect a suspicious document. So, printed copies of such contracts should be readily available so that even the unwary may have an opportunity to examine them.

The second class which has not been touched at all is of the liquidators. The promoters at the very inception have weakened the company. Then comes the turn of the managing agents and directors. They are in clover and have been reaping their harvest for a long period. When the concern is a dying concern, it is handed over to the liquidator to dismember. Very often, the last gasps are prolonged because of the energies of the liquidator, so that he may be able to dismember it and parcel out to himself and to his friends the carcass, which has plenty of value. Either he receives a fat salary, which he ordinarily does not like, or payment is on a percentage basis. If it is a fat salary, then the period of liquidation is unnecessarily prolonged and it goes into years and years, I know. I expect the hon. Finance Minister to get statistics in order to find out the huge amounts that have been paid to the liquidators by way of their fees and remunerations. In paragraph 150 of the report it has been stated that henceforward, if the liquidation is going to be by the court, it will be through official liquidators. I welcome that measure though I feel that it is imperfect, because a large number of liquidations, apart from liquidations by court, are also effected under the supervision of the court. There are again the voluntary liquidations and there the liquidator is in clover. The court has a right to appoint him and he does what he likes. He may cook up the accounts and may do what he likes, and if the depredations are properly

scrutinised, interesting results will follow and there will be incontrovertible disclosures. I have only to refer in the Punjab to the notorious liquidation of the People's Bank of Northern India. I wish the Government would know the astronomical amounts that went into the coffers of the liquidators.

I wish to deal with certain other matters. I feel that this Company Law that we are going to have may, by a scoffer, be fitly styled as the Company Penal Code. Every third clause that we come across visualises penalties—penalties almost draconic in their severity. At suitable places you have to provide punishment and people who are crooks and who trifle with public money deserve no mercy. But surely the people in whose interests you impose penalties deserve some protection. Therefore, the approach has not been preventive; it has been more punitive. After the mischief has been perpetrated beyond repair, after the horse has run away, you clamp down your penal laws and shut the gates. What does it matter to the shareholder if you had sent behind the bars for a long period a delinquent director or a managing agent or a liquidator. Your law should anticipate and checkmate such mischief as they could do. Your law should endeavour more to cure than to castigate, more to prevent and checkmate than to punish. In this matter I find that people are going very much to play ducks and drakes with the public money and after they have done so the only satisfaction we have got is that they are going to be comfortably lodged in one of the penitentiaries.

**Shri Matthen:** I do not understand what my hon. friend means by anticipating it and checkmating it? Will he please explain it?

**Shri Tek Chand:** I shall try to dispel the ignorance expressed by my hon. friend. I would have done so with the greatest avidity. If you could be equally indulgent in granting me time, I undertake to do that. For instance,

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I pray that consideration should be on the remedial measures. The law should declare a particular act which it wants to be made penal, to be really null. The distinction between nullity and punitive nature of an act is extremely important. If an act is declared to be a nullity, and it is to be something that is void, the advantage will be that it carries no legal effect. What we have done is that any such act on the part of a director or any other responsible person has a legal validity, but it carries with it a punitive effect—that is as to what he has done. Whether he has spent or thrown away the money, that, is deemed to be a valid expenditure in the sense, that it would not successfully be questioned in a court of law. But it is a penal act and he is, therefore, punished. Provide penalties at suitable places. It is not my grievance that you are stretching the case in favour of penalty. My counsel to the Government is that they should devise laws which make the objectionable acts ineffectual and thus stop that mischief before it is too late.

Then again there are certain penalties on the other side which to my mind are extremely harsh. For instance, you say that a director earns a disqualification if for various reasons among others he has been sentenced to six months' imprisonment. Length of imprisonment is the yardstick whereby you determine whether the director is unworthy to be on the board. It is regrettable that you did not make a distinction between a technical offence and an offence which involves moral turpitude. I will give you an example. Supposing in the exercise of the right of private defence a person has exceeded that right—that is to say, according to the terminology of the law courts, he had a right of private defence admittedly but he has exceeded it in the sense that he imposed greater harm than he should have in the circumstances of the case—and he gets six months and you say that he forfeits his right to be a director. Another illustration.

Due to some clumsiness on my part or through some negligence I run over some unfortunate man and kill him as a result of rash and negligent driving and I get six months and ergo, I am never fit to be a director. I go to certain parts of this country and utter certain slogans and because I utter certain slogans which are favourable or unfavourable to a particular political party, I get six months; ergo I am unfit to be a director. There should be some analogy that the offence for which he is getting six months is such which involves moral turpitude—say, some taint in character whereby he ought not to remain in an office of trust. I may take the other extreme. Suppose a director gets four months for an offence of the latter sort, according to this Bill he is fit to be a director whereas according to me if a director were to get four months for an offence of this nature, he earns a disqualification. If he gets two years for running over somebody and kills somebody as a result of reckless or rash driving he should not forfeit his right to remain on the board. A distinction therefore ought to be drawn in the matter of disqualification for committing some offences which should have a bearing as to the character or the nature of the offence rather than to the length of the sentence. The former would be more in consonance with logic. There are a large number of technical offences and I pray that they may be considered and taken into view.

Regarding other matters, I am of the view that it will conduce to domestic harmony in a company if representation was given to workers so that they could send someone from among them to represent them on the board because very important and weighty considerations are before the board in relation to them—namely, their tenure, emoluments, conditions of service, etc.

Regarding minority representation inroad on arithmetic should be avoided if possible. As my hon. friend put it it is a curious jugglery of arithmetic that 51 is equal to 100 and 49 is equal

to zero. I think I will not amplify the matter. It would be very meet and proper if there can be some representation of the minority so that the minority may not be oppressed. There are so many matters but now that the first bell has rung, I wish to refer to one matter only and then I would reluctantly conclude.

**Mr. Chairman:** How long will the hon. Member take?

**Shri Tek Chand:** If you allow me five minutes, I shall finish.

**Mr. Chairman:** Three minutes.

4 P.M.

**Shri Tek Chand:** Regarding the case for an advisory body vis-a-vis a statutory body, the matter is debatable; neither is free from defects. But the scales seem to be tipped in favour of a statutory body. Government is a great institution but it is also an imperfect institution. Who are the persons who are going to guide the destinies of a company? If it is possible for the Government to have the wholetime service of real experts—not pseudo experts, it will be to the advantage of the administration of the company governance. It is not a matter of surrender of rights of sovereignty. Government is the sovereign body and the Government is not abdicating its powers in any way to the statutory body which is their own creation. Therefore, the argument that it is not an advisory body and the creation of a statutory body does amount to abrogation or abdication of governmental powers, appears to be unsound if probed deeply and with a certain amount of thought. This is the first venture of its kind. There are statutory bodies in other countries. In England there is the Board of Trade which is a statutory body. In the United States of America there is the Securities and Exchange Commission. They are all working efficiently without in any way derogating from the sovereign rights of the Government.

Regarding small matters, I wish the Government would not play the role of court of law or arbitrator. For instance there is a matter regarding the transfer of shares. It is a trivial matter. It may be out of vindictiveness, hostility, animosity or may be out of genuine reasons that one party has refused to acknowledge the transfer of shares. At this time I understand that we have got almost 30,000 companies; may be in two years their number may go up to 50,000 companies. If the case of each transferor or transferee is to be examined by the Government, how long will it take? How many men will they have to employ? What will be the administrative machinery? Are they going to hear witnesses in respect of the allegations or not? Are they going to hear the arguments or will they be just satisfied with some sort of written statement? A matter comparatively trivial, nevertheless an important matter vis-a-vis the individuals, should be left to a court of law where the respective parties can prove that it is out of vindictiveness, hostility or revenge that their shares are not being transferred. Evidence can be given. Courts are the proper tribunals where such matters should be gone into rather than by the Government because it will be cumbersome, it will be procrastinatory and it will take a long time before decisions will be given. The Government is not the proper body who should be occupied in sifting the evidence of one individual against another individual.

Regarding the statutory body I should like to commend to the House—I have no doubt the hon. the Finance Minister must have gone through it very carefully—paragraph 257 of the Bhabha Committee Report. Just before concluding I should like to read out a few lines and commend them to this House. The relevant lines are:

“We are, therefore, strongly in favour of a statutory authority for this purpose. This does not

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mean that the Central Authority would function in isolation from the main currents of economic policy, that may be adopted by the Government of the day. Clearly, major issues of economic policy relating to the private sector of the country's economy, in so far as they bear on the working of joint stock companies must ultimately be matters for Government, although we visualise that the Central Authority along with others would be closely connected with the formulation of such policy in its formative stages. But, once these issues of economic policy have been settled, and embodied in legislative or executive decisions, the application of the accepted principles to individual companies, whether in respect of their formation or working should, in our view, be the responsibility of a quasi-independent authority which will examine the technical problems involved, in as detached a manner as possible and be guided solely in this regard by the general directions given to it in an Act or in a recorded executive decision of Government as a whole."

I commend these observations of that Committee for adoption by our Government.

My time appears to be up and I fully support the general principles and policies underlying the Bill though it deserves a considerable amount of shaping and pruning which, I am sure, the Government will welcome.

Shri C. C. Shah (Gohilwad-Sorath): This long and complicated Bill is the result of 9 years' labours and it has undergone a very thorough revision at the hands of the Joint Committee. It is an amending and a consolidating Bill and it has almost double the size of the existing Act. Therefore, a complaint, apparently legitimate, can be made that the Bill is too long and too complicated. Being an amending and consolidating measure the Joint Committee was free to consider every

part of it and the Joint Committee not only considered every part of it, but, as the hon. Finance Minister rightly observed, the Joint Committee also had a thorough examination of the basic principles underlying the Company Law especially in the light of present day plans and accepted economic philosophy.

I wish to state some of those basic principles which govern this Bill in order that we may appreciate why it has become necessary to make this Bill so long and so complicated. It may be that there are a few Members who feel that many of the provisions could have been legitimately avoided. There are others who feel that some more provisions ought to have been added and that many things have been left out.

The Company Law, compared with other branches of law, is a matter of recent origin and is still in a state of development. In other countries, it is undergoing constant revision as new forms of management, new techniques of production or the new ways in which those in management avoid the provisions of law are being found out. That task of revision has continuously to go on if we are to meet with changing conditions in the age in which we live.

This amending and consolidating Bill has fulfilled that task to a very large extent. The last major revision was the one that we had in 1936 and many of the provisions which we now find in this Bill were also anticipated by the Act of 1936, but we are amplifying them and plugging the so many loopholes which we have found in the Act of 1936. The idea of a joint stock company is the product of large scale industrial enterprise. Ordinarily a man starts his own firm or his own enterprise and puts his own money into it. The basic ideas underlying a joint stock company are two. A person or a group of persons representing themselves to be able and honest, invite the public to entrust their money to them for the enterprise



which they wish to launch upon; and secondly the liability of those who join that venture is limited. It is these two basic ideas which govern the Company Law. Ordinarily if a man incurs a debt, all his property is liable for it. The peculiar idea of Company Law is that a person does not put all his eggs into the same basket. Even if a Company incurs heavy losses, all the property of a shareholder will not go for the payment of those debts. He will save his other properties for himself because his liability is limited. These are novel ideas, being of this age. Therefore, certain consequences inevitably flow out of these two basic conceptions. The first is that those who promote such companies owe a duty to the public to make the fullest disclosure as to the prospects of the company and their own interest in that company.

**Shri V. P. Nayar:** Except accounts.

**Shri C. C. Shah:** The second thing is that those in management owe a duty not only to the shareholders but to the public to make a full and complete disclosure of the affairs of the company periodically at every stage and also by way of reports, balance-sheets, accounts, returns which they make to the Registrar, registers which they have to keep and things like that. The idea is that the public and the shareholders must have the fullest idea of the affairs of the company, initially and from time to time.

The third consequence is that the shareholders, as the owners of the company, must have full opportunity to exercise complete control over the affairs of the company. Fourthly, the board of directors must be truly representative of the various interests of the shareholders and it should be an independent board which will act independently. Then, to such a limited company, the public gives large credit and the public is entitled to the fullest disclosures of the affairs of the company so that from time to time the public may know whether credit should or should not be given to the company because the public must know

as to what the assets of the company are, however rich the managers or shareholders may otherwise be. The interests of the creditors of the company are more in jeopardy at times than even those of the shareholders. The shareholders have a representation on the board but the creditors have no representation on the board and it is the Government which has the duty to protect not only the interests of the shareholders but also the interests of the creditors. The Government's intervention comes in to protect both the shareholders and the creditors.

Lastly, those in management must earn by way of remuneration only that amount which is legitimately and lawfully due to them and nothing more than that.

If we examine the management of companies in the light of these principles, then, what state of affairs do we find in company management? Does the company management in this country disclose that those in management have observed these principles and the basic aims of company management? I cannot do to better than quote a person who was more authorised to speak about company management in this country than anybody else, who was the Registrar of Companies in Bombay for thirty years—a city which is the largest industrial city in India. After thirty years of experience of company management in this country, this is what he has to say in general.

**An Hon. Member:** What is his name?

**Shri C. C. Shah:** We are not concerned with names. This is what he says:

"I fully realise that some of my suggestions may at first sight appear to be far too drastic and perhaps even appear to be prejudiced. The truth is that ever since 1919, I have had to come into very close contact with thousands of companies. By the word 'companies' I do not refer only to those few larger companies in which better class, educated



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people invest. I refer to the thousands of petty mushroom companies which live like parasites and thrive upon the ignorance and credulity of the poor helpless toiling masses, and as a result of my thirty years' experience, I am constrained to state that the privileges conferred by the Indian Companies Act have been so cruelly abused that many people have lost faith in joint stock enterprise and rightly so. Some people who have thus been ruined even feel that by allowing such fraudulent companies to prey upon the public the state has failed in its duty to the public. Nothing short of a thorough overhauling of the entire system of control over the companies in India will help restore the public faith in joint stock enterprise in India".

It is as a result of this state of affairs that we have this Bill. It seeks to effect a thorough overhaul of the entire system of control over company management. The state of affairs that is disclosed is this. Hundreds of thousands of people have lost their monies in joint stock enterprise. Those people in charge of company management, instead of making the fullest disclosures either in the prospectus or balancesheets or accounts or records, have perfected the art of disclosing as little as possible and concealing as much as possible. It is very difficult for the laymen to understand their balancesheets and accounts. Even experts find it difficult at times to understand them. The control of the shareholders which ought to be real is entirely illusory and those who ought to be the trustees of others' money have become the masters and have misused those funds which come into their possession to a degree where it has become necessary to have so much control over their management that it may appear excessive but it is inevitable in my opinion; and if

we do not do it, we would be failing in our duty to the investing public and to the creditors of those companies who give large credits to such public enterprises. In the economic development of our country, now the investment will be larger through joint stock enterprise and if we are to raise funds and invest them, it is desirable that the public should know what kind of management is going to run those companies and how Government is going to discharge its duties towards the public, so that the public will have their confidence restored and invest their monies. The Finance Minister rightly said in his speech that the present condition of the stock exchanges where there is a sort of boom is partly, if not wholly, due to the present Bill because the public now feels that the Government is going to be very vigilant about the affairs and management of these companies and the public feels that to a certain extent or to a large extent its monies will be safe and secure.

The Companies Bill after all is a regulatory piece of legislation and in a regulatory piece of legislation it can succeed only if there is voluntary co-operation of those whom it seeks to regulate to a very large extent. Take, for example, the various professions—the lawyers, auditors, engineers and the medical profession. They have a code of ethics or at least they have a code of conduct and those who do not observe them are taken to task by their respective councils. Have we found in this country any chamber of commerce taking any steps against those who have violated the provisions of law? Have those in charge of company management voluntarily taken steps to check those things? If they have not done so, is it legitimate to complain that too much regulation is coming upon them? After all, every regulatory piece of legislation is irksome. It is irksome to those for whom it is meant and for those who have to administer it. It is none too much of a

pleasure to Government to undertake such a heavy responsibility and burden. And yet, if the state of affairs is such that regulation becomes inevitable, we cannot shirk our duty. If anybody feels that what I have stated about company management in this country is anything exaggerated, he has only to read the three volumes of evidence before the Bhabha Committee to be disillusioned. I do not want to take the time of the House by citing instances because the time at my disposal is short and I have more important things to say.

There is another difficulty about all regulatory pieces of legislation. When you make a regulatory piece of legislation, those who are concerned with it feel that all the duty which they have is to observe the law in its letter and that there is no obligation upon them to observe the law in its spirit. They violate the spirit of it and they feel that if they can keep within the four corners of the law, there is no other code of ethics which can guide them. No regulation however long and large can ever regulate or provide for every contingency. I do expect and I do appeal that those who are in management will look to the spirit of this law and will co-operate with those in authority to observe the spirit of it and not make it difficult or necessary for them to make it more and more stringent. Like income-tax, which is a perpetual tug-of-war between the tax-gatherer and the tax-payer. Company Law is also a sort of perpetual tug-of-war between those in management and those for whom it is being managed, and their effort always appears to be to find as many loop-holes as possible to evade the law. As the Finance Minister rightly said, probably they are at their game even now. With all that we are providing for in this Bill, it will not be possible to plug all the loop-holes and yet I am not one of those who believe that we should give up our effort. It is probably a truism to say that you cannot make a man

moral by legislation. And yet, it is also true that if law cannot make bad people good; it does certainly prevent good people from becoming bad and it also prevents bad people from making good people bad. It has its own value, and it has its own preventive effect. It is true that most people do not want to infringe the law if there is a law; at least they would hesitate to infringe the law. But if there is no law and there is no voluntary code of conduct which guides them, they would take the fullest advantage of the situation, however immoral it may be. Therefore, the prohibitions which are being inflicted by law have a useful purpose to serve; I expect that they will serve a useful purpose. I am satisfied that by and large the provisions which we have made in this Bill are necessary and inevitable under the present circumstances of our country. It may be that those who are in management may make it easy for us to relax even some of the provisions; it may be that they may make it difficult for us and we may have to have more stringent provisions. So far as the detailed provisions are concerned, if we are satisfied that any particular provision is likely to be oppressive, we can amend it. After all, the aim of company law is not to put all people in straight jacket; the aim of company law is really speaking to encourage to promote industrial development, to promote industrial production, to have healthy joint-stock enterprises and to promote the interests of shareholders and the general public. The aim of company law is not to oppress the management, but at the same time, it cannot help making those provisions, if it becomes inevitable. Therefore, I submit that these provisions have become necessary by reason of the peculiar circumstances which exist in our country today and more so by reason of that peculiar system which exists amongst us, namely, managing agencies.

I will say a few words about that peculiar system. The volumes of

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evidence before the Bhabha Committee are replete with instances. The Income-tax Investigation Commission's reports, the Finance Commission's reports and a number of other reports are there to show what that system is. Far and large I do not wish to say that all are at the same level; there are honest men, capable men, who have rendered great services to the Industrial development in our country; there have been great pioneers who have undergone risks and hazards which other would not have done under those circumstances. But the state of affairs at which we are now is such that there is a very strong feeling in this House and outside—more so outside than even in this House that the managing agency system has outlived its utility and it must be abolished. I do not want to go into any long discussion over this matter, because the Joint Committee after very long deliberations have come to certain conclusions. My effort will be to explain precisely what those conclusions mean.

I am one of those who believe that the managing agency system has outlived its utility. The only three main reasons for which it existed were (1) that the managing agents provided or procured finance; (2) managing agents took risks and hazards to from new enterprises which private people could not do; and (3) managing agents provided managerial ability and talent which we do not find elsewhere. None of these reasons in my opinion exist in the circumstances of today.

So far as risks and hazards are concerned, after independence these are all almost protected industries and the Government is anxious and keen to see that no industry languishes or suffers for want of help, financial or otherwise. It is not a foreign Government which would give a stepmotherly treatment to our industries. So far as finances are concerned, there used to be a time when the managing agents provided finances; I do not want to give statistics,

but it can be proved that the finances provided by the managing agents are comparatively much less than what it is said that they provide. Government gives large loans through Industrial Finance Corporations, State Corporations etc. and assist the companies in various ways. You will find, companies with a capital of Rs. 1 crores receiving a loan of Rs. 3 crores from the Government. To another company, Government has given Rs. 10 crores, an amount which the company cannot afford or expect to raise. Therefore, even so far as finances are concerned, that argument does not hold good.

Shri Bannal: Do you mean to say that the Government has given a loan of Rs. 10 crores to a company with a capital of Rs. 3 crores?

Shri C. C. Shah: No, no. I said, to another company the Government has given a loan of Rs. 10 crores. I have not said anything about the capital of that company.

As regards managerial talent and experience, undoubtedly they give these. I admit that they do, but at what price? That is the question. I have balance-sheets before me in which companies have large reserves of crores of rupees; it is not only that the managing agents do not provide any finance, but they use the finances of the company for other purposes, and yet, they get commissions of lakhs of rupees. Is it justifiable?

An Hon. Member: Can you give instances?

Shri C. C. Shah: I do not want to go into instances, because the time at my disposal is very short and I have a few more things to say. What the Select Committee has done, if I understand it rightly, is this.

Shri V. G. Deshpande: It is continuing the managing agency system.

**Shri C. C. Shah:** No, we are not continuing the managing agency system, nor are we abolishing it. What we are doing is this. The Government is given powers to notify whether a particular industry needs or does not need managing agents either because of the financial considerations or because of any other considerations to which the managing agents contribute. Normally, every appointment or re-appointment of a managing agent has to be subject to the approval of the Government. These two cheeks are there. The third provision is that by 15th August, 1960, the managing agency agreements will come to an end, unless renewed previously. In my opinion, this would mean that there will be a gradual elimination of managing agencies. We do not stop them suddenly or abolish them suddenly because it may create a vacuum. But gradually industry-wise or unit-wise, the managing agency will be abolished. If we do it industry-wise, of course, it will be gone in that industry. As regards individuals, clause 325 clearly provides the considerations which should weigh with the Government in appointing or reappointing a managing agent and only those managing agents will survive who are honest, able and efficient and none else.

**Shri S. S. More:** Who is going to decide it?

**Shri C. C. Shah:** The Government. I will tell him as to how it will decide; but I understand the clauses of this Bill to mean that there will be gradual elimination of managing agency.

**Shri S. S. More:** Will the amount of donation to the party in power for election purposes be the criterion of fitness?

**Shri C. C. Shah:** I may assure Mr. More that his interruptions will not disturb me; nor do they have any value.

As regards remuneration, we have provided 10 per cent. in the case of

managing agents and 5 per cent. for managing directors and others, providing 10 per cent. for managing agents is nothing novel. That is the practice in all good managing agency houses, except a few who charge in other ways. Therefore, what we are providing for is simply what exists now and what is the practice today. We are not in fact reducing the remuneration that is being paid today, except in those cases where the managing agencies charge in other ways.

There is some argument about clauses 197 and 352 which provide an overall remuneration of 11 per cent and a minimum of Rs. 50,000. It is represented to the Government that the minimum remuneration of Rs. 50,000 including as it does the salary of managing directors and managers may act as a hardship in some cases. It is probable that in a few very rare cases it may act as a hardship. Government propose to take powers to relax the limit in such cases. It is a very heavy responsibility for the Government to take. It is for the Government to consider whether it would take such a responsibility. If it does, I would have no objection to that.

Then, there are some provisions about secretaries and treasurers. I do not want to say much on these provisions at this stage. I will say at the proper time. But I do feel that the provisions as they stand today in the Bill, apart from any modifications which we may make, seem to me to be inconsistent with the policy underlying the course which we have adopted towards the managing agents and the managing agency system. In one respect, I feel that probably it will defeat the policy underlying what we have done. I also feel that in one important respect these provisions probably go beyond the decisions of the Joint Committee. But, as I said, I do not want to take the time of the House at this stage about it.

[Shri C. C. Shah]

A very great abuse has come out of the investment of the reserve funds. Four things happen: loans to directors, loans to managing agents, investment in companies in the same group and loans to companies under the same management. These are the four abuses and we are trying to stop them and we have provided for them. There are companies which have very large reserves. Apart from loans to directors or managing agents, and investments in companies under the same management or in the same group, do we in any manner control these large reserves? We do not control at all. There is no provision in the law by which, if a company has a reserve of Rs. 2 crores and it invests it in any other company and tries to obtain control of that company by reason of that investment, you can control the action of the managing agent. I do not want to take more time on these provisions. But, I submit that some provision must be made for control over the investments, beyond the four things for which we have provided.

At this stage, I would like to give only one instance. There is one company which has a reserve of about Rs. 4 crores.

Shri C. D. Deshmukh: 3.55 crores.

Shri C. C. Shah: What has that company done about that reserve? Out of the reserve of Rs. 4 crores, it has invested Rs. 2 crores at a quarter per cent cumulative preference shares in a subsidiary company. It has also given a loan of Rs. 1½ crores to that very subsidiary company. That principal company wants to start another enterprise and wants money for this. What do they do? Instead of utilising this sum of Rs. 4 crores in reserve, which they have invested at a quarter per cent, or a little more, they have approached the Government for permission to issue 5½ per cent. cumulative preference tax free shares. Amazing! A company which earns a quarter per cent. wants to raise money in the public at 5½ per cent. cumulative preference shares, tax-free.

Shri S. S. More: Did the Government grant the permission?

Shri C. C. Shah: Government have granted the permission. That company provides an instance of what interlocking can do. I would have given the House particulars as to what that subsidiary company has done with the sum of Rs. 4 crores which it had received from the principal company. It is very interesting. But, I will not take the time of the House.

Some Hon. Members: Some more time may be given to him.

Shri V. G. Deshpande: Give the name of the company also.

Shri C. C. Shah: I crave your indulgence for a few more minutes.

Mr. Chairman: Yes, five minutes more.

Shri C. C. Shah: I should like to have at least 10 or 15 minutes.

As we have done in the case of the Insurance Act, some provision must be made for controlling these reserves. Unless we do that, a textile company will buy the shares of an insurance company and will ruin both the textile company and the insurance company. That is what has happened actually.

Then, I come to the definition of 'associate'. The definition of 'associate' has become necessary because managing agents obtain profits in the names of their relatives, their close friends and partners and what not. We are providing at several places that they cannot be appointed buying or selling agents and so on. In the definition which we have made, I feel there are many gaps. Many things have occurred to me after the Joint Committee stage and I should like to mention them, with your permission. So far as a firm is concerned, we will have to say, not only any relative of such a member, but even any firm in which such a relative is a partner. As regards managing agency firms which are companies or body corporates, all that we have

provided is a case where a man is a director, manager or officer of that corporation. Under this, one can appoint his own son as a selling or buying agent or he can appoint any relative of his as a selling or buying agent.

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): It is an omission. It will be rectified.

Shri C. C. Shah: The hon. Minister says that it will be rectified; I am very glad.

So far as a private company is concerned, it extends to any member of the private company. But, I submit that in defining a private company, we should adopt the same provision which we have adopted in the Income-tax Act. If a company is controlled by five or six people, nominally it is a public company. In fact, it is a private company. For the purpose of this definition, it must be considered to be a private company.

As regards the directors, as I said, an independent Board is the very essence of managing companies. Today, the position is, I regret to say, most of them are packed bodies. Those who have a controlling interest,—it may be anything between 20 and 50 per cent.,—or the managing agents are able to appoint on the board their own nominees. It is very rarely if ever the shareholders succeed in having their nominees because the shareholders are scattered all over the country and they have no opportunity to unite or appoint their own people. Two provisions have been made in order to meet this position, clauses 264 and 407. Clause 264 is permissive for proportional representation. My hon. friend Shri N. P. Nathwani and Shri Morarka have very ably argued that case. I will not take the time of the House. But, I submit that is a system worth considering. It may be a little difficult to work; it is. But, we have given an option to the companies to adopt that system. If we find after five years that companies do not exercise that option, probably

we may have to make it compulsory.

Shri S. S. More: Why wait for 5 years?

Shri C. C. Shah: These are novel things. We must watch their working.

Shri S. S. More: They are not so novel.

Shri C. C. Shah: Under clause 407, Government take the power to appoint two directors. I am happy that the Government have taken that power. I do not think that that power would, in any manner, operate to the prejudice of any company. In fact the knowledge that the Government have reserved to them powers to appoint two directors would itself act as a deterrent. I would like to make a suggestion in this connection. It has been said that this power will be exercised if 10 per cent. of the shareholders apply. I submit that it should be, as we have provided elsewhere, 10 per cent. or 100 shareholders. Because, in a large company like the Scindias, it may be very difficult to get hold of 10 per cent. of the shareholders. If 100 people make a grievance and apply to Government, it should be enough for Government to enquire whether it is necessary to exercise that power.

Something has been said about private companies. It has been said that some provisions which have been extended to private companies are unnecessary and ought not to have been extended. It has been said by an hon. Member here, in the minute of dissent which my hon. friends Shri Tulsidas and Shri G. D. Somani have appended, that the public has nothing to do with a private company. Well, there can be no greater misstatement than that. The public gives large credit to private companies, and the private companies take loans of crores of rupees from the public, from the banks, from the Government and from everybody. It is wrong to say that the public has nothing to do with private companies. I know of private companies whose

[Shri C. C. Shah]

field of operation is much larger than that of several public companies. It may be a private company in which there are 20 limited companies as shareholders and each limited company has taken a shareholding of Rs. 5 lakhs. It will be a private company of a capital of a crore of rupees, whose transactions will extend into crores of rupees. But there is something more than that. Why should private companies fight shy of making disclosures of their affairs? Because nobody obliges a man to take advantage of the company law. But if he wants to limit his own liability, if he wants that out of the Rs. 5 lakhs he should run the risk of only Rs. 1 lakh and keep for himself the Rs. 4 lakhs, then why should he not submit himself to the regulation of company law and make a true and full disclosure of his affairs, because he does not want to incur the full liability which ordinarily a man having an enterprise on his own account would run. If he files his balance-sheet and audited accounts, the public with whom he has to deal will know how his affairs stand. We came to know the other day, if you recollect, that we placed a large order in England for jeeps with a firm which had a capital of £1,000 only. A private company may deal in lakhs of rupees, and the Bombay Shareholders' Memorandum has given numerous instances of private companies which have extended their operations far and wide.

Then it was suggested that we do have a category of exempted private companies. In England it is there, but it is too cumbersome to work, and for us it is too premature to provide for it. We must watch the experiment and see whether it ever becomes necessary.

We have put a limitation that a managing agent cannot manage more than ten companies and we have also put a limitation on the number of directorships which a person can hold. Of course there is nothing logical

about having it at ten so to say. We have hit upon ten. It may have been five, it may have been twenty.

Shri V. G. Deshpande: Decimal system.

Shri C. C. Shah: And as one hon. Member rightly pointed out, we must look to the size of the company also. But we want to watch this experiment. Now, for example, a textile company will start a totally different industry which has no connection with it, and then instead of starting a new unit, in order that it may not be one of the ten, it will go on as a composite unit having a number of companies so to say, a number of industries under it. If they try to evade the law in that manner and try to break the spirit of it, we may have to legislate to say that every industry in itself will be a separate unit, and we may not permit a composite unit which has a sugar factory, a textile mill, an automobile factory, everything rolled into one, which will present one balance-sheet which none can understand. But we expect that taking note of the economic policy of this country, taking note of the directive principles of State Policy, taking note of the fact that we do not want concentration of wealth or power in a few hands, those in management will look to the spirit of this Bill and will not try to evade it in that manner.

Then, as to the manner in which law will be administered. A central authority was advocated by the Bhabha Committee. It was not easy to reject that recommendation, and the Government has not done it lightly. The Government has provided for an advisory commission. I am not enamoured of autonomous statutory bodies working independently or totally independently of the Government. And this is an Act the administration of which is very difficult and we must watch this experiment. The Government has taken heavy responsibility under this Act, and the public will watch very vigilantly how the Government administers this Act. I am glad that Gov-

ernment has undertaken to lay on the Table of the House every year an annual report of the administration, because in that case this House will have an opportunity to consider the manner in which the Act has been administered, because it is a truism to say that it is very easy to provide for all kinds of laws and regulations, but if there is none to see that they are observed and obeyed, we may as well not provide for them.

It is said that the advisory commission will consist of persons with adequate or sufficient qualifications. I do not know what kind of qualifications the Government has in mind, because we have no indication of it, but negatively I would like to say two or three things.

First of all, nobody should be on that commission whose interest is likely to conflict with his duty.

**Shri M. C. Shah:** Agreed.

**Shri C. C. Shah:** We find in many Government departments and commissions persons whose interest conflicts with their duty. We would never be able to administer this law as it should be administered if we put in that commission people who are likely to be, so to say, in the dock.

Secondly, I will say that there should not be put on that commission persons whose approach to economic and social problems is inconsistent with or opposed to Government's policy or to the policy of social objectives which we have accepted.

**An Hon. Member:** Certainly. Right.

**Shri S. S. More:** What about the Ministers?

**Shri C. C. Shah:** Shri More's interruptions do not disturb me at all. However able a man may be, if he holds views which are contrary to our accepted objectives and principles, we cannot expect that man to carry out our policy.

Lastly I would say that this commission would require at least three kinds of people, apart from anybody else whom we may put. It is not because that I am a lawyer that I say so, but a lawyer well conversant with company law and its practice should be there, then a very competent auditor and technical advisers, and lastly, a person with a judicial mind who would look at this problem objectively. If the composition of the advisory commission is of the character which I have envisaged, I think it will work satisfactorily.

**Mr. Chairman:** There are just about 12 minutes left. I will call upon Shri C. R. Chowdary to speak, and then he can continue on Tuesday.

**Shri C. R. Chowdary (Narasaraopet):** We sitting on this side are not much worried about whether a particular person who is a managing agent appoints his son as his successor or whether the son of a managing agent by right inherits and becomes the managing agent of the company of which his father was the managing agent. We are not worried about the other minor aspects of company law. We wish to know whether there is any qualitative change that has been brought about at the stage of the Joint Committee, or at least whether an attempt will be made at this stage to bring about the desired qualitative change in the matter of company law. Our Finance Minister was fair in confessing that there is no basic change in the pattern of the company law. That means, the pattern that we are going to have is the pattern that has been introduced by the Britishers some hundred years ago with a view to exploit the resources of the colonies that were then in their empire. The investing houses and the credit houses of Britain had their free play in the exploitation of our resources for 150 years under the cover of the law that had been introduced by them. Our company law of 1913 was mostly based upon the principle of monopoly



[Shri C. R. Chowdary]

by the Britishers and also the Indian big business community that came into the picture at a later stage. If this were to be the background which we want to have even for the future in the name of a socialistic pattern of society and in the name of a welfare state, then what shall be the shape of things that will ultimately be presented by the operation of monopolies in our country? A precise definition of 'monopoly' and its ramifications, and the ultimate picture that it will present to anyone has been given by V. I. Lenin in a memorable passage which I may be permitted to read out:

"In a precise definition of imperialism as the monopoly stage of capitalism, V. I. Lenin listed its five essential economic features, as follows:

1. The concentration of production and capital developed to such a stage that it creates monopolies which play a decisive role in economic life;
2. the merging of bank capital with industrial capital, and the creation, on the basis of 'finance capital', of a financial oligarchy;
3. the export of capital, which has become extremely important, as distinguished from the export of commodities;
4. the formation of international capitalist monopolies which share the world among themselves; and
5. the territorial division of the whole world among the greatest capitalist powers is completed."

This is the picture that will ultimately evolve as a result of capitalist economy being adopted as the basic pattern of any country. Are we working to achieve this thing or

are we working in a direction which shall have this as our objective?

Now, company law by its nature partakes of general law as well as private law. It partakes also of substantive law as well as procedural law. It deals with the trade and industry of a country. As such, it affects both private interests as well as the public interests of any country. It affects vitally public interest. It controls actually the economy of the nation. And whoever controls the economy of the nation will ultimately control the fate of that nation politically too.

The contents of company law may differ from country to country, mostly depending upon the socio-economic set-up that is obtaining in the respective countries. In a capitalistic economy, the underlying principle which guides is, as Lenin said, free enterprise; that is to say, exploitation and profit motive will be the incentive for a capitalistic economy. In such a set-up generally it is the private sector that dominates the field, and the public sector, if any, will have to subserve the interests of the private sector. On the other hand, in a socialistic economy, the private sector takes a secondary role, and the public sector dominates the field; and the private sector, if any, has to subserve the interests of the public sector. This objective under a socialistic economy is generally achieved through nationalisation, municipalisation and co-operativism.

According to me, the ruling party in our country represents big business, the big industrialists, landlords and the feudals. The accepted principle, so far as the economy of our nation is concerned, is mixed economy. I want to know how this term "mixed economy" is defined precisely. I find that it has been defined nowhere; but

in season and out of season, there is some talk about mixed economy. We find also that this mixed economy has been taken to the sphere of planning also. We are now on the eve of a Second Five Year Plan. In that Plan, the emphasis is laid upon industrialisation. According to the Plan-frame that has been circulated to us, the proposed expenditure on the public sector is estimated at Rs. 1,000 crores, and in the private sector also, if we accept the proposals of the Commerce and Industry Ministry, an equal sum is proposed to be spent. This shows that the importance of the private sector is not minimised, and that it is given an equal place with the public sector. Hence, there is the necessity to examine carefully the problem how best industrial development programmes can be pushed through the various agencies that are obtaining in the private sector.

So, it is the private sector which is now being made use of by us to implement the Second Five Year Plan where the emphasis, as I already submitted, is on industrial development. In the words of our Finance Minister, there is the need and also the necessity to maintain law and order in the private sector, if our developmental programmes with intensified economic activity have to succeed. But the question now is whether the proposed amendments in the company law, which does not basically change the pattern so as to put the private sector in order can achieve the objective set out in the Plan-frame.

What is the pattern that is obtaining in our country ever since the

company law was introduced? Our company law from 1850 down to 1913 was a true copy of the British company law, except in the matter of some procedure. The British company law is based upon the principle of *laissez-faire*, which means, as I already submitted exploitation with profit motive by the investing and credit houses of Britain. If this basic pattern is to be accepted, I fail to understand how the Second Five Plan can be implemented in relation to the private sector.

The private sector, as it obtains now, is being dominated by an institution which is peculiar, which is called managing agency. This system is to be found nowhere in any part of the world. It has got its own history. It is not necessary to go into the details, but suffice it to say, it was conceived, promoted, and perfected according to one well-known principle, namely exploitation and profit motive with the ultimate object of monopoly. It was started with the intent of being operated by the British investing and credit houses. At one time, Indian business shouted loud against this institution and pleaded for its abolition. This found an expression in the famous Bombay shareholders' document of 1934.

5 P.M.

Mr. Chairman: The hon. Member may continue his speech on Tuesday the 16th August 1955.

*The Lok Sabha then adjourned till Eleven of the Clock of Tuesday the 16th August 1955.*

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