

>15.17 hrs.

Title: Consideration and passing of the Competition Bill, 2001. (Bill amended and passed)

MR. DEPUTY-SPEAKER: The House will now take up item No.19 – The Competition Bill, 2001.

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): Sir, I beg to move*:

"That the Bill to provide for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto, be taken into consideration."

I request that the House do consider and pass this Bill. This Bill was introduced in the Lok Sabha on the 6th August, 2001. Thereafter, it was referred to the Standing Committee on Home Affairs for examination and report.

15.18 hrs. (Shri Basu Deb Acharia in the Chair)

The Committee submitted its Report to Parliament on the 21st November, 2002, suggesting certain amendments. Almost all of them, except for three, have been accepted and for which amendments the Bill shall be moved.

This Bill is necessary as existing laws do not promote, foster or sustain competition; and the Monopolies and Restrictive Trade Practices Act would be replaced by this Bill when it becomes an Act because that Act is no longer an effective instrument.

The Bill is now before the House for consideration and passing and I seek the consent of the House to this piece of legislation.

* Moved with the recommendation of the President

MR. CHAIRMAN : Motion moved:

"That the Bill to provide for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto, be taken into consideration."

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Sir, before we start the discussion I have to make a special request to the House.

For the last four weeks, the House was very generous to pass all legislations being brought. This is one of the very important legislations. As the hon. Minister of Finance has said, even the Standing Committee has examined it and the Government has accepted almost all recommendations, but technically this has to be passed by both the Houses to become an Act. As there are about 89 amendments, based on the Standing Committee's recommendations, unless we pass it here today, reprinting and getting it passed in the other House would not be possible. So, my request to the House is to forget about the rest of the business but let us pass today the Competition Bill. If needed, we can have the Half-an-hour Discussion a little later.

But my request would be to pass this Bill today after the discussion. ...(*Interruptions*)

SHRI SHIVRAJ V. PATIL (LATUR): This is agreeable to us.

SHRI SHIVRAJ V. PATIL (LATUR): I would like to be very brief. This Bill seeks to replace the Monopolies and Restrictive Trade Practices Act. The Bill was referred to the Standing Committee and the Standing Committee has made several recommendations. It appears that the Government has accepted many of the recommendations made by the Standing Committee.

Now, what remains for us to do is to give the consent to this proposal and then see that the amendments, which are moved, are accepted and become part of the Bill. I think, there will be no difficulty in doing these things.

What are the principles on the basis of which this Bill has been brought before this House? I do not find much of a difference between the principles, which were followed, in the MRTP Act and this Bill. It does not mean that all the principles, which are part of the MRTP Act, have been accepted in this Bill also, as they existed. There have been

certainly some changes and these changes, it is expected, should help the producer, the trader and the consumer.

Now, as far as the producer is concerned, he should be allowed to use his liberty, his freedom to enter any area he likes and conduct the productive activities in a manner that the consumers will get the benefits and the producers also will get the benefits. I am a little apprehensive that this Bill may or may not help the industry, may or may not help the consumers, but this Bill may help the trader to some extent. Why am I saying this thing? The intention is to see that the powerful entrepreneur does not dominate the scene and does not create hurdles in the efforts made by other industries in producing. But generally it happens and we know that. It does not happen only with the written agreements between the industries but with the oral agreements also.

Now, the entire automobile industry is in private sector. Now, what has happened? Have the prices of the cars and vehicles produced come down? The answer is 'no'. Is the quality of the vehicles produced better? The answer is 'yes'. But the prices have not come down. So, there is an understanding between those who are in the industry that they may try to produce better quality of vehicles, but they would not reduce the prices.

How does this help the consumer? The consumer gets a better product. But he will not get a better price. There is an unwritten agreement between the producers that the prices will not be brought down. And with every passing year the prices of vehicles are going up. So, we have helped the industry which we should do and we should not grudge this kind of a freedom to the industry. But, does it help the consumer also in saying that the prices come down? Their experience is that the prices have not come down.

Now, this is with respect to the industry in one area. The automobile industry is one area. Take for instance the textile industry. It is a different area. In textile industry you have the handlooms, you have the powerlooms and you have the textile industry. How do you help the powerlooms and the handlooms as against the textile industry? It is said that the law is moving in the direction of status from the contract. There was a time when the contract was important and status was not recognised. Before that status was recognised but the contract was not recognised. Now the time has come when we have to recognise the status also. The status of the handloom industry has to be recognised as against the status of the powerloom industry and the status of the handloom industry and the powerloom industry has also to be recognised as against the textile industry. How do we do it?

If the restrictions are not put on the textile industry in recognition of the status of different parts of that industry, the justice, the economic justice will not be done to the people. That is a problem. I am afraid that this law may be of very little use in achieving this objective. Certainly the Government can make the policies and give the directions and if the Government makes the policies and gives proper directions this may help.

The second apprehension I entertain is about the delays. My friend Shri Priya Ranjan Dasmunsi is also going to speak and I think he is going to speak in greater detail than I am doing here now. He would be able to touch upon that. But I would like to make a passing reference to the delays. The law provides that to the extent possible, the Civil Procedure Code will be used in deciding the cases by CCI. It also provides that the principles of natural justice will be used in disposing of the cases.

The only question which occurs to me with respect to these provisions is that if you take a case to a court of law and apply the Civil Procedure Code it takes long time. If you apply the principles of natural justice, it also in principle means the same thing and nothing very different because the Civil Procedure Code is not against the principles of natural justice. Even if you discard the principles under the Civil Procedure Code and accept the principles of natural justice yet you will not be in a position to dispose of the cases in time in which they should be disposed of. If there is a combination and a monopoly is created and if the case is taken to the Commission and from the Commission to the High Court in appeal, maybe ten years' time will be required for disposing of the case and the intention with which the combination was made, the intention with which the monopoly was created, the intention with which the steps were taken to see that there is no competition in the market will be frustrated.

But how to overcome these difficulties is really a question and that question has to be solved; maybe by laying down the policy at the start itself that the cases should be disposed of within the given time, maybe by having the persons who would be manning or who would be functioning in the Commission who are in a position to dispose of the cases without any loss of time and without any delay.

That is required to be done. If that is not done, the very purpose of having this law will be frustrated. There are one or two other points to which I will make a reference and then, I will take my seat.

Clause number 9 provides as to how the Chairman of the Commission and the members would be nominated by the Government. At whose instance, at whose advice will these nominations be made? I think, the Standing Committee has made a recommendation and probably, the Government is coming up with a rule saying that as to how the Chairman and the members will be nominated, will be decided by the Government and that would be provided in the rules. Probably, that is the intention of the Government. I am not going to counter it.

One very big issue which has to be taken into account by us is that this Commission, CCI is an organisation which deals with the entire country as such. It deals with the other countries also and if it is dealing with other countries also, it should not have the oligarchic character in nomination as well as in its functioning. It should be more democratic. The provision under clause 9 provides that the Selection Committee would consist of the Chief Justice, two Ministers, Governor of the Reserve Bank of India and the Cabinet Secretary. Of course, two Ministers represent the Legislature. They are the representatives of the people, but why should we have this kind of a lopsided arrangement? Why should we not have some more persons representing the Legislature? In all the bodies, which are of quasi-judicial nature, the person sitting there has to function as a judge. He should be impartial. The Governments may come and the Governments may go, but the body should be impartial and should act according to the law and the principles of justice. If this is our intention, why should we not have a few more persons from the Legislature in which the Ruling side as well as the Opposition side and somebody who is sitting in the judiciary as head of the judiciary, also are given the authority to nominate or make the suggestions for the nomination of the chairperson and the members of the body. I am leaving this thought to you. While making rules, you can make that rule or you may again discuss this matter before this power to make the delegated legislation is used by the Government at a later stage. For this purpose, you may discuss, if you think proper, with others also.

Clause number 12 is also very important. I have a very strong objection to clause 12. What is this clause 12? It reads:

"The Chairperson and other Members shall not, for a period of six months from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a party to a proceeding before the Commission under this Act: "â€

I have very strong objections to this clause. My objections are of two kinds. One is that period of six months is very small. In the Government services, if a military officer retires, he is not allowed, if I remember correctly, at least for one year or two years to take up any job. Now, here, we are mentioning 'six months' only. Why should we mention 'six months'? Why should we mention this small period? Why is there so much of hurry in providing an opportunity to the Chairman or the members to take up the job outside, when they retire. Chairman retires after attaining the age of 70 years and a member 65 years and he is in a hurry to take up the job and he takes up the job of the company the case of which was decided by him.

Sir, I have a strong objection to this period of six months. Probably, the Standing Committee has made a suggestion to extend this period from six months to one year and the Government also is inclined to accept this suggestion. I would say that even this period of one year is not enough. But certainly, one year period is better than a six months period.

Sir, my second objection is, why should the Chairman and the Members of this Commission be allowed to take up a job in a company that was adjudicated upon by them while they were a part of the Commission? This restriction of one year or six months does not prohibit them from not taking up a job in a company, the dispute of which was considered by them as the Chairman or Members of the Commission. I think, this portion of this clause should be deleted. If we do not delete this clause, then I think, we would not be doing justice. At least we shall have to show that justice is being done. People would not feel that justice is being done if the Chairman or the Members join such companies – cases of which companies, adjudicated by them, may be in for or in against, while they were a part of the Commission – within a period of six months. So, my strong objection is that a Member of the Commission or the Chairperson should not be allowed to join any company which was investigated into and adjudged by this Commission. Otherwise, there would be injustice.

Sir, my last point is with respect to clause 64(ii). This is the last clause of the Bill and it pertains to the members of the Monopolies Commission, the officers of the Commission and also the employees of the Monopolies Commission. I am of the strong view that this Bill, called the Competition Bill, is in essence and in principle, trying to achieve the objectives that the Monopolies and Restrictive Trade Practices Act was intending to achieve. Maybe, there were some difficulties in that and maybe that we require a different kind of provision but the investigation, adjudication and administration are not going to be very much different from what it was in the Monopolies and Restrictive Trade Practices Act. You have the officers and employees here who had worked in this organisation for so many years. Now, they have the advantage of having got the training in this field. They also have got the advantage of having understood the intricacies and complications of the law. Why should they now be asked to take pension and go home? Why should there not be an assurance given here on the floor of the House to those people that the scope of this Bill is not going to be limited but its scope would be more wide and their job would have a wider range than what it was in the Monopolies and Restrictive Trade Practices Act or in the existing Act? Therefore, I would like to request that – it is ultimately for the hon. Minister to decide – those who have served this country through this Monopoly Commission for all these years, may be they had committed some mistakes but a major part of their services have been useful to the country, should not be asked to go and fend for themselves now

and we change according to the situations, we change organisations, those who have worked in an organisation for a very long time should not be asked to go. That is not a correct approach. The Government would actually stand to gain from the goodwill and experience of the persons who have worked in that organisation. The Government, would gain more than they would lose by retaining a few officers. Some might say, what would happen then to the members of the Commission? The situation is completely different in case of the members of the Commission. I do not think that it is necessary for us to continue with them. But if the Government wants to continue with them, they may do so, but there need not be any assurance given on the floor of the House that their services would be continued in the CCI also.

But, certainly, assurance needs to be given to the hundreds of members who were working in the MRTPC Commission. Certain provisions are there to do that. I would request the hon. Minister to assure the House, through you, that the interests of the employees of the MRTPC Commission would be protected. I hope the Government will not grudge sustaining a small loss for the benefit of the citizens whose goodwill and willingness to work is more important than anything else.

These were the points that I wanted to make.

SHRI KHARABELA SWAIN (BALASORE): Mr. Chairman, Sir, I rise to support the Competition Bill 2001. I will be very brief in my submission. I also want that this Bill be passed today itself.

As we say, a private monopoly is much worse than a Government monopoly. Every country in the world has an organisation like MRTPC, which we had earlier. I am reminded of a case of monopoly that took place in America two-three years ago wherein the top computer company of the world Microsoft, had acquired the number-two computer company of America. However, the Unfair Trade Practices Commission of the Government of America prevented the company from doing that. It forced the Microsoft not to acquire the other company. The Commission ordered the division of Microsoft into two companies and imposed a very heavy penalty on the company. I am not a student of economics but I do not remember that in our country we have had any such provision.

In the present age of mergers and acquisitions there are some companies which are going on acquiring other companies at their sweet will. I do not want to mention names. There is nobody to put a full stop to all this. Most of the time it is SEBI which is asked to intervene in such affairs. Now the Government has come forward with this Bill, which is a welcome step.

I fully agree with the provisions of the Bill. I do agree that, as Shri Shivraj Patil has said, it may help the consumer or it may not help the consumer. But, what is the harm in making an effort by making a provision? There is absolutely no harm in this.

As said, this is not going to have any impact on the smaller companies. It is not the smaller companies which impact the country's economy. It is when the big companies, the big fish, merge together that they actually gain a monopoly over the economy of this country. As hon. Shivrajji has said, there are many automobile companies in the country now. After they came into being, the quality of automobiles has improved. However, they seem to have formed some sort of a cartel because of which the prices are not coming down. There is a possibility of this happening in the country in the future. So, it is absolutely necessary that we should have this law.

There is a provision in this Bill that acquisitions by all companies having a net worth of Rs.1,000 crore and a turnover of Rs.3,000 crore will have to be evaluated by this Commission. The Commission can refuse or approve the same at its discretion. Any person can file a complaint before the Commission. The fine imposed by the Commission would be at least 10 per cent of the average turnover of the last three years of the company, irrespective of the nature or gravity of the act.

I think, this is absolutely a very fair thing to do in future. I will take two minutes more and conclude my speech. I will give you some differences between the earlier MRTPC Act enacted in 1969 and the new Bill which is going to be passed today. As you know, the MRTPC Act of 1969 was based on size as a factor whereas the present Bill is based on structure as a factor. Previously, there was very little administrative and financial authority with the Competition Commission of India, but in the present Bill, there is relatively more autonomy for CCI. The earlier Bill was reactive and rigid, but this is proactive and flexible. There was no penalty for offences earlier, but here, there is penalty of at least 10 per cent of the profit earned over the last three years. So, I fully support this Bill. I also appeal to everybody in this House – since it has already been cleared by the Standing Committee on Home Affairs, which is Mini-Parliament – to pass this unanimously.

SHRI RUPCHAND PAL (HOOGLY): Mr. Chairman, Sir, I thoroughly oppose the Bill not because in am in support of monopoly, but because it is not the right time for a country like ours, with our stage of development and with acute problems being faced by this country, to go in for such a new piece of legislation.

I know the compulsion of the Government. At every international gathering, there is pressure by the European Commission; there is pressure from the WTO lobbies who have extended themselves inside the Government and at very important high places who work more for the WTO, for European Commission than for this country. This is not my observation, but this is the observation of some of the important business houses of this country, that Indian market should be geared to face competition from within the country and outside. Why is it so? What is competition conceptually? What does it mean? There may be varieties of competition – friendly competition, fierce competition, cut throat competition and cooperative competition.

In Japanese, I am told that the meaning of the word 'competition' is killing. So, competition means you should kill the opponent. In a country like India, we have set certain goals in our Constitution which requires cooperative competition, that is, small sector should compete with the medium sector. But at the same time, there should be some sort of arrangement of cooperation in the form of 'ancillarisation', as it is taking place in China and in many other countries – as has been said philosophically in our country from the days of Pandit Jawaharlal Nehru.

I do not say that whatever had been said at that time or whatever had been initiated at that time will always hold good. I do not say that. There have been changes and we have to adapt ourselves to those changes. Competition should be between equals. We have a large public sector company, Indian Oil Corporation; what is the standard of the global oil major? It is ten times that of Indian Oil Corporation. The turn over of two automobile corporations of the world taken together is more than the GDP of this vast country with more than one billion people.

On mere publicity campaign, one multinational pharmaceutical company spends more than the whole Budget of the largest State of this country. There cannot be competition between unequal. Is it an urgent thing to say that the provisions already existing in the country are inadequate? It was being said that the MRTTP suffers from a large number of infirmities. I find the proposed piece of legislation suffers from larger number of infirmities.

There is a proposal to set up a Competition Commission. Is it a judicial or *quasi-judicial* body as stated in the Statement of Objects and Reasons? Is it a corporate body? What is it? Is it to be put at par with the Tea Board, Coffee Board or Spices Board? Is it a company that will like any other reconstruction company be able to take over, sell, make profit and whole of its proceeds will be put in the Consolidated Fund of India so that the Government can get itself out of the present financial distress and make up the fiscal and budgetary deficit? They have been asking the SEBI as to the quantum of proceeds put into the Consolidated Fund of India. They are asking the IRDA. Here also, they have a 10 per cent penalty on the average of last three years of turn over. It is unimaginable. Who will decide all this? What will be the parameters? Nothing has been explained here. It is being said that it will be determined by the size, but whose size? Is it on the basis of Rs.1000 crore of assets or Rs.3000 crore of turn over? I am not sure. Maybe, 150 to 200 companies will come within its purview.

If you compare the Indian domestic industry *vis-à-vis* the global multinational corporations, we are just peanuts, the pigmies. The country needs, our industry needs, some more time to grow. I do not say, let them grow as a monopoly or let our profit making public sector, gas, oil or telecom, be handed over to some private monopoly houses irrespective of whether they honour their commitments for extending the service in rural areas. "We should forget all that. They are our friends". This is what is said by those in the Govt. They are high officers, high dignitaries. This is my personal view. Who has authorised them to sell these assets. Some relevant rule in MRTTP could have served the purpose. How can Indian domestic industry, in the Indian market as also abroad grow as a right player? So, more time is required. There should not be any haste. I do not know why there has been such haste.

I have mentioned about infirmities in the proposed law, the Minister would explain as to why there is so much discretionary powers of the Government? They will give the direction. They will supersede. It seems that they want to put some yes man as their Chairman. Different stories are being heard that a particular bureaucrat, who had been working as some consultant, is thinking of putting that no judicial control will be there. According to the Supreme Court judgement such a Commission needs to be of judicial character. As far as I could gather, the Department of Company Affairs, in its submission to the Standing Committee, has stated that it should be a judicial body and not even a *quasi-judicial* body.

In 1969, the MRTPC Act came into being to control the concentration of monopoly. In 1986, the Consumer Protection Act came into being to control the unfair trade practices and to protect the consumers' interest as also for their welfare. It is claimed to be the motto and the chief purpose. Can it not be achieved by the Consumer Protection Act? The Consumer Forum has 10,000 pending cases. They have no infrastructure. That is why, they ask as to how can more cases be transferred to them. They are unable to do it. That is the submission made by them. The MRTTP has 5000 pending cases. How can they protect the interest of the consumers? Now, the unfair trade practices is being done away with here. In 1991, the merger and amalgamation were deleted. Now, they are bringing the merger and the amalgamation. That is the order of the day. The SEBI is there to take care of it. There is a take over court. There have been several committees headed by important people. They have made their

recommendations. What is the status of this regulator? What is its chief function? Is it to adjudicate? If it is so, it should be a judicial body. Will it work as a super regulator? The Departments like DCA, SEBI, and RBI are there to look into different sorts of mergers, acquisitions, and all these things because financial services are also incorporated. What is the status? It has not been mentioned. What is the purpose of this new law? What is the reason to bring it at this juncture?

The service sector will remain untouched. The illustration of Microsoft is being given in the service sector which is growing globally and becoming more and more powerful. But who will be affected more in the Indian situation? It will be the manufacturing sector which is in distress. Who is going to be protected by this? Is it small industry? Is it cottage industry? The small industry accounts for the largest number of employment. It accounts for 40 per cent of our exports. Will they be protected by this anti-competition piece of legislation? Will the Government be clear about it? I believe that this is not going to serve any purpose at all. Our own domestic industry will suffer as a result of this piece of legislation. Our small industry will never be protected which requires to be protected urgently. Our domestic industry requires to be protected from hostile sort of attacks of the multinational corporations who are getting more and more de-listed from our stock exchanges but are controlling the market in various ways. They will have the advantageous position. So, I oppose it. It is not going to protect the consumers' interest. They have said that size is the criteria and not the market share. I have already stated that if you take it in size, this is just peanut. Who will determine the dominance in the market? They will determine it subjectively. I have a great suspicion that this discretion would lead to corruption. With political arrangements, we do find that corruption is taking place. We have seen it in disinvestment process. We have seen it in the case of Centaur Hotel. To whom is it going to benefit? Is it the hidden agenda of the ruling alliance or the ruling party to extract money from the so called monopoly houses demanding that, your functions are anti-competitive.

16.00 hrs.

There is a suspicion because there is hardly any transparency introduced by the Government. The Government will determine everything. It cannot be allowed. In the given situation our industry requires that the Government should be uniform in its support and not selective saying that I will support someone even if he has access to private information, even if he is involved in insider trading and even if he has access to official secrets. Still they are being favoured to the public sector. In another case they said ONGC cannot be allowed to be a bidder in the disinvestment of HPCL/BPCL. Is it equity? Is it fair? Is it equal treatment? If that be the policy of the Government, it is going to ruin both the private and the public sector industries in the country.

What I want to know is what will happen to the staff? We have our professionals. There are men who came on deputation through the UPSC selection and they are told that after the repeal of the MRTP Act, after dismantling of it, everyone will have to go. In that case no person will continue in service. Only your own yes-men will be put as chairpersons and they will just do whatever they are told to do in the interest of a particular political party or a particular group or a particular industry. This cannot be allowed.

I think that this Competition Bill is not required at all. Let us wait till April, 2005 when there will be a discussion at the WTO level. This competition law and other measures in relation to investment and trade will become clearer and some decision will be taken. At that point of time let us be innovative and creative. Globalisation does mean surrender to whatever we have been told to do. The United States till today does not have any comprehensive competition law. Several Acts are there with them since the period of 18th and 19th centuries. Even in the UK and other European countries, the Commission is considered to be a super body to which references are made. We are not equal; we are yet to develop; we are not equal to the powerful multinational companies of the world. In such a situation, enormous powers are given to the Union Government in sections 53 and 54.

Then, they take shelter under security consideration and public interest. I know a story of public interest. I had asked a question about 15 or 20 years back, when Congress was in power, as to how much advertisement was released to a particular daily which had been always working continuously in favour of and in support of the Government. I was told in the reply that the quantum of advertisement released to that particular group of journals could not be divulged in public interest! Is this public interest? In these days, with such discretionary and subjective powers with the Government and the Government's intention being what it is, I believe that it is not going to serve any purpose. Rather it will cause disaster to our existing ailing industry.

It is being sold in stages like the first stage, second stage and third stage. It will be gradually implemented in stages. FICCI has suggested a period of time of 15 to 20 years. I believe that the practice of Ministers sitting in the Selection Board is not in order. What does it mean? How can they sit in the Selection Board? They should not be. Ministers should never sit in the Selection Board. There should be some provision that the chairperson or the members should not be allowed to join any industry and no relative – distant or close – of those people should be in any way connected with the industry. Otherwise, what has happened in the past will get repeated.

I oppose the Bill in the national interest and in the interest of our domestic industry. I think that this is not going to

serve any purpose. Let us wait till 2005.

We can have a thorough discussion about the merits of MRTPC. For the time being, let us plug the loopholes in MRTPC. Let us strengthen it with certain amendments. That is one of the suggestions of the Standing Committee also. I believe that would serve the purpose. I oppose the Bill and I would request the hon. Minister to withdraw the Bill till such time when it is suitable for our industry and for our country to bring in such a kind of legislation.

SHRI B.B. RAMAIAH (ELURU): Thank you, Mr. Chairman. I congratulate the hon. Minister for introducing this Competition Bill of 2001. This is one of the things where it will take time, at least three years, for formulations and also for going into various aspects of it. The most important item here is that the Committee consists of not only judiciary but also of experts from various other fields, like economics, accountancy, etc., who have lot of experience and knowledge in these subjects. We need this sort of Competition Bill in the present juncture of the development of our country and to solve the various problems that we are facing. The Competition Bill is mainly useful for the consumer. It is the consumer who is the boss for any company, whether it is in the manufacturing sector or in any other sector. Of course, MRTPC is also taking care of part of it. But consumers require a lot of support against jacking up of prices by companies by various methods, like forming cartel or by various other ways of forming group of companies for dictating prices and escalating the prices. One of the hon. Members has already suggested a number of points, which require to be studied by the hon. Finance Minister. But look at what has happened in the case of telecommunications. The competition is really helping in this sector. Prices are coming down day by day. The services are increasing in a number of ways. That is what we require today from the consumers' point of view and from the point of view of public interest. It should have more accessibility to all sections of people. If the prices are too high, it will serve only a few sections of the people. The Competition Bill will serve its purpose today, with increasing utilisation and requirements of the common men, because of the various levels of prices maintained by them and also because of the increasing competition. I fully support this. On the one side we have MRTPC and on the other side SEBI is also taking care of part of it. With the limit of Rs. 3,000 crore or Rs. 4,000 crore of turnover for the companies, it will cover only the bigger companies, where this competition is very important for us. Look at the Budget requirements. The Budget requirements are so little. For the first year, it requires, including recurring and non-recurring, only Rs. 140 lakh. In the second year, it goes up to Rs. 474 lakh and by the time the third year comes, it is only Rs. 586 lakh. The penalties levied should be substantial so that it can contribute to the Exchequer also. This is one of the items on which we should be able to take more careful studies. The condition they have put in for the Chairman and also the regulation, we have to take up these things only initially. The Standing Committee has also gone into various aspects of it. They have also called for a substantial amount of support. Of course, it is not final. This Parliament can also pass any amendments or changes or formulations year after year depending upon the circumstances of the country and various other considerations. Our friends have talked about the United States and the Microsoft and that they are able to see that the monopoly is reduced and restricted. Probably, we have not come to that level. Only in a few cases, we might have come to that level.

But even in spite of that, the service and the competition are very important. People, who have to operate this also, require a lot of experience and knowledge in different fields, in different aspects. I am happy that they are taking experienced people not only from judiciary, but also from the fields of economics, accountancy and various other fields. They are taking ten such experienced and knowledgeable people as members of the CCI. I am sure the hon. Minister will take into consideration any other suggestion that is made to the Competition Bill at an appropriate time.

So, with these words, I strongly support this Bill. I hope that we should be able to go in the right direction with this measure. I appreciate this.

Sir, I thank you once again for having given me this opportunity.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, माननीय वित्त मंत्री जी कम्पटीशन विधेयक, प्रतिस्पर्धा वाला कानून ला रहे हैं।

इसमें यह दावा किया गया है कि जो ग्लोबलाइजेशन हुआ, उस परिस्थिति में कंज्यूमर प्रोटेक्शन के लिए इस कानून का लाना आवश्यक हो गया था। पुराना एम.आर.टी.पी. वाला कानून हटाना और नया कानून लाने का दावा हुआ है। पहले तो मुक्त बाजार हुआ, अब मुक्त बाजार में कम्पटीशन होगा, यह दावा किया गया है। कम्पटीशन होने से कंज्यूमर को बहुत फायदा होगा, यह मूल भावना है। एम.आर.टी.पी. एक्ट, 1969 का था और उपभोक्ता कानून, 1984 का था, जिसमें उपभोक्ताओं को अधिकार मिलना चाहिए। लेकिन जो बड़ी-बड़ी कम्पनियां थीं, उन सभी कम्पनियों ने बाजार में सप्लाई कम कर दिया तो भाव बढ़ गया और कंज्यूमर लुट गया। कंज्यूमर को आवश्यकता होती है, कई कम्पनियों में कम्पटीशन कम होगा, कई कम्पनियां मेल करके लोगों की आवश्यकता के मुताबिक बाजार में सामान नहीं देंगी या सामान ज्यादा देंगी तो घटिया कर देंगी, ये सब गड़बड़ियां हो रही हैं।

इनका दावा है कि देश में और विदेश में सभी जगह कम्पटीशन कानून बना देंगे तो सब जगह कंज्यूमर का प्रोटेक्शन हो जायेगा। बाजार में कम्पटीशन की गतिविधि को रोकने वाली प्रक्रिया रुक जायेगी और उसमें जो मोनोपलीज एण्ड रैस्ट्रिक्टिव ट्रेड प्रैक्टिसेज कमीशन था, उसकी जगह अब ये सी.सी.आई. बनाएंगे, कम्पटीशन कमीशन ऑफ इण्डिया बनाएंगे। उसका जो चेयरपरसन होगा, इसमें कहा गया है कि उसकी जज होने लायक योग्यता होनी चाहिए, जज होने लायक, जज नहीं। संशोधन में कमेटी ने जाहिर किया कि यह अर्धन्यायिक संस्था होगी कि न्यायिक निकाय होगा। अभी रूप चन्द पाल जी ने सवाल उठाया कि अभी अर्धन्यायिक होगा या न्यायिक होगा। इनका क्या हर्ज है, जज की बहाली करने में हाई कोर्ट या सुप्रीम कोर्ट का जज हो या सिटिंग जज की बहाली करने में, लेकिन ये जज होने लायक व्यक्ति को बहाल करेंगे, जज को बहाल नहीं करेंगे, ऐसा जान पड़ता है।

अभी इसमें बहुत संशोधन हैं, उसमें क्या सुधार करेंगे और सही में वह न्यायिक संस्थान होना चाहिए, न्यायिक निकाय होना चाहिए, जिससे लगे कि वह निपक्ष है। बहाल करने वाली कमेटी में माननीय मंत्री जी स्वयं रहेंगे तो कमेटी की क्या जरूरत है। जिस कमेटी में मंत्री रहेगा तो कमेटी बनाने की क्या जरूरत है, खुद ही बहाल कर लें। दूसरे कमीशन की कार्यवाही को भी सरकार निरस्त कर सकती है। हमारे यहां भिखारी लोककवि थे, उनकी एक पंक्ति है कि हुकूमत के हाथ में दो दांत हैं-एक खाने के और दिखाने के दूसरे दांत होते हैं। इसी तरह से हुकूमत में दोहरा काम होता है, दिखाने का कुछ और खाने का कुछ और।

इसीलिए इसमें बहुत आशंका है नहीं तो हमने डा, लोहिया जी की दाम नीति सीखी थी।

"अन्न दाम का घटना-बढ़ना अनासेर के अंदर हो,

भरकर खनिया माल की कीमत लागत से डेढ़ गुनी हो। "

16.15 hrs.

(Shri P.H. Pandian in the Chair)

यह दाम नीति हम लोगों को सिखाई गई थी कि खाने की जो चीजें हैं, उनकी लागत के डेढ़ गुना से अधिक मूल्य नहीं होना चाहिए। लागत दस है और हरेक चीज दस गुना भाव में बिक रही है, चाहे वह सीमेंट हो या दवाई हो। लागत से पांच गुना, सात गुना दाम में चीज मिलती है। इस तरह से कंज्यूमर का प्रोटेक्शन कहां से कर दीजिएगा? कहते हैं कि प्रतियोगिता होगी, मुक्त बाजार होगा और उसमें प्रतियोगिता होगी तो प्रतियोगिता में मल्टी नेशनल कंपनीज में लोग कहते हैं कि भारत का जो बजट है, उससे कई गुना अधिक पूंजी वाली और टर्न-ओवर वाली एमएनसी कंपनियां हैं, उनसे ही अपने यहां के छोटे उद्योग की प्रतिस्पर्धा होगी। महोदय, प्रतियोगिता हमेशा बराबरी में होती है चाहे वह योग्यता की हो या क्षमता की हो, वह समान पक्ष का कम्पीटीशन होता है। असमान पक्ष में क्या प्रतियोगिता होगी? इसीलिए यह बहुत संदेहास्पद है और यह अधूरा विधेयक है। जब तक सरकारी सैक्टर में आरक्षण है और लघु उद्योग का आरक्षण है तो मुक्त बाजार नहीं हुआ तो उसमें क्या कम्पीटीशन होगा? इसीलिए यह मामला उठता है और भारी आशंका में यह प्रतियोगिता वाला नया कानून कि हम प्रतिस्पर्धा बढ़ाएंगे, मुक्त बाजार होगा और कंज्यूमर का प्रोटेक्शन होगा। ये सब कम्पीटीटिव एक्टिविटीज को रोकने का काम होगा और जो सीसीआई आयोग बनेगा, फंड बनेगा, यह सब हमने देखा है, इसीलिए हमें बहुत भारी आशंका हो रही है और जो दावा किया है, उसकी आपूर्ति इससे नहीं होने वाली है कि कंज्यूमर का प्रोटेक्शन होगा। कंज्यूमर का शोण तो होता है।

इसी तरह से बोली की क्या हालत है? टेंडर के लिए जो कोटेशन डाला जाता है, उसमें तीन-चार बड़े आदमी मिल जाते हैं और उन्नीस-बीस भाव करके डाल देते हैं। फेयर कम्पीटीशन नहीं होता है। इस बारे में सरकार और माननीय मंत्री जी क्या करेंगे जहां तीन-चार बड़े आदमी मिल जाते हैं? मान लीजिए कि उसका एस्टीमेट एक करोड़ है तो उसमें दो करोड़ डाल देंगे। इसी तरह से तीन-चार बड़े आदमी 19-20 करके कोटेशन डाल देते हैं, वे आपस में मेल कर लेंगे। इसी तरह से डिसइंवेस्टमेंट के नाम पर सामान की बिक्री हो रही है, उसमें कहते हैं कि बोली लगाई जाती है कि कम्पीटीशन में कौन कितना दाम देता है। उसमें भी पूंजीपति लोग कब्जा करना चाहते हैं। इसीलिए देखने में तो ठीक लगता है कि प्रतियोगिता होगी लेकिन यह भारी आशंका है कि यह अधूरा विधेयक है। एमआरटीपी खत्म करके इसे ला रहे हैं और कहते हैं कि इससे कंज्यूमर का प्रोटेक्शन होगा। इसलिए इन सबमें बड़ी आशंका है और मैं चाहता हूँ कि माननीय मंत्री जी इस बात को स्पष्ट करें क्योंकि हम खिलाफ हैं।

श्री बालकृष्ण चौहान (घोसी) : सभापति महोदय, मैं प्रतिस्पर्धा विधेयक के समर्थन में खड़ा हुआ हूँ लेकिन इसमें मेरी समझ से कुछ सुधार की भी गुंजाइश है। एमआरटीपी के स्थान पर इसे लाया गया है। एमआरटीपी कानून में जो एकाधिकार का अधिकार कंपनियों को देते थे,

उसे खत्म कर दिया जाए, तो मैं समझता हूँ कि प्रतिस्पर्धा विधेयक की कोई आवश्यकता नहीं रह जाती है, क्योंकि वाणिज्य और उद्योग जगत की स्वाभाविक प्रवृत्ति और प्रकृति होती है कि वह प्रतिस्पर्धा करे और अपने उत्पाद को उपभोक्ताओं तक ज्यादा से ज्यादा पहुंचाने का प्रयास करे। एक तरह से ऐसा ही लग रहा है, जैसे घोड़े को घास खाने का आदेश दे दिया जाए। अगर घास उपलब्ध होगी, तो आवश्यकता के अनुसार घोड़ा उसे खाएगा या नहीं खाएगा। नैसर्गिक न्याय के आधार पर सामाजिक विकास कार्यक्रम में प्रतिस्पर्धा को सामाजिक विकास में बाधक भी बताया गया है। डार्विन का सिद्धान्त है - 'Survival of the fittest.' जो कमजोर हैं, प्रतिस्पर्धा उन्हें दबाकर नट कर दें, यह समाज की उन्नति के विपरीत है। सर्वाइवल का मतलब है - A living beyond the life of another. दूसरे के जीवन को नट करके अपने जीवन को बचाने की प्रतिस्पर्धा, ये जो उत्पादन करने वाले लोग हैं, ये सदैव प्रतिस्पर्धा करते रहे हैं। इस बिल में उपभोक्ताओं को प्रोटेक्शन देने की बात कही गई है। उपभोक्ताओं को बढ़िया और सस्ता माल उपलब्ध कराने की परिकल्पना की गई है। कोई भी व्यवसायी इस चीज को बर्दाश्त नहीं करता है कि वह अपनी पूंजी की लागत को कम करे, बल्कि वह हमेशा यही चाहेगा कि श्रमिक समुदाय की मजदूरी को कम किया जाए। इसलिए श्रमिक समुदाय के हितों की उपेक्षा इस बिल में झलकती है। इसमें सुधार की गुंजाइश है। कट्टर किस्म के व्यापारिक घराने जो कार्टेल बनाते हैं, उनको दंड देने की व्यवस्था नहीं की गई है।

इसी प्रकार सीसीआई बनाने की बात कही गई है, लेकिन इसको भी पूरी पावर नहीं दी गई है, बल्कि भारत सरकार ने भी इसका एकाधिकार रखा हुआ है। जो वे निर्देश देंगे, वही कार्य सीसीआई करेगी। इसलिए उसका प्रशासनिक निर्णय नहीं है। पेटेंट एंड इन्टेल्लेक्चुअल प्रापर्टी राइट्स प्रतिस्पर्धा करने में बाधक होंगे। यह विरोधाभास है। इसको संज्ञान में लेना चाहिए। प्रतिस्पर्धा की एक सीमा होनी चाहिए कि कहां तक प्रतिस्पर्धा करेंगे। कोई नियमावलि, कोई सिद्धान्त होना चाहिए। कहा जा रहा है कि उपभोक्ता के हित में यह बिल लाया गया है, लेकिन उपभोक्तावाद सारे समाज की बुराई की जड़ है। जो आम जनता है, जो गरीब जनता है, निरीह लोग हैं, निर्बल लोग हैं, उनके लिए उपभोक्तावाद से कोई लाभ होने वाला नहीं है। उपभोक्तावाद के अन्तर्गत जो भी कम्पनियां हैं, वे मूलभूत आवश्यकताओं का उत्पादन नहीं करती हैं। जूते की फ़ैक्ट्री विभिन्न किस्म के जूते उत्पादन करती हैं। लेकिन आम जनता की पहुंच के बाहर हैं, उन्हें सस्ते जूते और चप्पलों का अभाव है। एक खास तबके के लोगों के लिए एक ही दिन में तीन किस्म के जूते पहनने के लिए विज्ञापन दिए जाते हैं। सुबह एक तरह के जूते पहनें और शाम को दूसरी तरह के जूते पहनें। इस तरह से वे कम्पीटिशन करते हैं। आम जनता के हित की अनदेखी करते हैं। लेकिन वैश्वीकरण के युग में यह आवश्यक है कि हम इस कानून की ओर अग्रसर हों। इस कानून में कुछ खामियां होते हुए भी आगे सुधार की गुंजाइश देखते हैं। माननीय वित्त मंत्री जी आने वाले दिनों में इसमें सुधार करके, जनहित के अनुकूल और श्रमिक समुदाय के अनुकूल इसे बनायेंगे।

इन शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Sir, this is a Bill which is really inviting a lot of opinions both in favour and against. On behalf of the Congress Party, we are committed to this Bill to the extent that it really encourages competition within the ambit of the law of the land. But our Deputy Leader did highlight a few more things.

I will begin with the Constitution first. Whatever we do in this country or whatever we profess in Parliament, we do it in the holy name of the Constitution of India. As a student of politics, I have been thinking for the last two years to

address this issue of the most fundamental thing, both to our Party and to the Government, and, of course, today in Parliament. Time has changed in the world economic scenario. The global economic situation has various directions in respective part of the world supported by the WTO Declaration, in which, now the People's Republic of China is also a Member. I was, therefore, addressing this issue to myself, to my Party colleagues and today, through the Parliament, to the Government whether the time has come for the Government of the day (a) to understand the WTO implications in our country (b) to evaluate the World Bank prescription to the respective nations, especially, to the least developed and developing nations, (c) the understanding of their own protectionism among the G-7 nations and their documents, (d) further elaboration and accommodation of the G-77 and, at last, (e) the NAM countries. Taking all these things into account, will the Government sit sincerely with the representatives of all the political parties of the country to first consider a comprehensive White Paper or a document which requires to be made ready and placed before the nation through the Parliament? This is to understand whether whatever the guarantee that the Constitution of India has is inconsonant with the present day trend or in future, there can be a conflict.

I am not scoring any political point in this very sensitive Bill. Whosoever comes to the Indian politics, he begins to read first the Constitution of India, the Preamble of which rightly professes this as we are all bound by the very spirit. The Preamble says:

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political. "

This is the Preamble. Then, I come to the Directive Principles of State Policy. There, I find article 39 which says;

"The State shall, in particular, direct its policy towards securing

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; ".

This is in the Directive Principles of State Policy. The right to property as a Fundamental Right is abolished from the Constitution of India.

Then, I come to articles 301 to 307.

Article 307 provides the strength to Parliament. It says:

"Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 301, 302, 303 and 304 ".

My dear friend Shri Kharabela Swain who does good homework is absent now. Article 302 says:

"Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and other or within any part of the territory of India as may be required in the public interest."

Article 303 says:

"(1) Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another, or making or authorising the making of, any discrimination between one State and another ".

(2) Nothing in clause (1) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India."

Article 304 (a) says:

"impose on goods imported from other States any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced"

These are all powers in the Constitution. Keeping the powers in the Constitution on the one hand and the WTO obligations and what I have stated to you on the other hand, you have to take into account the ground realities in India as to where do we stand to meet this challenge and to keep pace with this challenge.

The Competition Bill is before us. The first question is whether the new global environment and economic scenario from Beijing to Washington, London to new Delhi, Moscow to Bonn and Egypt to Tunisia are all similar to our markets and whether all of them are enjoying similar kind of infrastructure support, investment climate and labour policies as it is in their own respective nations. If you make a study, you would find that in the name of competition, the biggest protection is ensured by the United States to their industry and trade. The biggest protection is ensured in the entire Europe. To help them swallow their needs and to help them circumvent the pressure, we have to open up our doors. This is the reality.

We are not obstructing the passage of this Bill but would the Minister consider and convey to the hon. Prime Minister that this is the view whether the time has come to understand the proclamations and guarantees in our Constitution as well as the obligations under the WTO, the competition, the challenges and the hidden protectionism in the United States and Europe for their own trade and commerce vis-à-vis SAARC countries? I am not even taking the whole of Asia into account here because ASEAN's clout within Asia and that of the SAARC region are different. These are very important economic issues. It is not merely a question of passing a law but we have to understand the meaning of it. I am not here to score points on political grounds. I do value the campaign being launched by several platforms, be it the Swadeshi Jagran Manch or the National Pride Forum. Their question is whether all that we have done right from 1948 is wrong. Is it that all the State monopolies that had been created in the name of public sector are to be thrown into the wastepaper basket?

I am surprised by the document presented by the Department of Company Affairs. In that document I find that they have tried to narrate the whole concept of this Bill. It is called *Competition Bill: Presentation by Department of Company Affairs, Government of India*. Under the heading, 'Changed Economic Scenario from Licence-Quota-Permit to liberalisation', they are trying to give us a message.

It is fine. It was decided to go from public sector to privatisation. When did our Government make a policy that the Government is considering that the public sector should all go in for privatisation? It is a Government document. It is a Ministry of Company Affairs document. They are trying to present it, asking the nation and the Parliament to understand what the objectives of the Competition Bill are. The objective is licence-quota- permit to liberalisation. It is all right. There will be no quota, no licence, no permit and there will be back door control of the bureaucracy, either sitting in the Commission or in the Desk. So, they have decided to go in from public sector to privatisation. When did you decide to go in for this policy of going from public sector to privatisation and closed economy to globalisation? What is closed economy? Will the Ministry of Company Affairs spell it out? I would request the hon. Minister to explain what is closed economy. When did India have a closed economy? What do you mean by closed economy? What is the investment in India? What have we inherited from the British *Raj*? What was our inner strength? Our inner strength was only our natural resources.

We have not infrastructurally inherited something very big by which we can claim that India could prosper. Brick by brick India had to be built – be it Bhakra Nangal, be it Mailakhi *Dam*, be it Tungabhadra, be it the hydel power plant of NTPC. Brick by brick India had to be built. Now, the Ministry of Company Affairs officials have suddenly found that we have a closed economy, therefore, we are marching for globalisation. Globalisation is a coin. This is an English word, coined by Western world, that if you join WTO, that is globalisation, if you try to question the WTO, that is closed economy; these are not the definitions from Indian Parliament. Therefore, let the hon. Minister advise his Desk to properly use the words.

Now, I come to administrative prices and to price decontrol. Yes, price decontrol mechanism is the order of the day. We do agree. We do not say anything. But in this matter I would like to address the hon. Minister: Is the ground reality of India for an aggressive competition? If the answer is 'yes', then with whom?

The other day I narrated in this House that the Indian pressure cooker industry is in crisis; the Indian bulb industry is in crisis, the Indian medium- scale industry making machine tools is in crisis; the Indian textile industry is in crisis. Why? Why is this crisis there suddenly? Is it because of competition? The answer is 'no'. The manufacturer and the trader sometimes are the same and sometimes it is different. If the manufacturing components and raw materials are available at a cheaper price and the cost of labour is also cheap, then the ultimate cost of the finished goods

will also be cheap. But if the cost of labour is a little higher and the raw material is reasonably higher, then the cost of the final product will not be sufficiently cheap. If that is to be countered with the cost of production of a raw material of a nation, when that particular raw material is in abundance, and when the cost of labour is cheap in that particular nation, and if that is allowed to be dumped without anti-dumping duties, without sufficient increase of the duties, then that competition is not a competition; rather it is killing. That is what is taking place in India.

I am glad that Dr. Chakraborty, while deposing before the Standing Committee, did say one very good thing that the investment policy of the country and the labour policy of the country also should be taken into account. Now, based on the investment policy, based on the agricultural prospect of a particular monsoon or a climate, based on the demand and supply of the industrial raw material; and based on the power generation, a country, as a whole, decides and plans for the ultimate GDP growth of the nation.

Now, Mr. Finance Minister, you kindly convince us on this. We would like to be educated about and we would like to understand from you because it is not a matter of the Congress Party or the NDA but it is a matter of the entire nation. While you make a particular, objective target of GDP growth of our nation, you take certain factors into account. If those factors – beyond the control of nature – are further interfered and invaded by other factors of the multi-nationals, then will you ensure that that particular growth is achieved?

MR. CHAIRMAN : Shri Dasmunsi, you have taken 15 minutes. Do you want more time?

SHRI PRIYA RANJAN DASMUNSI: Sir, I think this is a Bill which requires to be discussed in great detail.

MR. CHAIRMAN: By 5.30 p.m. it should be over. I think the hon. Minister of Parliamentary Affairs has addressed the House saying that it should be over by 5.30 p.m.

SHRI PRIYA RANJAN DASMUNSI : No, sir. We have been told by the hon. Minister of Parliamentary Affairs that this Bill should be concluded today. We will try to do that. I have been told that way. This is a Bill which we cannot simply say – 'okay, you go ahead and pass it'. We have to give our ideas.

MR. CHAIRMAN: At 5.30 p.m. we have to take up the Half-an-hour discussion on that question.

SHRI PRIYA RANJAN DASMUNSI : It does not matter. This can be taken up again after 6 p.m. But, Sir, do you think that such an important Bill which is almost a repeal of the MRTP Act should be taken up this way?

MR. CHAIRMAN: The Standing Committee has taken very good decision.

SHRI PRIYA RANJAN DASMUNSI : Sir, I will come to the Standing Committee. Since you reminded me, I will refer to the Standing Committee.

The name of the Standing Committee is being taken so loudly and with so much of pride for everybody for which I also feel proud because our colleagues are on the Committee. The Standing Committee has made some recommendations. I will read one of the key recommendations :

"Broadly two different views emerged in the Committee on the basic philosophy of the Bill. A shade of opinion in the Committee contends that by enacting the Bill at this stage, India would lose its bargaining power at the WTO negotiations. In that context it is suggested that the Bill should not be enacted till 1st January, 2005 by which time decisions on issues like competition policy, trade and investment and related matters would be decided. Another point of view against the Bill was that Indian industry, both private and public sectors, need certain safeguards and protection for a certain period. The present Bill takes away all such safeguards and protection. This Bill would allow MNCs to capture Indian industry and services sector. Therefore, it is suggested that there is no hurry in passing the Bill and that MRTP Act may be suitably amended to meet the requirements of the present time."

This is what the Standing Committee has said. Since you mentioned, I am reading from it. This is what our Standing Committee has said.

Yet, I do not see that the Government is bound by what the Standing Committee says because the present day rule is not like that. The Government, by and large, accepts the recommendations and ignores them. Therefore, the Standing Committee decisions are not as if they are a great thing and you are making what a wonderful thing that you are doing, do it quickly and examine it quickly etc. No, the recommendation is otherwise different.

I will now come to the Bill. Take Section 9. I do not understand why the Government is so keen to pass this clause. I would like to know from the hon. Minister and I request the hon. Minister to kindly make a note and give a reply during his reply to the debate. It is about the S. Raghavan Committee. I know him. He was the Chairman of MMTC when I was the Minister of State for Commerce. The other day while I was travelling to Malaysia, he was with me up

to Chennai. He was very upset. He said that many of his recommendations have not been honoured and he was not even summoned by the Standing Committee also to give his views. It does not matter.

I am coming to that. What was the necessity of a Committee of the Union Minister incharge of Finance, Union Minister incharge of this Department, that is Department of Company Affairs, the Governor of the Reserve Bank of India and the Cabinet Secretary? Instead of all these things, you could have simply put it that the entire Commission should be appointed by the Appointments Committee of the Cabinet. It is finished with one stroke. The ACC will clear everything.

Is it a fact that the Raghvan Committee's recommendation was that the position of the Chairman of this Committee is a very important position? He is no less than a retired judge of the High Court and he is enjoying a kind of judicial power. The Chairman of the Vigilance Commission is a very high profile authority to recommend the matters of the bureaucracy in charge of corruption and other things. How do we select the Vigilance Commission? What is the criterion of selection of Vigilance Commission? The criterion is that the Prime Minister, the Leader of the House, the Home Minister and the Leader of the Opposition decide. Is it a fact that the Raghvan Committee recommended a similar kind of a provision for selecting the Chairman and members of this Competition Committee. If it is not a fact, I am not questioning. If it is a fact, why did the Government not endorse that view? The Finance Minister, the Minister of Company Affairs, the Cabinet Secretary and the Governor of Reserve Bank of India are all the people of the Government. Why should there be this huge majority of the people of the Government before whom a nominee of the Chief Justice will be sitting? Mr. Minister, never forget that it is a matter of competition, it is a matter of companies' rivalries, it is a matter of margin of the companies, it is a matter of manipulation and it is a matter of killing some others' trade and practice. In such a sensitive Committee, which you will treat as a judicial committee for all purposes, why do you drag the Ministers, the political entities in such a big number? Government is a continuous process. I am not questioning the *bona fide* of this Minister. He is a good friend of ours. I am talking of the system. Why can you not revise this clause 9? Still, time is there. Or, you say that you will bring further amendment. Why are you doing like this? The entire clause does not justify the spirit for which the Bill is intended to be brought. Therefore, we have strong reservations from the Congress Party and the Congress Benches on this kind of composition of bringing two Ministers. Having the Cabinet Secretary is okay. Having the Governor, RBI is okay. It is certainly welcome. But there is no point in bringing two Ministers. That is what is my view. You can think of other options. It is left to you, but this is not a very correct approach on this matter. Even the Standing Committee has said in paragraph 9.5.1 of its Report :

"The Committee is of the view that keeping the Minister in charge of Ministries in the Selection Committee may lead to Executive interference. "

So, I have placed two opinions of the Standing Committee.

Sir, I am now coming to two or three small points. I will not embarrass you, Sir, for giving constant bell to me because I am not here in a competition with the Minister.

When the MRTP Act was conceived in 1969, it did say on 27th December, 1969 :

"This is an Act to provide that the operation of the economic system does not result in the concentration of economic power to the common detriment, for the control of monopolies, for the prohibition of monopolistic and restrictive trade practices and for matters connected thereto or incidental thereto. "

MRTP Act had a strong position on the very word 'dominance'. They are questioning dominance itself. Now, this Act is not questioning dominance. They have quietly diluted it in the name of abuse of dominance. Abuse of dominance is a matter not only of investigation but it has a lot of grey areas also. The Director-General of the Commission will have to find once with his own specs, then, with the specs of the Government and then with the specs of many individuals who have their interests. Then only, he will come to the conclusion what is abuse of dominance. It is not a straitjacket interpretation of what is abuse of dominance.

I would like to submit this to the hon. Minister. Did you consult the Labour Ministry in regard to their recent Labour Commission's observations and the National Commission on Labour's recommendations?

16.50 hrs. (Dr. Raghuvansh Prasad Singh *in the Chair*)

Did the hon. Minister decisively consult the captains of the Indian industries regarding the investment policy? Only this morning, during the 'Zero Hour', I raised the issue about the threat to the retail trade from Foreign Direct Investment. Did the hon. Minister consult the manufacturing units, if not dominant today but aspiring to be dominant

in future, in the key sectors of the economy? Is it that under the garb of this Bill, the Government intends to lend its support – as per the interpretation of the Department of Company Affairs – to the disinvestment of the profit-making units?

Sir, I am glad that the hon. Minister has inserted the word 'cartel' in the detailed explanation note that has been provided. But, does the hon. Minister feel the necessity of bringing in, if not today, some amendments for fixing up a time limit for the investigation and disposal of the cases? There should not be any unlimited time for investigation and disposal of cases relating to abuse of dominance, fraudulent mergers and quoting of wrong balance sheets. A case of quoting wrong balance sheet to evaluate the turnover of a company was detected in the United States of America. The assets were shown as Rs. 3000 crore and the turnover was shown as something like Rs. 300 crore. Now, what safeguards do the Government propose for the investigating agency in order that they could properly detect and dispose of the cases in a time-bound manner?

Sir, with these words we offer our critical support to this Bill. We hope that in times to come – if not today, may be after the Budget Session – the hon. Finance Minister would again consult the hon. Prime Minister and the Cabinet about any new changes that need to be brought in in keeping with our constitutional obligations and declarations and also keeping in view the obligations of the WTO, our own GDP targets as envisaged in the Plan document and see if there is any area of conflict in the entire system. If so, he should consider as to how to make a fool-proof documentation and should bring in necessary amendments not only to the Consumer Protection Act but also to this Act, when it becomes an Act, and other relevant Acts including the Labour Act, whichever is required. Otherwise, I am afraid, bringing in such piecemeal legislation would only result in other Department heads to bring in more amendments to such a legislation in future, resulting in a confusion not only amongst the Members of Parliament in particular but also to the whole nation in general.

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): Sir, I am grateful to the hon. Members for the contribution that they have made to this discussion. The Government has benefited out of it.

Sir, let me very succinctly attempt to answer all the questions or as many questions as I can that have been raised by the hon. Members. I would first like to thank the initiator of this discussion, Shri Shivraj Patil. He, amongst various other things, has asked – this was an issue that was referred to by other speakers as well – as to why there is a need for this when there is in existence the MRTP Act. What is the difference between the MRTP Act and this Competition Bill?

SHRI SHIVRAJ V. PATIL : Sir, I hate to get up within minutes of your having started to reply to this debate. But would that be a correct interpretation? In MRTP also you wanted to curb monopoly and here also you are intending to curb dominance. It is, in a sense, the same thing with some differences. Times have changed but human beings have not changed.

SHRI JASWANT SINGH: I will proceed, Sir, to the other issues that the hon. Member had raised.

There was a query by other hon. Members also about delay in adjudication. They said that there should not be delay in adjudication. Clause 36(1) actually states that the Commission shall not be bound by CPC, that the Commission will regulate its own procedure and the CCI orders are appealable only to the Supreme Court. That is why the proceedings cannot be protracted in this regard.

About the Selection Committee in Clause 9 – it was an issue raised by the other hon. Members as well - it was the Parliamentary Standing Committee which wanted the Minister to be removed from the Selection Committee. The hon. Shri Shivraj Patil had said that there should be a representative of the legislature also involved. We will certainly take that into consideration in the details when we are framing the rules so that we make it as broad-based as possible.

The other point that was raised related to re-employment and the protection of those that are already with the MRTP Commission. The period of prohibition has already been raised to one year as desired by the Parliamentary Committee. However, I am, in fact, in agreement with what hon. Shri Shivraj Patil has said. He said that there should be another look at this whole question because one year in itself is not a sufficient prohibition. We will examine it, if I can do so at the stage of rules or if I can do so subsequently. This is a valid enough point and we will certainly take it seriously.

I will be covering the other issues also. An apprehension has been expressed about the consumer and the industry. In fact, as I cover the points that have been made by others, you will find that most of these apprehensions have been addressed here. In fact, even multinational corporations which operate here will be prohibited by this law to enter into unfair competition and takeover. The extent of this rule shall stretch back to the multinational corporations from the country of their origin. So, it is not as if the multinational companies will operate here and gobble up the

Indian industry. This is, in fact, specifically prohibited in this.

There are other issues specific to prices with regard to textiles etc. It has been said that automobiles sector has improved in quality but the price benefit has not really come, which is fair. However, competition in certain areas, without the competition law of course, has brought about a price decline. The most outstanding example of this is the telecommunications today. It is the intention of the Government to extend that as far as possible.

Hon. Kharabela Swain spoke about division of enterprise. Clause 28 of the Bill provides the power to order division of enterprises.

Shri Shivraj Patil had spoken about the services of the employees also. I wish to give him an assurance that all employees of the Commission of MRTP are protected and will stand transferred to the Central Government, and the eligible amongst them – I cannot give a blanket assurance – shall certainly be absorbed in the CCI, subject, of course, to their satisfying some of the new rules and regulations. I will ensure that the maximum number of them – because they have served for so long in the MRTPC – are absorbed in the CCI.

17.00 hrs.

I had a query from Shri Rupchand Pal. He said that we had actually brought about this legislation under pressures of European Union or the WTO. I am disappointed that he should think so because the Parliament and the Government of India do not really act under the pressure of anybody. It is the sovereign function.

There was a query raised by several Members about collusion amongst multi-national corporations. Actually collusive behaviour is outlawed by clause 3 of this particular Bill and cartels are prohibited. So, the multi-national corporations or corporations here could not be engaging in collusive behaviour or creating cartels.

Shri Rupchand Pal also spoke, rather derogatory, of the size of the Indian corporations. But this law does not prevent them from becoming world class players. There is no restriction of this Bill on investment, on capacity expansion or capacity creation. Rather, threshold for combination is actually fairly high. Of the 6,00,000 companies in the country barely 100 are likely to have assets of turnover which should be beyond the threshold laid down by this. One of the factors CCI must concede is, of course, the relative advantage of combination by way of contribution to economic development. This Bill does not prevent anybody from becoming big. It actually curbs the anti-competitive activities of large sized companies, attempting to stifle competition.

What kind of a body is this CCI? One hon. Member wanted to know this. It is a regulatory body with quasi-judicial powers, similar to TRAI, IRDA, etc. Ten per cent is the maximum penalty. It could be less, but CCI will decide that.

The other hon. Member wanted to know whether the Central Government could issue directions to the Competition Commission. Under section 53, the Government can give directions on the question only of policy and the provisions of section 54 are to ensure that the Commission performs the duties reposed on it. Under the Act, the Government may have security concerns as a means of public interest on which it has been persuaded to act.

Another hon. Member wanted to know what has been done on the Committee's recommendation to bring harmony within the Consumer Protection Act. It is proposed to bring harmony between competition and Consumer Protection Act by this way. All the UTP cases, which fit within the definition of Consumer Protection Act, may be transferred to consumer forums immediately on the enactment of the Competition Act. Only a few cases of UTP are pending under MRTP and the MRTP should not accept any new cases after the enactment of this provision. MRTP should make efforts to dispose of the UTP cases within a year, the period for which the MRTP will function after the enactment of this Act.

The other point was about mergers and controls. It must be noted that the provisions of mergers and acquisitions apply equally to multi-national corporations operating in India who have actually much deeper pockets than some of our corporations. Another point was about small and cottage industries. Clause 52 of the enactment enables the Government to protect them by giving policy directions to the CCI.

The other point was that some countries like the United Kingdom and the USA do not have these provisions. Actually both of them have it. The United Kingdom has got a Competition Act of 1998 brought into force in 2000. USA has in fact got a much older Act, starting from the Sherman Act of 1890 and Clayton Act.

SHRI RUPCHAND PAL : There has not been a single comprehensive Act.

SHRI JASWANT SINGH: One need not necessarily emulate the Western countries in totality.

The other point which you had asked was, would this weaken our bargaining position in the WTO. On the contrary, it is our conviction that our bargaining position will be strengthened.

माननीय चौहान जी यहां नहीं हैं, उन्होंने जो पूछना चाहा था, वह क्लाज 27 में उपलब्ध है।

Hon, Member, Shri Dasmunsi has raised issues relating to substantial fundamental concerns about the Constitution and WTO. I would like to assure the hon. Member that the concerns that he has raised, I will certainly convey to the Minister of Commerce who deals with this particular aspect and certainly the Government will consider what he has said. In appropriate manner, the Minister will definitely react to it.

SHRI PRIYA RANJAN DASMUNSI : Will the Minister assure the House that in application of clause 52 of this Act, special importance will be given to protect the *khadi*, village cottage and handicraft industry, as has been sponsored by the respective State Governments.

SHRI JASWANT SINGH: Of course, Sir. *Khadi*, cottage and small industries are protected by other provisions. We have our long-standing commitments to these three. Certainly, under the powers that are inherent in this enactment, the Government should ensure that this Competition Act provides necessary safeguard.

The hon. Member wanted to know amongst the strongest players, about the MNCs. I have already answered the question because this Act also applies to the MNCs. It is alleged that the competition will prevent growth of Indian industry, much as the MRTP Act has done. We are not diluting any MRTP quietly. We are in fact removing the lid that has been put on the size of the Indian industry by providing for greater competition.

There was another point which...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : What about investigation in case of dominance of abuse?

SHRI JASWANT SINGH: In case, any abuse of dominance is, in fact, even suspected, certainly it will be a part of the function or the responsibility of the Competition Bill and it will take place.

The hon. Member also wanted to know about the Raghavan Committee. The Committee has suggested that the Selection Committee be headed by the Chief Justice and two Ministers apart from others. The Bill here is slightly modified, retaining some of the executives, which is in the fashion of Ministers, etc. You are right, Sir, that the Standing Committee objected to the Minister. Therefore, the Government has decided not to name the Committee in the Bill at all. The Bill now really only provides for appointment by the Central Government as per rules to be prescribed. As the hon. Member knows, when we formulate rules we will take serious note of this particular thing and in any case all rules will come to the Parliament.

माननीय सभापति जी, आपने भी जज को लेकर यही आपत्ति की थी।

Most of these issues insouciantly I have endeavoured to answer. I can assure the hon. Members that it was not the intention of the Government...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : What was the recommendation of the Raghavan Committee? What exactly he prescribed?

SHRI JASWANT SINGH: On the basis of the information I have at present with me, Raghavan Committee suggested that the Selection Committee be headed by the Chief Justice of India with two Ministers apart from others. The Bill is being modified. The hon. Member has quoted some portion from the Standing committee. I do not want to go into the full quotation of the Standing Committee because the Standing Committee's recommendations are unanimous.

They have said that there was a viewpoint expressed in the Committee – that has been slightly modified by the Standing Committee – about retaining the above three players. I have a note which has come from the official regarding the selection of the Chairpersons and Members of CCI. The collegium for choosing the Chairperson and Members may consist of the Chief Justice of India, the Speaker of the Lok Sabha, the Finance Minister, the concerned Minister, and the Governor of the Reserve Bank of India. This has been modified with our experience because the objective of the hon. Member and the objective of the Government are the same. The process should be, as far as possible, above prejudice. That being the central consideration, I think, this meets with the requirement.

I think, I have answered all the queries that were raised. But if there is anything that I can possibly even now answer, I will certainly attempt to do so.

SHRI SHIVRAJ V. PATIL : Sir, I want to ask one question that relates to Clause 12, which says:

"The Chairperson and other Members shall not, for a period of six months from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a party to a proceeding before the Commission under this Act: "

Now, this is a very important provision and the drafting also has been done in a very intelligent manner. It is not providing for six months time alone but in a sense this clause is saying that after six months or if you provide for one year's time which you probably want to do, the Chairperson or the Members can accept employment in the enterprise adjudication of which was before the Commission. This is really not very fair. I think while framing the rules if you can make the changes or if it becomes absolutely necessary in the interest of justice, it should be done by amending the law itself. It is because the companies will be dealing with billions of dollars and the person who is appointed, can go to that company after six months' time. I think this is not fair.

SHRI JASWANT SINGH: Sir, this is a fair point. I accept it. I accepted it at the beginning also because I see the rationale of it. You cannot have a judge – I do not mean a judge in the sense of Justice of the court – adjudicating a question and then seeking an employment with those at which he has adjudicated upon. It is entirely correct. I fully accept it. The Committee has said it to be one year that is why we are going for one year. I am personally of the view that it should be prohibited altogether. But I will ensure that in the rules I do so in such a fashion and if I am unable to do so in the rules, I will come back to you. It is because I believe that the Act is a useful provision to have. It must not only be done correctly but it must also appear to be done correctly. I think that is quite right.

SHRI RUPCHAND PAL : Sir, while I was speaking, I wanted to know from the hon. Minister whether this body is a *quasi* judicial body as stated in the Objects or it should be a judicial body as per the submission of the Department of Company Affairs before the Standing Committee or a corporate body as it is suggested in certain other provision. It is stated in the Report submitted to this House that in contradiction and distinction to the Statement of Objects and Reasons which described CCI as a *quasi* judicial body, the Department has submitted that it is a judicial body. Now, the hon. Finance Minister says that it is a regulatory body just like TRAI. This is the submission of the Department of Company Affairs that it should be a judicial body. It further says that the Committee wishes to point out that a judicial body never needs to sue anybody.

That it can issue orders for compliance. Suing means filing litigations against an opposition party before another judicial body to ventilate grievances. CCI, admittedly a judicial body, is not required to sue anyone because that is not possible in law. It is a contradiction.

Over the years in MRTTP there are professionals who are regularly appointed or who have come on deputation. Some of the deputationists might have come through the selection process of UPSC. The Minister has assured that broadly all the personnel will be there. What I want to know is whether it is applicable in the case of deputationists also who have rendered valuable services and have acquired professionalism in this particular area.

SHRI JASWANT SINGH: Yes, Sir, in answer to the second point. I had said so. Let there be no ambiguity about it. Nobody will be compelled to give up his job. We will absorb all – whether they are deputationists or others - the only criterion being they should be absorbable. It will be done with as broader a mind as possible.

On the first question whether it is a judicial body, we found some practical difficulty in having it as a judicial body. It has quasi-judicial powers. It will be a body similar to the TRAI or IRDA, etc. But it is a corporate body. We found that that will be functionally more efficient and better for suing as also for being sued should anybody have any objection.

SHRI RUPCHAND PAL : If it is another regulatory body, there is overlapping and underlapping. There is duplication of the jurisdiction.

SHRI JASWANT SINGH: I cannot answer this type of questions.

SHRI RUPCHAND PAL : There is confusion. In the case of UK, the body is just like a super regulator. What will happen in the case of a dispute is on the take over. They have the take over power and SEBI is looking into that and RBI is looking into the financial services sector, whether there is a margin and all that. In the case of duplication of the roles in the financial sector or in other sectors, what will be the status of this regulating body? Will it be considered as equal? In that case how will a resolution be achieved in the case of a conflict of interpretation between the regulators?

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): In clause 47 there is a reference power given to this body. That means, the Government will ask for the opinion from this body. It also says in the note that the opinion shall not be binding upon the Central Government. Then, why should there be a reference power given to this body? What is the necessity for it? Does the Government need such opinions from a body which is quasi-judicial? This is working only with regard to the regulation of other things. Why is that opinion also not be a binding one?

SHRI JASWANT SINGH: There are two queries here. The first one is, should there be an overlap in functions, then who will decide? It would be the executive. Through a provision, the executive can decide. Otherwise if it becomes

a policy issue, it shall issue certainly necessary guidelines. At the present moment we do not apprehend it. As we proceed down the line and along this route, should we experience any such difficulty, we will certainly exercise the executive authority to issue necessary guidelines. But, I do want the hon. Members to understand that for example in the implementation of this, for the first year it is only the competition for education purposes; it will inform and it will educate. The MRTTP is continuing in the second year also. It is only from year three that really it becomes fully functional. Other regulatory bodies, for example, as a matter of detail, will not make a reference to the CCI. The opinion of the CCI is not binding on the regulatory body. It is therefore not considered a regulator above other regulators as such.

You have asked whether we can make a reference. Yes, we can make a reference. But the Government has thought it fit to retain with itself the power to accept a reference or not to accept a reference.

It is because for the first three years, we are really enabling a new organism to settle down and set its footing into the functioning systems of the country.

MR. CHAIRMAN : The question is:

"That the Bill to provide for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House will now take up clause by clause consideration of the Bill.

Clause 2 - Definitions

Amendments made:

Page 2, after line 6, insert

'(ba) "Cartel" includes an association of producers, sellers, distributors, traders or service providers who, by agreement amongst themselves, limit, control or attempt to control the production, distribution, sale or price of, or, trade in goods or provision of services;'. (4)

Page 2, line 30, *omit* "or is proposed to be,". (5)

Page 2, *omit* lines 47 to 49. (6)

Page 3, *after* line 31, *insert*"

1 of 1956 '(oa) "public financial institution" means a public financial institution specified under section 4A of the Companies Act, 1956 and includes a State Financial, industrial or Investment Corporation;". (7)

Page 3, line 46, *omit* "accounting,". (8)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3 – Anti competitive agreements

Amendments made:

Page 4, *after* line 41, *insert*"

"Provided that nothing contained in this sub-section shall apply to any agreement entered into by way of joint ventures if such agreement increases efficiency in production, supply, distribution, storage, acquisition or control of goods or provision of services;". (9)

Page 4, line 43, *omit* "(a)". (10)

Page 4, *omit* lines 47 to 50. (11)

Page 5, line 10, *for* "on competition", *substitute*"

"on competition in India". (12)

Page 5, *for* lines 27 to 37, *substitute*"

"(5) Nothing contained in this section shall restrict

- i. the right of any person to restrain any infringement of, or to impose reasonable conditions, as may be necessary for protecting any of his rights which have been or may be conferred upon him under"

14 of 1957. (a) the Copyright Act, 1957;

39 of 1970. (b) the Patents Act, 1970;

43 of 1958. (c) the Trade and Merchandise Marks Act, 1958 or the

47 of 1999. Trade Marks Act, 1999;

48 of 1999. (d) the Geographical Indications of Goods

(Registration and Protection) Act, 1999;

16 of 2000. (e) the Designs Act, 2000;

37 of 2000. (f) the Semi-conductor Integrated Circuits

Layout-Design Act, 2000;". (13)

Page 5, line 38, *for* "(g)" *substitute* "(ii)". (14)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 3, as amended, stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 – Abuse of dominant position

Amendments made:

Page 5, for line 48, insert –

"*Explanation.*" For the purposes of this clause, the unfair or discriminatory condition in purchase or sale of goods or services referred to in sub-clause (i) and unfair or discriminatory price in purchase or sale of goods (including predatory price) or service referred to in sub-clause (ii) shall not include such discriminatory conditions or prices which may be adopted to meet the competition; or". (15)

Page 6, line 13, for "whether in India or outside India", substitute "in India". (16)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 - Combination

Page 6, for lines 35 to 37, substitute"

"(ii) the group, to which the enterprise whose control, shares, assets or voting rights have been acquired or are being acquired, would belong after the acquisition, jointly have or would jointly have,". (17)

Page 7, for lines 4 to 6, substitute"

"(ii) the group, to which enterprise whose control has been acquired, or is being acquired, would belong after the acquisition, jointly have or would jointly have, -- " (18)

Page 7, for lines 20 and 21, substitute"

"(ii) the group, to which the enterprise remaining after the merger or the enterprise created as a result of the amalgamation, would belong after the merger or the amalgamation, as the case may be, have or would have,--"

(19)

Page 7, line 34 *for "another" substitute "the other".* (20)

Page 7, line 37 *for "another" substitute "the other".* (21)

Page 7, line 38 *for "another" substitute "the other".* (22)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6 and 7 were added to the Bill.

Clause 8 – Composition of Commission

Amendments made:

Page 8, for lines 43 to 49 substitute”

“(2) The Chairperson and every other Member shall be a person of ability, integrity and standing and who has been, or is qualified to be, a Judge of a High Court or has special knowledge of, and professional experience of not less than fifteen years in international trade, economics, business, commerce, law, finance accountancy, management, industry, public affairs, administration or in any other matter which, in the opinion of the Central Government, may be useful to the Commission”. (23)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 8, as amended, stand part of the Bill."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

***Clause 9 - Appointment of Chairperson
and other Members***

Amendment made:

Page 9, for lines 1 to 25, substitute

Selection of 9. The Chairperson and other Members shall
Chairperson be selected in the manner as may be prescribed." (24)
and other Members.

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

***Clause 10 - Term of Office of chairperson
and other Members***

Amendment made:

Page 9, line 31, for "seventy years", substitute "sixty-seven years". (25)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 11- Resignation, removal and suspension of

Chairperson and other Members

Amendments made:

Page 10, *omit* lines 1 to 9. (26)

Page 10, *for* line 10, *substitute*â€”

"(2) Notwithstanding anything contained in sub-section (1), the". (27)

Page 10, *for* line 22, *substitute*â€”

"(3) Notwithstanding anything contained in sub-section (2), no Member shall be". (28)

(Shri Jaswant Singh)

MR. CHAIRMAN : The question is:

"That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clause 12- Restriction on employment of

Chairperson and other Members in

certain cases

Amendment made:

Page 10, line 28, for "six months", substitute "one year ". (29)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 13 – Financial and administrative power of

Member Administration

Amendment made:

Page 10, for lines 36 and 37, substituteâ€”

"13. The Central Government shall designate any Member as Member Administration who shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:

Provided that the Member Administration shall have authority to delegate such of his financial and administrative powers as he may think fit to any other officer of the Commission subject to the condition that such officer shall, while exercising such delegated powers continue to act under the direction, superintendence and control of the Member Administration". (30)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clause 14 - Salary and allowances and other

**terms and conditions of chairperson
and other Members**

Amendment made:

Page 10, for lines 38 to 42, substitute—

"14. (1) The salary, and the other terms and conditions of service of the Chairperson and other Members including travelling expenses,". (31)

Page 10, line 45, for "(4)", substitute "(2)". (32) "

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clause 15 was added to the Bill.

Clause 16 - Appointment of Director-General, etc.

Amendments made:

Page 11, line 4, *after* "Assistant Directors General", *insert* "or such other advisers, consultants or officers" (33)

Page 11, line 8, *after* "Assistant Directors General", *insert* "or such other advisers, consultants or officers" (34)

Page 11, line 12, *after* "Assistant Directors General", *insert* "or such other advisers, consultants or officers" (35)

Page 11, lines 14 and 15, *after* "Assistant Directors General", *insert* "or such other advisers, consultants or officers" (36)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 16, as amended, stand part of the Bill."

The motion was adopted.

Clause 16, as amended, was added to the Bill.

Clause 17 – Registrar and officers and other

Employees of commission

Amendment made:

Page 11, for lines 22 to 24, substitute—

"(2) The salaries and allowances payable to and other terms and conditions of service of the Registrar and officers and other employees of the Commission and the number of such officers and employees shall be such as may be prescribed." (37)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 17, as amended, stand part of the Bill."

The motion was adopted.

Clause 17, as amended, was added to the Bill.

Clause 18 – Duties, of commission

Amendment made:

Page 11, after line 30, insert--

"Provided that the Commission may, for the purpose of discharging its duties or performing its functions under this Act, enter into any memorandum or arrangement with the prior approval of the Central Government, with any agency of any foreign country." (38)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clause 19 – Inquiry into certain agreements and

Dominant position of enterprise

Amendments made:

Page 11, line 34, for "receipt of a complaint" substitute "receipt of a complaint, accompanied by such fee as may be determined by regulations.". (39)

Page 12, omit lines 13 to 17. (40)

Page 12, line 18, for "(g)", substitute "(f)". (41)

Page 12, line 19, for "(h)", substitute "(g)". (42)

Page 12, line 21, for "(i)", substitute "(h)". (43)

Page 12, line 24, for "(j)", substitute "(i)". (44)

Page 12, line 25, for "(k)", substitute "(j)". (45)

Page 12, line 26, for "(l)", substitute "(k)". (46)

Page 12, after line 26, insert

"(l) relative advantage, by way of the contribution to the economic development, by the enterprise enjoying a dominant position having or likely to have appreciable adverse effect on competition;". (47)

Page 12, line 30, for "or", substitute "and". (48)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 19, as amended, stand part of the Bill."

The motion was adopted.

Clause 19, as amended, was added to the Bill.

**Clause 20 – Inquiry into combination by
Commission**

Amendments made:

Page 13, after line 35, insertâ€”

"(m) relative advantage, by way of the contribution to the economic development, by any combination having or likely to have appreciable adverse effect on competition,". (49)

Page 13, line 36, for "(m)", substitute "(n)". (50)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 20, as amended, stand part of the Bill."

The motion was adopted.

Clause 20, as amended, was added to the Bill.

Clause 21 – Reference by statutory authority

Amendments made:

Page 13, line 41, for "shall make" substitute "may make". (51)

Page 13, after line 44, insertâ€”

"Provided that the Commission shall give its opinion under this section within sixty days of receipt of such reference.". (52)

(Shri Jaswant Singh)

MR. CHAIRMAN (DR. RAGHUVANSH PRASAD SINGH): The question is:

"That clause 21, as amended, stand part of the Bill."

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Clause 22 was added to the Bill.

**Clause 23 – Distribution of business amongst
Commission and Benches**

Amendments made:

Page 14, line 19, omit "with the prior approval of the Central Government,". (53)

Page 14, after line 22, insert

"Provided that the Chairperson shall transfer, with the prior approval of the Central Government, a Member from one Bench situated in one city to another Bench situated in another city." (54)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 23, as amended, stand part of the Bill."

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Clauses 24 to 26 were added to the Bill.

Clause 27 - Orders by commission after inquiry into

agreements or abuse of dominant position

Amendments made:

Page 15, line 32, for "any agreement or action, of an", substitute

"any agreement referred to in section 3 or action of an". (55)

Page 15, after line 41, insert

"Provided that in case any agreement referred to in section 3 has been entered into by any cartel, the Commission shall impose upon each producer, seller, distributor, trader or service provider included in that cartel, a penalty equivalent to three times of the amount of profits made out of such agreement by the cartel or ten per cent of the average of the turnover of the cartel for the last preceding three financial years, whichever is higher." (56)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 27, as amended, stand part of the Bill."

The motion was adopted.

Clause 27, as amended, was added to the Bill.

Clauses 28 to 31 were added to the Bill.

Clause 32 – Acts taking place out side India but

having an effect on competition in India

Amendments made:

Page 18, omit lines 14 and 15. (57)

Page 18, line 16, for "(d)" substitute "(c)". (58)

Page 18, line 17, for "(e)" substitute "(d)". (59)

Page 18, line 18, for "(f)" substitute "(e)". (60)

Page 18, line 19, for "(g)" substitute "(f)". (61)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 32, as amended, stand part of the Bill."

The motion was adopted.

Clause 32, as amended, was added to the Bill.

Clause 33 - Power to grant interim relief

Amendments made:

Page 18, line 26, for "section 5" substitute "section 6". (62)

Page 18, line 27, for "Commission may grant" substitute

"Commission may, by order, grant". (63)

Page 18, after line 30, insertâ€”

"(2) Where during the inquiry before the Commission it is proved to the satisfaction of the Commission by affidavit or otherwise that import of any goods is likely to contravene sub-section (1) of section 3 or sub-section (1) of section 4 or section 6, it may, by order, grant a temporary injunction restraining any party from importing such goods, until the conclusion of such inquiry or until further orders, without giving notice to the opposite party, where it deems it necessary and a copy of such order granting temporary injunction shall be sent to the concerned authorities.". (64)

Page 18, line 31, for "(2)" substitute "(3)". (65)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 33, as amended, stand part of the Bill."

The motion was adopted.

Clause 33, as amended, was added to the Bill.

Clauses 34 to 37 were added to the Bill.

Clause 38 – Rectification of orders

Amendment made:

Page 20, after line 22, insertâ€”

"Explanation.— For the removal of doubts, it is hereby declared that the Commission shall not,

while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act." (66)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 38, as amended, stand part of the Bill."

The motion was adopted.

Clause 38, as amended, was added to the Bill.

Clauses 39 to 45 were added to the Bill.

New Clause 45A – Power to impose lesser penalty

Amendment made:

Page 21, after line 43, insert—

45A. The Commission may, if it is satisfied that any ,
producer seller, distributor, trader or provider included in any
cartel, which is alleged to have violated section 3, has made a full and
true disclosure in respect of the alleged violations and such
disclosure is vital, impose upon such producer, seller, distributor,
trader or service provider a lesser penalty as it may deem fit,
than leviable under this Act or the rules or the regulations:

Provided that lesser penalty shall not be imposed by the Commission in cases where proceedings for the violation of any of, the provisions of this Act or the rules or the regulations has been instituted or any investigation has been directed to be made under section 26 before making of such disclosure:

Provided further that lesser penalty shall be imposed by the Commission only in respect of a producer, seller, distributor, trader or service provider included in the cartel, who first made the full, true and vital disclosures under this section:

Provided also that the Commission may, if it is satisfied that such producer, seller, distributor, trader or service provider included in the cartel had in the course of proceedings, - (a) not complied with the condition on which the lesser penalty was imposed by the Commission; or (b) had given false evidence; or (c) the disclosure made is not vital and thereupon such producer, seller, distributor, trader or service provider may be tried for the offence with respect to which the lesser penalty was imposed and shall also be liable to the imposition of penalty to which such person have been liable, had lesser penalty not been imposed. (67)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That new clause 45A be added to the Bill."

The motion was adopted.

New clause 45A was added to the Bill.

New Clause 45B - Crediting sums realised by way of penalties

to Consolidated Fund of India

Amendment made:

Page 21, after line 43, insertâ€”

45B. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.". (68)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That newclause 45B be added to the Bill."

The motion was adopted.

Newclause 45B was added to the Bill.

Clause 46 was added to the Bill.

Clause 47 – Competition advocavy

Amendment made:

Page 22 line 18, for "policy on competition" substitute

"policy on competition (including review of laws related to competition)" (69)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 47, as amended, stand part of the Bill."

The motion was adopted.

Clause 47, as amended, was added to the Bill.

Clauses 48 to 51 were added to the Bill.

Clause 52 – Power of exempt

Amendment made:

Page 23, after line 44, insert

"Provided that in case an enterprise is engaged in any activity

including the activity relatable to the sovereign functions of the Government, the Central Government may grant exemption only in respect of activity relatable to the sovereign functions". (70)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 52, as amended, stand part of the Bill."

The motion was adopted.

Clause 52, as amended, was added to the Bill.

Clauses 53 to 60 were added to the Bill.

Clause 61 – Power to make rules

Amendments made:

Page 25, for lines 18 and 19, *substitute*”

"(a) the manner in which the Chairperson and other Members shall be selected under section 9;

(b) the form and manner in which and the authority before whom the oath of office and secrecy shall be made and subscribed under sub-section (3) of section 10;"

(c) the financial and administrative powers which may be vested in the Member Administration under section 13; (71)

Page 25, line 20, for "(b) the other terms", *substitute*”

"(d) the salary and the other terms". (72)

Page 25, line 22, for "(3)", *substitute* "(1)". (73)

Page 25, line 23, for "(c)", *substitute* "(e)". (74)

Page 25, line 24, after "Assistant Directors General", *insert*”

"or such other advisers, consultants or officers". (75)

Page 25, line 26, for "(d)" *substitute* "(f)". (76)

Page 25, line 27, after "Assistant Directors General", *insert*”

"or such other advisers, consultants or officers". (77)

Page 25, line 28, for "(e)", *substitute* "(g)". (78)

Page 25, line 29, for "other employees payable" substitute

"other employees payable, and the number of such officers and employees." (79)

Page 25, line 31, for "(f)", substitute "(h)". (80)

Page 25, line 34, for "(g)", substitute "(i)". (81)

Page 25, line 36, for "(h)", substitute "(j)". (82)

Page 25, line 38, for "(i)", substitute "(k)". (83)

Page 25, line 40, for "(j)", substitute "(l)". (84)

Page 25, line 43, for "(k)", substitute "(m)". (85)

Page 25, line 45, for "(l)", substitute "(n)". (86)

Page 25, line 47, for "(m)", substitute "(o)". (87)

(Shri Jaswant Singh)

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MR. CHAIRMAN: The question is:

"That clause 61, as amended, stand part of the Bill."

The motion was adopted.

Clause 61, as amended, was added to the Bill.

Clause 62 – Power to make regulations

Amendments made:

Page 26, after line 15, insertâ€”

(d) the fee which may be determined under clause (a) of
sub-section (1) of section 19:". (88)

Page 26, line 16, for "(d)", substitute "(e)". (89)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 62, as amended, stand part of the Bill."

The motion was adopted.

Clause 62, as amended, was added to the Bill.

Clause 63 was added to the Bill.

Clause 64 – Repeal and saving

Amendment made:

Page 27, after line 44, insertâ€”

"Provided that the National Commission may, if it considers

appropriate, transfer any case transferred to it under this sub-section,
to the concerned State Commission established under
68 of 1986 section 9 of the Consumer Protection Act, 1986 and that State
Commission shall dispose of such case as if it was filed under
that Act. (90)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 64, as amended, stand part of the Bill."

The motion was adopted.

Clause 64, as amended, was added to the Bill.

Clause 1- Short title, extent and commencement

Amendment made:

Page 1, line 4, for "Competition Act, 2001" substitute

"Competition Act, 2002". (3)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made:

Page 1, line 1, for "Fifty-second year", substitute "Fifty-third

year". (2)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

Title

Amendment made:

Page 1, in the long title, for the words "to provide", substitute "to provide"

"to provide, keeping in view of the economic development of the country.". (1)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That the Title, as amended, stand part of the Bill. "

The motion was adopted.

The Title, as amended, was added to the Bill.

MR. CHAIRMAN: The Minister may now move that the Bill, as amended, be passed.

SHRI JASWANT SINGH: I beg to move:

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

MR. CHAIRMAN: The question is:

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

The motion was adopted.
