

Friday, 12th October, 1951



सत्यमेव जयते

PARLIAMENTARY DEBATES

Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

VOLUME XVI, 1951

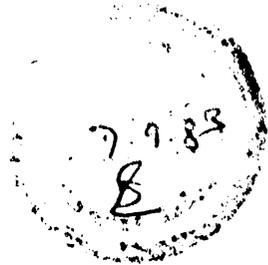
(24th September, 1951 to 16th October, 1951)

Fourth Session

of the

PARLIAMENT OF INDIA

1951



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CORRIGENDA

to

the Parliamentary Debates (Part II—Other than Questions and Answers),
Fourth Session 1951.

Volume XVI,—

1. No. 1, dated the 24th September, 1951,—

(i) Col. 3193, line 10 for "Act, 1151" read "Act, 1951"

2. No. 2, dated the 25th September, 1951,—

(i) Col. 3260, line 18 for "set" read "sat".

3. No. 3, dated the 26th September, 1951,—

(i) صفحہ ۳۳۱۵ پہلی لائن میں "دے مونا آزاد" کی جگہ "دے مولانا آزاد" لکھیے

(ii) भाग ३४१६, पंक्ति १३ में "सायलें" के स्थान पर "आगत" पढ़ें ।

4. No. 4, dated the 27th September, 1951,—

(i) Col. 3902, line 19 from bottom for "rent for occupation of houses" read
SHORT NOTICE QUESTION".

(ii) भाग ३४९०, पंक्ति १३ में "ट्रस प्रांक्मेटी" के स्थान पर "ग्रान्ट्स कमेटी" पढ़ें

5. No. 6, dated the 29th September, 1951,—

(i) Col. 3902, line 19 from bottom for "rent for occupation of houses" read
"damages for the occupation".

No. 7, dated the 1st October, 1951,—

(i) Col. 3952, line 16 omit "a".

7. No. 8, dated the 3rd October, 1951,—

(i) Col. 4074, for existing line 19 read "it has been made out that pre-censor-";
after existing line 40 insert "permanent period to the hands of the"
and delete line 43.

8. No. 9, dated the 4th October, 1951,—

(i) Col. 4153 last line, for "L.P.C." read "I.P.C."

(ii) Col. 4188, for existing line 18 from bottom read "cular case by that
experience and I".

9. No. 10, dated the 5th October, 1951,—

(i) भाग ४२८७, अन्तिम पंक्ति में "बेस्त्रियम" को "बेस्त्रियम" पढ़ें ।

(ii) Col. 4346, line 4 from bottom after "years" insert "ago".

10. No. 11, dated the 6th October, 1951,—

(i) Col. 4418, line 26 for "stituted" read "substituted".

(ii) Col. 4460 after line 27 insert "ages etc."

(iii) Col. 4523, line 19 from bottom for "Cognizillibity" read "Cognizability"

(iv) Col. 4524, line 11 for "Cognizillbity" read "Cognizability".

No. 12, dated the 11th October, 1951,—

(i) Col. 4694, for existing lines 7-9 read "given to Shri Achru Ram's case...
Shri Kamath: I am sorry it is a very ignorant imputation.....".

(ii) Col. 4721 for existing line 35 read "number of tractors to be produced"

12. No. 13, dated the 12th October, 1951,—

(i) Col. 4743 after line 5 insert "(No Questions—Part I not Published)" as 1 line.

(ii) Col. 4844 in line 32 for "Khwaja Inait Ullah: May I point" read "Shri Jhumjhumwala. I just want".

13. No. 14, dated the 15th October, 1951,—

(i) Col. 4913, line 13 from bottom for "(Sidhva)" read "(Shri Sidhva)".

(ii) भाग ४९५६, पंक्ति १२ में "पीछे" के स्थान पर "पीते" पढ़ें।

(iii) Col. 4984 for existing lines 10 and 11 from bottom read "A person shall be disqualified for being chosen as and for being".

14. No. 15, dated the 16th October, 1951,—

(i) Col. 5093, for existing line 34 read "for the industrial development of our country".

(ii) Col. 5128 in line 5 from bottom after "to" insert "give to".

**THE
PARLIAMENTARY DEBATES**
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

4743

4744

PARLIAMENT OF INDIA

Friday, 12th October, 1951

The House met at Nine of the Clock
[MR. DEPUTY SPEAKER in the Chair]

QUESTIONS AND ANSWERS

9 A.M.

LEAVE OF ABSENCE FROM THE HOUSE

Mr. Deputy-Speaker: Before the House proceeds with any other business, I would like to inform hon. Members that Lt. Col Kanwar Dalel Singh has requested for leave of absence under Article 101(4) of the Constitution till the end of the current Session of the Parliament as he is unwell.

Is it the pleasure of the House to grant him leave?

The leave was granted.

PAPERS LAID ON THE TABLE

STATEMENT SHOWING POSTS CARRYING SALARY OF RS. 3,000 AND ABOVE

The Minister of Home Affairs (Shri Rajagopalachari): I beg to lay on the Table a copy of the statement showing the number of posts carrying a salary of Rs. 3,000/- and above abolished as a measure of economy during the last twelve months, promised in reply to Starred Question No 1388 on the 28th September, 1951. [See Appendix X, annexure No. 6].

Shri Chattopadhyay (West Bengal): If it is not very difficult to give, may we know what the number is?

375 PSD.

Mr. Deputy-Speaker: No supplementary questions are allowed on a paper laid on the Table. Therefore hon. Members may look into it in the Notice Office.

Shri Rajagopalachari: The total number of rupees may be given by me, if you will permit, Sir. It is Rs. 4,50,500.

INDUSTRIES (DEVELOPMENT AND CONTROL) BILL

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the motion moved by Shri Hare Krushna Mahtab that the Bill to provide for the development and regulation of certain industries, as reported by the Select Committee to which it was recommended, be taken into consideration.

The Minister of Planning (Shri Nanda): Yesterday when the House rose I was in the midst of an attempt to clarify the conception of the Planning Commission with regard to the role of the State in relation to private enterprise. The aim is to establish a welfare State. Democracy must become a welfare State. If it does not move forward to that goal it cannot maintain political stability. Social welfare, economic welfare is the resultant of several forces, most important among them being economic progress and social justice. An attempt to establish economic equality without progress will amount just to the distribution of poverty and to concentrate on increasing production in income without due thought being given to the aspect of social justice, will only intensify the social and economic disparities and thus we could never pave the way for social peace. The State therefore has to pursue this goal and the question is what course it must adopt in order to do that successfully. Non-intervention is being urged by certain quarters: let private enterprise alone and it will play its part and give

[Shri Nanda]

results. I am afraid, if those who ask for it were really to get it, what would be the consequence of it for themselves! The best way to destroy private enterprise would be to leave it to shift for itself. Without the ministrations of the State, private enterprise cannot function. There is no complete non-intervention anywhere. We are being told about America. The example of America has no application here. In a State where everyone has at least got sufficient of the things required for his own existence, if a few have much more it has not got those kinds of explosive possibilities. In a country where the large masses have no opportunity at all, freedom to them means for the time being at least just stark despair. For them this example has absolutely no encouragement. In a case like ours, in an under-developed country particularly, this idea of non-intervention has absolutely no relevance. Private enterprise and the State have a mutually helpful role. The State cannot do without private enterprise today. That is absolutely clear. It cannot afford to abolish private enterprise. Nor can private enterprise do without the ministrations of the State. On these terms and for the purpose of promoting the good of the common man, private enterprise and the State can come to an understanding. What kind of understanding it will be, this has been the object of the Planning Commission to evolve.

In the case of those who accept the fact that there has to be some intervention, the question is only of the amount and kind of intervention. A large class of people accept the need for intervention in certain circumstances and conditions, but take it as an evil. May be, it is a necessary evil. In the minds of those people the intervention of the State is just identified with a very negative aspect.

I may recall the minds of the hon. Members to the provisions of the Bill. Here there is State regulation, intervention, of various kinds. The first is licensing. Now, licensing is what I may call a preventive aspect of regulation. The other thing which is very much in the minds of most people is giving directions, taking over of concerns, which is a curative aspect. But much more important than either of these two—of course the first is more important than the second—is the positive, constructive and creative role of the State in the matter of development. And this is what is done by the con-

ception of the Development Councils. To those who will try to belittle this idea on the ground that controls have not functioned properly and effectively, my answer is that the remedy is not to get away from controls, to do away with controls, but to improve controls. No one should draw comfort from the fact that the State has failed here and there in administering controls properly. Because, it will not help them if the State actually breaks down in its efforts to regulate the economic affairs of the country with a certain purpose, for a certain thing, and I believe if anybody is to suffer they will suffer the most. So far as the question of controls is concerned there is a class of people who would like to restrict it till the last moment because they say: The evils to which you refer are not rampant. This was urged by an hon. Member in this House. You think as if the need for intervention of the State is almost universal. It is not so. The conditions which will call for intervention are not so prevalent that you should think of every industry and every possible way of interfering with the affairs of the industry. I have been in fairly close touch with the industry and I know how it functions and it is not sufficient to say that there should be rampant evils, that there should be almost a breaking point for a particular industrial undertaking before the State can play its part. In a country like ours where production is at a very low ebb the object is not simply to save a few industrial undertakings from collapse. The more important object is to raise the level of efficiency to getting much more out of them than they are now giving and those who are conversant with the industry know that there will be variations existing between the performance of one concern and another. Therefore, they know also that it would be possible to get much more out of an industry if we are able to raise the level of efficiency of those undertakings, which are not doing very well, or well enough, although similar undertakings are giving much better results. This is an aspect which has been ignored. This is a constructive and positive aspect which is being stressed in the provisions made in this Bill and I would request hon. Members to think more of that constructive aspect when they look at the provisions of this Bill, which may come into play on occasions. There is also opposition to the policy which has been advocated by the Planning Commission from another quarter. I made a very brief reference

to it yesterday, but I think it requires a little more elaboration. An hon. Member opposite particularly referred to me and said that I was an advocate of nationalization and that now he did not find anything at all in the Bill which will take the country nearer that goal. He mentioned also Gandhiji's name in that context. I am fully aware of the fact that Gandhiji was in favour of nationalisation of large scale industries. In the constitution of the Ahmedabad Textile Labour Association at his instance, one of the clauses inserted was that in due course this industry should be nationalised but Gandhiji was never for just idle, empty words. He wanted the essence, the spirit and the reality and it is quite possible to have nationalisation without getting anything which will be equivalent to the benefits which we expect from nationalisation. It is quite possible that we would have nationalisation and yet the workers whom nationalisation may benefit may be worse off in the matter of wages etc. than before. It is possible that the consumers for whose sake we want nationalisation may have to pay higher prices for worse goods. It is quite possible that the State which is likely to benefit by nationalisation, instead of doing so may have lost. The approach to nationalisation is to have certain things in view and if it is possible to achieve those very things without giving it a certain name, we should try and secure that process and that result. Even in England it is found that nationalisation has not given all the satisfaction which were claimed from it. The workers found that it is no nearer any democratic organisation and that it cannot satisfy their aspirations. It is possible for us in this country to work upwards from the existing conditions to a better state of affairs which will give the results that we are asking for.

So regarding nationalisation the only thing that I have to submit with all humility is that our is a pragmatic approach. We want certain results. What are our criteria, what are our tests?

In the first place, we want to maintain our political structure as a democracy. Therefore in all things that we are contemplating in the matter of legislation, administration, economic structure that we are going to set up, we have to see to it that the democratic spirit prevails and it is with that end in view that certain provisions are being made and a certain kind of structure is being created. Also we cannot afford

to have any great serious dislocation of the economy of the country in the present conditions. All these things have to be kept in view and I believe, Sir, that what we are attempting to do now through the provisions that have been offered in this Bill is that we are going to secure those results more effectively than by any other route. We are not stopped from nationalisation. We will take the course which is best in the particular circumstances. If nationalisation of a particular industry yields better results, gives more satisfaction then nothing prevents us from doing that in the proper way and if private enterprise will function better, for certain purposes will be more satisfactory having certain ends in view, then private enterprise will certainly be allowed to remain. Only as I said yesterday, it is not private enterprise in the usually accepted sense; it will have to be a transformed private enterprise that will be different in spirit and outlook and it will have to function in a different way. A doubt is expressed whether such a thing is possible. I believe that I have some reason for the confidence that this awakening is dawning also on those friends who are prominently connected with private enterprise. The idea is that private enterprise will not be coerced; no remote control is going to be exercised, so that actually the net result of it is irritation without any great advantage. The idea is chiefly as regulation of industry, internal regulation and internal discipline. The best elements in the industry are to be associated with the conduct of the general problems of industry and with the help of the State it should be possible to forcibly get very much out of the industry than it is possible otherwise, than has been accepted by an industry itself. The leadership in the industry which today acts in a very disorganized state is helpless in securing an improvement and I am aware of the fact that if they are questioned about the conditions within the industry, they will be the first to acknowledge the fact that the industry is not being carried on in the best possible manner, that there is so much to improve and so much to rectify and they by themselves are not able to do that. It was with their co-operation that this new idea was built up and developed. I was asked: What was the underlying idea and conception of these Development Councils. I have explained that the idea is that the industry is going to prove that its efficiency is going to rise, that it will be enabled to render better service to the community and to the consumer more economically.

[Shri Nanda]

I may be questioned: These are wholesome injunctions. How are you going to implement them? With regard to that I can only say this, that the new approach also carries with it the new conception of the functions of administration and that new approach to the administration also accompanies this idea of the new role of the state in Industry. If you look at the Bill you will see that certain provisions have been incorporated in it which are likely to ensure those results. If difficulties are anticipated, the only answer, as I have said before, is to remove those difficulties. There is no other way. To point out those difficulties or to bring in our earlier experience which is not very helpful or satisfactory is not the way at all. Therefore, we have all to combine and co-operate and see that all those difficulties and obstacles that came in the way of the success of whatever Government attempted to do in the sphere of industry are removed.

Among the provisions of the Bill, there is, in the first place, the composition of the body which is going to deal with these matters, which gives assurance of the fact that there is not going to be just bureaucratic interference, but it is really going to be co-operative endeavour.

Shri Kamath (Madhya Pradesh): Dr. Ambedkar, Leader of the Opposition, Sir!

Khwaja Inait Ullah (Bihar): Not a leader by your saying.

Shri Kamath: So, you agree.

Khwaja Inait Ullah: I do not.

Shri Kamath: Your disagreement may be recorded.

Mr. Deputy-Speaker: Order, order; let there be no conversation.

Shri Nanda: I was explaining, that the purpose which is visualised for the Development Councils is going to be carried through and secured by certain arrangements which are provided in the legislation itself. One is, as I pointed out, the composition of the Development Council itself. Secondly, and this is very much more important than any other provision, it is intended to create the personnel for the administration of industries, and for carrying out the functions of the Development Councils. It will not simply be a kind of ignorant interference on the

part of Government in the affairs of industry, but association with the industry of persons who have got knowledge of its working and therefore who are in a position to help it. The help has to be given in several ways. Raw materials; improved standards and designs; there are scores of things which have been mentioned in the list of functions. I do not want to repeat all that and take the time of the hon. Members. But, it is a very important provision that the requisite machinery is being created for carrying out the functions which have been laid down in the Bill for the Development Councils. Also finance is being provided by the levy of a cess. All these things taken together should be sufficient guarantee of the fact that the Development Councils will function properly.

I shall now come to certain specific queries, certain doubts which were raised in connection with the working of these Councils, and also with regard to some other provisions of the Bill. I may dispose of first the questions regarding licensing. It was said, let there be new industries, let them be allowed to proceed in an unplanned fashion so that they may grow. This is a curious way of looking at the provisions regarding licensing. It is exactly when an industry starts that it has to be ensured that it starts properly. It may be said that after all, India requires so many things; what does it matter if instead of one thing, some other industry is started. That is the very reason for introducing licensing. We are lacking in resources. If more urgent needs are ignored and less urgent needs are satisfied, it is a very severe blow and a very severe loss for the whole economy of the country. Therefore, that cannot be permitted. There are those who oppose planning on this and some other grounds. If you will look at their own requests to the Government, you will find that they want planning in everything else except themselves. They want planning in the matter of imports, controls, in the matter of distributing scarce materials. So, regarding licensing, there should be absolutely no apprehension that it will lead to anything but good.

Some hon. Members raised a few questions regarding Development Councils, regarding the pace and selection of industries. Since it is the intention of Government to see that this experiment succeeds, it will necessarily be carried through at a pace which will be compatible with the

efficiency of the arrangements that have to be made for the purpose. Since it is going to be a constructive function, a positive role to assist industry, the idea that the schedule has become too long, that certain industries may not be there or some industries should be excluded, has no bearing, and this argument loses its point and its importance.

One or two other points regarding the Development Council and I will close my remarks. It has been said that we have borrowed this from the U. K. and that in the U. K. there were certain safeguards and precautions which we have not observed. In the first place, this idea of Development Council has not been borrowed totally from the U.K. Those hon. Members who have the time to compare the provisions of the U.K. legislation on the subject and the provisions of this Bill, will find that there is some resemblance but there is a lot of difference also. The idea has grown out of our needs. We found some help in the legislation in the U.K. on the subject and we have made good use of such provisions of that legislation as could be of assistance to us over here. Whatever safeguards have been introduced in that legislation, I believe, have also been adopted for the purpose of our legislation, to the extent they are necessary, in our circumstances.

Regarding Development Councils and the working of the various provisions, some detailed criticism was made. I do not propose to deal with that criticism. The hon. Minister in charge of the Bill has very adequately dealt with the objects and purposes of the legislation and the operation of the various provisions. I am sure that the hon. Minister in charge of the Bill will deal with all the specific criticisms which have been levelled at the proposed legislation. I have done.

Shri Kamath: Before we proceed further, may I have your permission to ask whether yesterday, Dr. Ambedkar, who is now present in the House, was informed that the correspondence between him and the Prime Minister was going to be read in the House? It was only fair,—and courtesy to the Minister demanded it—that he should have been informed that his correspondence was going to be read. If he was not informed, the House ought to know why he was not informed. I do not know whether he was informed or not. He might

tell the House whether he was informed or not.

Mr. Deputy-Speaker: I am not primarily concerned with all that. When the spokesman of Government wants to read out certain papers in connection with this, I naturally allow that. Apart from that, I fixed 6 o'clock for Dr. Ambedkar to make his statement. At that time, he was not present in his seat. Then, all relevant matters relating to that and these letters were read. It was expected; therefore no special notice need be given.

Shri Kamath: But, was the other party to the correspondence informed?

Mr. Deputy-Speaker: If he chooses to be absent, what can be done?

Shri Kamath: He left the Chamber, saying that he had resigned. Would he have been permitted to make a statement as an ex-Minister? I think he was not told that at 6 o'clock the correspondence would be read.

Mr. Deputy-Speaker: Making a statement is not as a Minister, not while in office, but after resigning. Whatever may be the point of time, one minute after resignation, he ceases to be a Minister; he is an ex-Minister. According to the rules, a Member who has resigned his office of Minister may, with the consent of the Speaker make a personal statement in explanation of his resignation. The moment he resigns and it is accepted by the Prime Minister, whatever may be those rules, I am not concerned with that, when he resigns and wants to make a statement, he does not make a statement as a Minister. At that time, he is only an ex-Minister. I would not allow any surprises to be sprung upon me. If the hon. Member wanted to raise any question, if he had either talked to me in chamber or told me in advance, I would have referred to these matters. Let us not continue this further.

Shri Kamath: May I submit, again, that this surprise was sprung yesterday by the correspondence being read. As Dr. Ambedkar is present today, will you permit him, if he so desires, to make a statement on the correspondence read out yesterday?

Mr. Deputy-Speaker: I am aware that the hon. Member is quite able to take care of himself. All I wish

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to say is that I cannot answer hypothetical propositions here. Therefore, if the hon. Member wants to do any particular thing himself, if he himself is anxious or wants to make a statement or do something like that, I shall consider the matter.

Dr. Ambedkar (Bombay): I only want to make just two observations, with your permission. When I left the chamber, I think I was quite sure that I left the impression upon the House and upon yourself that I would not be prepared to make the statement at six o'clock. I think I made that quite clear. I am not asking for an opportunity now, or saying that I feel injured by the Prime Minister having read out the correspondence at six o'clock, knowing full well that I had stated clearly in the morning that I was not going to obey the observations that you had made, that I should make a statement at six o'clock. Whether it was justified on the part of the Prime Minister or not I leave it to you, without first informing me that he was reading out the correspondence. That I leave to you and the Prime Minister, because I know there are other channels open to me of correcting any wrong impression that the correspondence might have made.

Mr. Deputy-Speaker: It is always open to the hon. Member to change his mind; but I had fixed six o'clock and six o'clock stands. Therefore I was observing that the hon. Member was not in his seat at six o'clock.

The Minister of Commerce and Industry (Shri Mahtab): I shall try to deal with the specific points that were made out by the previous speakers with regard to this Bill. My colleague has just now explained in full the implications of this Bill and the background of this Bill. The specific points were mainly raised by my hon. friend, Shri Ramalingam Chettiar, Pandit Kunzru and Shri B. Das, and one point that they all raised was with regard to the Central Industries Board.

All these three hon. Members have asked me the question, "Why is it that this Central Industries Board has been dropped out from the present Bill?" Let me explain briefly how the position stands at present and why this Board was dropped out from the present proposals. The Central Board was dropped out when provision was made for the Development Councils. If hon. Members will kindly refer to the report of the First Select Com-

mittee, they will see that the Central Industries Board was charged with two types of work. One was the issuing of licenses for the industries and the other the investigation and other regulative work.

Let me take up the first work—the issuing of licenses. It will be found from the first Select Committee's report that the Central Industries Board would dispose of the licenses and it was provided in the Bill as it emerged from the first Select Committee that they would obey the instructions issued by the Government. That means that if the Government issues a direction that licenses shall not be given to such and such an industry, then the Board will obey that direction. And further, the appeal lay with the Government according to the report of the first Select Committee. In that case, the only work left to the Central Board was to dispose of the individual applications on their merits. They were not called upon to go into the policy of it, they were not called upon to take an overall view of the industrial position as Mr. Sahaya suggested. They were simply called upon to dispose of individual applications on their merits. That was the only work that was given to the Central Industries Board by the Bill as it emerged from the first Select Committee.

With regard to this work, the present position is this. Since the Board had nothing to do with the question of policy, and as they are not going to be the final judge and if the appeal lay with the Government, then there was practically no work for the Central Board consisting of three full-time officers with a large and elaborate machinery at their disposal. There was practically no point in having them. The only suspicion that may arise is, if Government themselves take up the disposal of the individual applications, impartial consideration might not be there. In order to remove that suspicion the provision is now made that the Government will appoint either an officer or an authority to dispose of these applications and the procedure of disposing of these applications will be laid down in the rules and the Select Committee have made recommendations as to the procedure, the time limit within which the applications should be disposed of and how the rival parties will know that one application has been filed so that nobody would be taken unawares and applications would not be disposed of behind the back of another

party. All these safeguards are there in order to remove the suspicion that the applications might not be disposed of impartially. If the House is satisfied that sufficient provision has been made for the impartial disposal of individual applications, then that part of the work of the Central Industries Board disappears. And so for that work, there need not be a whole-time Central Industries Board as was contemplated by the first Select Committee.

Then I come to the next work of the Board, namely the regulation of industries. You will find that the first Select Committee left the initiative to the Government. If the Government is to form certain opinions, it has to undertake certain investigations. Then the Government will make a reference to the Central Board who will then take up the work of investigation. I ask the House how else will the Government form an opinion? What is the agency or machinery at the disposal of Government through which it will come to form an opinion? And unless Government forms an opinion about certain matters, the Central Board cannot function. Government, first of all, will form an opinion and then make a reference to the Central Board. If it is suggested that Government must have the necessary machinery for forming an opinion, and if that machinery is there, then for the investigation, the Central Board must have another machinery. Otherwise it would use the same machinery as was used by the Government to form their opinion for the purpose of the investigation. And that means there will be a duplicate machinery—one to enable the Government to form its opinion and another for the Central Board to make the investigation. And that is not desirable.

You will find in the provisions of the first Select Committee that the Central Board will requisition the services of officers for the purpose of investigation. If it happens that the Central Board requisitions the same officers as were employed by the Government for forming their opinion, then practically there will be no impartial investigation. After this, the Bill provided that the Central Industries Board should, after completing the investigation, submit its report to Government and Government will take whatever action they choose to take. In that case, Government will have another machinery again to shift the results of the investigation and come to a decision. In all, there will be one machi-

nery to enable the Government to form an opinion, the Central Board will have another machinery to investigate and at the end of it all, the Government will have a third machinery to come to a finding with regard to the results of the investigation. In order to eliminate all these elaborate and duplicate. . . .

Shri Ramalingam Chettiar (Madras): Does the hon. Minister.....

Shri Mahtab: My hon. friend should kindly note down the points on which he would like to have information or clarification and at the end of my speech I shall try to. . . .

Shri Ramalingam Chettiar: I only want to say that all these references and investigations exist in the case of other bodies also, for instance the Tariff Board. All these processes are going on there also and.....

Shri Mahtab: I am not yielding and the hon. Member need not. . . .

Mr. Deputy-Speaker: The hon. Minister need not be interrupted.

Shri Ramalingam Chettiar: But I could not understand him at all.

Shri Mahtab: What I say will not be intelligible to those who are definitely of the opinion that this Bill is unnecessary. I am simply. . . .

Shri Ramalingam Chettiar: I have never said that the Bill is unnecessary. As a matter of fact, I want it, but. . .

Shri Mahtab: This Bill is necessary in the interest of the industries themselves. Now I come to the present proposals. The present proposal is to have Development Councils, and this is a new feature. As I have already stated and as has been explained by my colleague Shri Nanda, these Development Councils will remain in close touch with the industries and these Councils will not consist of any Government officers. It will consist of various categories of persons described in the Bill and you will see from them that Government officers will not be there. It will consist of only those who are concerned with industries in any shape or form such as owners, employees, consumers, etc. On the report of the Development Council the Government will proceed. On their report the Government will consult the Central Advisory Council with regard to regulation. The Central Advisory Council will consist of the same categories of persons but it is expected to have an overall picture before them and they will advise the Government as to whether action should be taken as reported by the Development Council

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in the light of the overall position of the industry in the country as a whole.

For instance, take the textile development council, assuming that a council has been formed for that industry. When that development council reports to the Government that certain action has to be taken against one or two units of the industry in order to improve their efficiency and increase their production, the Government will then consult the Central Advisory Council as to whether that action should be taken in view of the general industrial position of the country. That consultation has been made obligatory here. Supposing instead of the name being Central Advisory Council it is called the Central Industries Board. I do not think there would have been any difference at all. In the first instance there would have to be some kind of investigation. The Central Government is first called upon to make a reference to the Central Industries Board and after that investigation would start and the ultimate decision lay with the Government. Similarly with regard to any disciplinary action or protective measure that the Government may propose to take, the final decision lay with the Government. Of course power is given to the Central Industries Board to have a final say in the matter.

The House must remember that when the first report was submitted the Planning Commission was not in view nor their plan before the House. Now a Planning Commission has been set up and their plan is before the House. The whole industrial and agricultural economy of the country is going to be planned and in that case can any Government possibly leave the whole thing to a Board which will not be responsible to the people in any shape or form nor responsible to the Parliament? That is the problem.

Comparison was made as between the Board of Trade in the U.K. and the position here. There the Chairman of the Board of Trade is a member of the Cabinet. If it is suggested that it should be so here, that there should be a board which will be responsible to the Parliament and through the Parliament to the people, then I would have no objection. But the Central Advisory Board having no such authority nor any such responsibility to the people through Parliament, it will not lead to the suc-

cessful working of the plan. That is the main point which I want to make. We have to take into consideration the fact that a plan has been evolved and is going to be implemented and for that a Planning Commission is already functioning. In such a situation is it desirable to have another body which will take its own decision with regard to regulative measures, such as licensing etc.

Mr. Jhunjhunwala said yesterday that while issuing licenses gross partiality is shown. Up till now, until the Bill is passed, there has been no system of licensing.

Shri Jhunjhunwala (Bihar): I was citing the licensing system in the provinces.

Shri Mahtab: He did not make it clear but said it in such a general way as if some very grave injustice was being done. There is no licensing even by the State Governments. (*Interruption*). Please excuse me. Gross generalisations are made in order to condemn a thing. There has been no licensing system either by the Central Government or the State Governments. The only control exercised by the Government is through the capital issue control and there is a capital issue controller in the Finance Ministry here and for foreign capital there is a committee. While disposing of applications by the capital issue controller questions about the location of an industry, its size, etc., are never taken into consideration. It is purely a financial matter and from that point of view applications are disposed of. Only when this Bill is passed licensing will come in.

Mr. Jhunjhunwala gave the specific instance of a sugar factory, how a certain person applied for a licence but that it was not given to him but to some other person for some other considerations. I would challenge that fact. I would ask the House, if they consider it necessary, to appoint a committee to investigate whether the statement made here by the hon. Member is correct or not, because there is no system of licensing either under the Central Government or State Governments. That being the case I am surprised how such a general statement could be made here.

I would now come to the next point. Take the case of the sugar industry itself. The industry expects that the Government will control the sugarcane prices so that the industry will make

some profit out of it. When the Government controls the prices of sugar-cane, then the industry complains that the prices of the manufactured goods, namely, sugar, should not be controlled. Is it suggested that Government here is a machinery at the disposal of a few industrialists, at their back and call to go on controlling the whole nation, its primary producers or the agriculturists at one end and the consumers at the other for the benefit of the industry? It is an impossible proposition which no Government can accept. Had there been a monarchical government of the 18th century as in the U.K. such a proposition could have been considered here. At this stage if anybody comes forward and suggests that the entire population should be controlled for the benefit of the industries, I am sure the proposition would be treated with the contempt that it deserves.

I may tell the House that under a constitution, like ours, or in fact under any modern constitution, the entire population would seek to control the industries through the Parliament. Therefore the controls will not be on this side but on the other side. The unfortunate fact is that there are several spokesmen on behalf of the industries here who expect the Government to control the entire population and who can say here that Government are going to control the industries for the people and they will not control the population for the industries. That being the position this Bill is the only way in which the objective can be fulfilled. The object is that the population should not be left at the mercy of the industries but the industries must be left at the mercy of the population. That is the position which I want to make clear. Such regulation will no doubt be an inconvenience to them.

Now what is the position? Every body is at liberty to open whatever factory he likes and whenever there is a shortage of raw material complaint is made that the Government are not supplying them the raw material, as if the Government were one of their agents to supply the raw materials and leaving them to do whatever they like with regard to the consumers or the primary producers.

Mention was made that cotton was not being distributed fairly. Is it suggested that cotton should be left uncontrolled? It is not suggested. It was suggested that the cotton prices so far as the agriculturists are concerned should be strictly controlled

and cotton should be given to the mills so that the mills will make the profits they want. That is an impossible proposition which no Government can undertake or promise. If the prices of cotton are to be controlled and the agriculturists are called upon to make some sacrifice, at the same time Government should see that the industry also does not make any unreasonable profits out of such control. The Government should see that the consumers get the thing at a reasonable price. If anything is found wrong in the control suggestions can be made for improvement. But to suggest that Government should control every body for the sake of the industries is an impossible proposition.

With regard to the sugar industry the House knows that there has been criticism that although the industry enjoyed protection for many many years, they could not make any improvement in the industry. At the same time the cane prices remained controlled. I think the charge can be brought against the Government that they controlled the prices of agricultural commodities and made the agriculturists suffer for the sake of industry.

We are now putting forward this Bill so that industry will remain under proper control. Uncontrolled industry is unthinkable at the present juncture. That question should not be discussed. The only point which should be discussed is how to make this Bill workable. So far as I have applied my mind to the proposition, I have come to the conclusion from the practical point of view. The Bill as was first introduced in Parliament and after the report of the first Select Committee was not workable from the practical point of view. I have explained that in my opening speech. The Bill as it has emerged out of the second Select Committee is workable because we have got the development councils consisting of persons who are concerned with industries, either as employers or as employees or as consumers. They will keep in touch with the industries, they will have the necessary machinery to make suggestions for improving efficiency, productivity, etc., and they will make reports to Government and Government will act upon those reports. In order to have the advice with regard to the general industrial position, it has been made obligatory that they will consult the Central Advisory Council. All these safeguards are there in order to remove the suspicion of any hasty step being

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taken, and I am sure the House will appreciate that all possible safeguards have been provided in order to obviate any such suspicion. After that it is suggested that this Bill has gone too far, then, on the contrary, I should say that keeping in view public opinion regarding industries at the present moment, this Bill has not fulfilled the expectations of the public so far as control of industry is concerned. We have tried to meet all points of view as far as possible. Let us see how this Bill works. If in the course of its working any defects are discovered, if it is found that certain steps are not sufficient, or if certain steps prove too much of interference for industry, it will be for the House to amend the law at that stage. But before knowing how the Bill will work it is very difficult to suggest amendments at this stage.

The question has been asked as to how the development councils work in U.K. I tried my utmost to get at any report but I could not get it—I have got the report with reference to the cotton industry only. As I said before, U.K. tried to regulate the cotton industry by means of the Cotton Industry Reorganisation Act, 1939. I may say they have been able to recover from the war damage so soon because of these development councils. Hon. Members will see from the U.K. Act that there the development councils were formed voluntarily by the industries. Here when there was no proposal for any development council, several industrialists told me personally, and several industrialists have expressed the view publicly in committee meetings that there should be development councils. Now that Government come forward with proposals for forming development councils it should not be left to them to run down the proposals and say these are not necessary—there must be some finality at some stage. Development councils, so far as I am aware, are welcome in the circle of small and medium units of industry, but the bigger people have not yet reconciled themselves to the proposition; however, I am sure they will very soon fall in line with the measure which I have placed before the House.

With regard to the inclusion in the Bill of the tea industry or of several minerals like mica, I can say there are several other laws relating to these industries. With regard to tea there are two Acts, with regard to minerals, similarly, there are separate laws. So far as the tea industry

was concerned, I think one hon. Member suggested that perhaps I did not know much about the tea industry. I cannot claim that I know all about it, but I can claim that I know something of it. I had the occasion of knowing the condition of this industry in Assam and also in South India, and I am aware of the difficulties of that industry. In some places the way in which the tea estates are changing hands has to be seriously taken notice of by the Government; in some places the management is so defective and that also has to be taken into account by the Government.

Shri Harihar Nath Shastri (Uttar Pradesh): What machinery do you propose for that?

Shri Venkataraman (Madras): Accepting our amendment.

Shri Mahtab: No, it will be wrong to accept that amendment, for this reason. If we provide for that industry here and if a development council is formed for it, it will come in conflict with the Central Tea Board as it exists today. I can give the parallel of U.K. When the U. K. Act of Development Councils was passed, they repealed the cotton Industry Reorganisation Act. If we include tea in this Bill and provide for the repeal of other laws relating to tea, then it will be consistent. But that is not possible because the question has not been examined and it will take some time to do so. The only course open to Government—and I think the House will agree with me here—is that if an amendment is made of the Central Tea Act then that will serve the purpose. Then, our Works, Production and Supply Ministry has suggested that salt should not be included in this schedule because they want to make a separate law for the development of the salt industry.

Shri Harihar Nath Shastri: Why have duplications?

Shri Mahtab: And similarly for the tea industry there is a separate law, and I undertake to examine the amendment of that law so that it may fall in line with this law; it requires a thorough examination and I can assure the House that that law will be amended to bring it into line with this law. Whatever provisions have been made here will be sought to be made in the Central Tea Act. Similarly there are separate laws for rubber and coffee. All these laws will be taken up separately and amendment of those laws will be made in order that they may be brought in line

with this law. That will be undertaken as soon as this Bill is passed. Let us pass this Bill as quickly as possible and then let us try to bring the other laws into line as soon as possible.

Shri Shiv Charan Lal (Uttar Pradesh): The hon. Minister said that the Bill falls much short of the expectations of the people. Is the hon. Minister going to accept or move amendments in order to remove those defects?

Shri Mahtab: Let us see the working of this measures. We do not know how actually it will work. I can, however, assure the hon. Member that whenever this Bill is found deficient in anything immediate steps will be taken to make up that deficiency.

Babu Ramnarayan Singh (Bihar): The hon. Minister says there is no licensing either by the Centre or by the State Governments, but in the moffussil we find that for every shop dealing with controlled articles there is licensing. For instance, everybody dealing in mica is required to have a licence. We find licensing anywhere and everywhere and the hon. Minister says here that there is no licensing either by the Central Government or by the State Governments. What is it? I do not understand it.

Shri Mahtab: I am very sorry the hon. Member has fallen into a logical fallacy. I am talking of industry—there is no licensing system for industry. He has been talking of shops—everybody knows that there is a licensing system for shops, but I do not understand why he has raised that question here. With regard to minerals, there are mining licences. As I said, here I was talking of industries and there is no system of licensing for industries. We are now talking of the Industries Bill, not of a shopping Bill.

Thakur Krishna Singh (Uttar Pradesh): I agree fully with the hon. Minister that this is a measure which contains the essence of nationalisation, but I find that in clause 11(3) it says:

"Nothing in this section shall apply to any industrial undertaking if the capital to be invested therein does not exceed rupees five lakhs."

So, undertakings with a capital of less than Rs. 5 lakhs have been exempted from the provisions of this measure. If such undertakings are not governed by development councils then there will be difficulties in the

distribution of raw materials or marketing of goods and there will be no co-ordination between factories which have invested more than Rs. 5 lakhs and those which have invested less than Rs. 5 lakhs.

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Shri Mahtab: He is making a mistake. From the provisions of this Act only those factories have been exempted whose capital does not exceed Rs. 1 lakh. All the factories whose capital is about Rs. 5 lakhs will come under regulation and also under the Development Councils. They will receive assistance as other industries do from the Development Councils. But they will not come under the licensing system. This has been done in order to save them from the botheration, as in case they have to apply for a licence they will have to wait for a long time. The function of this Bill is to encourage small scale industries as far as possible. So, they have been relieved of this licensing procedure.

Thakur Krishna Singh: I fear that if under clause 11(3) they are exempted from taking any licence there may not be a proper planning of these undertakings.

Shri Mahtab: If it appears that a very large number of factories are being set up in order to evade regulation, the Act will be amended. But at the present moment, as we see if from our experience, things are not happening that way. Therefore, we have to take the risk and let the small scale industries go without licensing and try to bring them under regulation later on.

Ms. Deputy-Speaker: The question is:

"That the Bill to provide for the development and regulation of certain industries, as reported by the Select Committee to which it was re-committed, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The House will now proceed to the consideration of the clauses.

Shri Kamath: Before that, may I ask the Leader of the House if he is in a position to make a definite statement about the precise duration of this session and if he is not prepared just now, when he will be prepared to do so?

Mr. Deputy-Speaker: This is a recurring business. I think we will sit from day to day.

Shri Kamath: We have to make arrangements for our departure.

Mr. Deputy-Speaker: I expect that possibly we may sit on Monday and Tuesday. We shall have the matter ascertained before the evening.

Shri Sondhi (Punjab): Are we not sitting on Sunday?

Mr. Deputy-Speaker: Not likely. I am sure the Leader of the House will make an announcement before this evening.

Clause 2.—(Declaration re control)

Dr. Deshmukh (Madhya Pradesh): I have an amendment, but before I move it, I would like to know whether the provisions of the Bill are acceptable to all the States, because under this clause the declaration is made that "Whereas it is expedient. . . etc. . . etc." I would like to know if any State Government has differed from the view taken by the Union or whether the schedule attached to this Bill has been unanimously accepted by all the States.

Shri Mahtab: The States were consulted in 1949 when the Bill was first introduced. The Bill has been long before the House and the States have been consulted. It is for the Parliament to approve.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(Definitions)

Dr. Deshmukh: I have an amendment (No.43) but I do not wish to move it formally unless the hon. Minister is prepared to accept it. I propose the deletion of the word 'Advisory'. The hon. Minister spoke just now on this point and if we have correctly followed his arguments, he thinks that the word 'Advisory' will not have much meaning, because the Advisory Councils also can function almost as the Central Industries Council. If the word is deleted, then it would read "The Central Council". That would be quite sufficient.

Shri Shiv Charan Lal: I beg to move:

In page 1, line 24, for "one hundred" substitute "fifty".

Dr. M. M. Das (West Bengal): I beg to move:

In page 2, lines 1 and 2, omit:

"As those expressions are defined in the Indian Companies Act, 1913 (Act No. VII of 1913)".

The hon. Minister is engaged otherwise. He is not listening to us.

Shri Kamath: He is collaborating with his deputy.

Dr. M. M. Das: My contention is that these words are unnecessary. The words "Central Government" are used in every Bill but it is nowhere found in the Constitution. This phrase has been defined in the General Clauses Act and so it is unnecessary to give an explanation everywhere. On this analogy, since the words "Manager and Managing Agents" have been explained in the Indian Companies Act, 1913, there is no necessity to mention these words here.

Shri Syammandan Sahaya (Bihar): I beg to move:

(i) In page 2, line 1, after "manager" insert "managing director".

(ii) In page 2, line 2, after "manager" insert "managing director".

The idea is this. In some cases there may not be a managing agent and the manager is called the managing director. In order to make it exhaustive, I have suggested the addition of the words "managing director".

There is another thing to which I wish to draw attention. In clause 3 (c) (ii) the words are:

"Without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power;"

Supposing in a premises where manufacturing process without the aid of power is going on, there is a *chakki* for making flour which uses power. How will it be construed? Will it be included in the definition of the word "factory" or it will not be. This clause is therefore likely to create some ambiguity.

Dr. Deshmukh: I beg to move:

(i) In page 1, line 21, for "fifty" substitute "one hundred";

(ii) In page 1, line 24, after "one hundred" insert "and fifty".

The object of my amendments is that since we are going to control industries for the first time, we should limit the operation of the Act to as few industries as possible. It is better to gain experience and see how the Act works and then extend the field of its operations. It is with this object in view that I have suggested the exclusion of concerns which have less than one hundred workers, in the case of those factories where power is used and exclusion of those which have less than 150 workers where power is not used.

I know that this is the usual definition of a factory. But we need not go by the definition in the other Acts for the purpose of this measure is entirely different. We are here trying to control, regulate and license factories and for this purpose we should take in only as much as we can hope to chew. I suggest that my amendments may be accepted.

Shri Venkataraman: I want to clear a misapprehension which has been created by my friend Dr. Deshmukh with regard to the definition of the word "factory". The scheme as envisaged in this Bill is to make this definition applicable only to those institutions where fifty or more workers are employed where power is used. In the case of other non-power factories, as they are called, unless one hundred or more workers are employed they will not come in the definition of the word "factory". Now, if a factory consists of power as well as non-power undertakings, then the very fact that power is used in a part of the factory, will bring it under the definition of the word "factory" if 50 or more workers are employed.

My hon. friend Dr. Deshmukh thought that the usual definition of the word referred to employment of 50 or 100 persons. That is not so. Under the Factories Act if ten or more persons are employed in a premises using power, then it becomes a factory. It is only to provide for such objections as Mr. Deshmukh has raised that the Select Committee thought that the number of employees where power is used may be raised to 50 and the number of employees where power is not used may be raised to one hundred. I suggest the House will accept the Select Committee's recommendation in this respect.

Mr. Deputy-Speaker: Amendments No. 45, 47, 48, 44 and 46 are before the House.

Shri Mahtab: My hon. friend Mr. Venkataraman has clarified the position so far as the definition of the word "factory" is concerned. Where power is used the number of workers employed is bound to be less and where power is not used the number of workers employed is bound to be more. The two parts of the sub-clause have to be read together, so that it may be a consistent whole.

So far as Mr. Syamnandan Sahaya's amendments are concerned I accept them.

Dr. M. M. Das: I have a doubt as to whether the words "Managing Director" is defined in the Indian Companies Act.

Shri Mahtab: The use of those words makes the provision clearer. In order to avoid future litigation it is necessary to have the words "as those expressions are defined in the Indian Companies Act".

I am not in a position to accept the other amendments.

Mr. Deputy-Speaker: The question is:

In page 2, line 2, after "manager" insert "managing director".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 2, line 2, after "manager" insert "managing director".

The motion was adopted.

Shri Shiv Charan Lal: I want to withdraw my amendment.

The amendment was, by leave, withdrawn.

Dr. M. M. Das: I do not press my amendment.

Dr. Deshmukh: I withdraw my amendments.

Mr. Deputy-Speaker: 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.—(Saving)

Dr. Deshmukh: I beg to move:

In page 2, line 9, for "one lakh" substitute "ten lakhs".

I am actuated by the same intention as I have explained.

✓ **Shri Syammandan Sahaya:** I have also a similar amendment. I beg to move:

In page 2, line 9, for "one lakh" substitute "five lakhs".

There is another point in this connection on which I would like to have a clarification from the hon. Minister, and that is with regard to the definition of the word "capital"; will it be construed as merely share capital or all the capital of the company, that is working capital loans and other liabilities.

Khwaja Inait Ullah: I beg to move:

In page 2, omit clause 4.

مہری سمجھ میں یہ نہیں آتا ہے کہ جب کل 3 میں فیکٹری کی قیام پھیل رہی موجود ہے کہ جس میں پچاس آدمی کام کرتے ہوں یا سو آدمی کام کرتے ہوں۔ تو پھر یہ شرط کہوں لگائی جانی ہے کہ جس میں ایک لاکھ کا انویسٹمنٹ ہو۔

[I fail to understand why the one lakh investment condition is being put when in clause 3 a factory has already been described as an undertaking employing fifty or one hundred persons.]

Mr. Deputy-Speaker: Technically, this amendment is out of order. A clause may be opposed, but an amendment seeking to omit a clause altogether is not in order.

Dr. M. M. Das: I beg to move:

In page 2, line 9, for "one" substitute "two and a half".

Here I want to substitute two and a half for one lakh, and in the case of sub-clause (3) of clause 11 I want to bring down five lakhs to two and a half. My amendment to that clause is No. 18.

Mr. Deputy-Speaker: We are now on clause 4. We have not gone to clause 11. When we come to that let us see. Clause 11 relates to licensing; this clause relates to exemption. Now we are on the question of exemption. At the appropriate time he may move his amendment No. 18.

Dr. M. M. Das: I want to raise it to two and a half lakhs here and in clause 11 I want to bring it down to two and a half lakhs.

Mr. Deputy-Speaker: That amendment cannot be moved now. It can be referred to for emphasizing his point.

What are the amendments that the hon. Minister is prepared to accept?

Shri Mahtab: None.

خواجہ عداہت اللہ - میں عرض کر رہا تھا کہ اس کلاز میں یہ شرط لگائی ہے کہ جس انڈرٹیکنگ میں ایک لاکھ سے کم روپیہ انویسٹ ہوگا۔ اس پر یہ قانون لگو نہیں ہوگا۔ میں سمجھتا ہوں کہ جب فیکٹری کی تعریف کرتے وقت ہم پہلے ہی کہہ چکے ہیں کہ 50 آدمی سے اگر کم آدمی کام کرتے ہوں اور وہ پاور والی فیکٹری ہو تو وہ فیکٹری نہیں کہلائے گی۔ تو ایسی صورت میں مجھے نہیں معلوم ہوتا کہ جہاں 50 آدمی کام کرتے ہوں تو وہاں یہ کیسے ممکن ہو سکتا ہے کہ اس کارخانہ میں ایک لاکھ سے کم روپیہ کا انویسٹمنٹ ہو۔ اسی طرح جہاں بغیر پاور کی انڈرٹیکنگ ہوگی اور اس میں 100 آدمی کام کریں گے تو ایک لاکھ سے کم انویسٹ نہیں ہو سکتا۔ اس لئے یہ کلاز بے معنی ہوتا ہے۔ جب فیکٹری کی ہم تعریف کر چکے ہیں تو اس کلاز کے رکھنے سے کافی

دشواری سامنے پیش آئے گی - یہ دیکھنا
ہوا مشکل ہے گا کہ کتنا روپیہ انویسٹ
ہوا ہے - حساب دیکھنا پڑے گا اور اس
میں بہت دقت کا سامنا ہو گا - اس
سے ہمارا کام تھپک نہیں چلے گا -

ہم پہلے طے کر چکے ہیں کہ جہاں
۵۰ آدمی کام کرتے ہیں وہ فیکٹری
کہلائے گی - جب یہ چیز ہمارے سامنے
موجود ہے تو پھر ایک لاکھ روپیہ کی
شرط لگانے کی کہا ضرورت ہے - اس کا
نتیجہ یہ ہو گا کہ بہت سے لوگ جو
آجکل غلط طریقے پر حساب کتاب رکھتے
ہیں یا غلط طریقے پر حکومت جو
قانون بناتی ہے ان کا ناجائز استعمال
کرتے ہیں وہ کام پر تو ۵۰ آدمی لگا
دیکھ لیا ۱۰۰ آدمی لگا دیں گے مگر
اکونٹس اس طرح بنا دیں گے کہ ایک
لاکھ سے کم روپیہ انویسٹمنٹ میں ہو -
اس طرح ہم اس قانون کو ان پر لگو
نہیں کر سکیں گے - ایسی صورت میں
ہمارے لئے سہولتی سادی بات یہ نہیں
کہ جہاں ۵۰ سے کم آدمی کام کرتے ہیں
وہ فیکٹری ہی نہیں ہو گی اور یہ
قانون بھی لگو نہیں ہو گا - اس لئے
کوئی وجہ نہیں ہے کہ ایک لاکھ روپیہ
کی شرط لگائی جائے - میں سمجھتا
ہوں کہ اس کلاز کی کوئی ضرورت نہیں
ہے -

(English translation of the above
speech)

[Khawaja Inait Ullah: I was saying
that according to this clause the
Act would not be applicable to an
undertaking having an investment of
less than Rs. one lakh. It has already

been laid down, while defining a fac-
tory, that an undertaking using power
and employing less than 50 persons
shall not be considered a factory. I
fail to understand how an under-
taking employing 50 persons can be
run with an investment of less than
Rs. one lakh. In the same way an
undertaking with one hundred em-
ployees, cannot be run with an in-
vestment of less than Rs. one lakh.
So this clause is meaningless. With
the definition of factory already being
there, this clause will create difficul-
ties. It will be difficult to ascertain
the value of investment. Accounts
will have to be gone through, it will
create many difficulties and this will
not allow the work to proceed
smoothly. We have already decided
that any undertaking employing
more than 50 people would be called
a factory, then why there is any neces-
sity of having this one lakh invest-
ment restriction. The result of the
retention of this clause will be that
people, who maintain their accounts
in a wrong manner and misuse the
laws, will employ 50 or 100 employees
but would fraudulently show an in-
vestment of less than Rs. one lakh
in their accounts. We will not be
able to apply this law to them. Under
these circumstances the only simple
thing is to lay down that under-
takings employing less than 50 persons
shall not come under the definition
of a factory and this Act will not be
applicable to them. There is no rea-
son why this Rs. one lakh invest-
ment limit should be there. In my
opinion this clause is unnecessary.]

Shri Shiv Charan Lal: I oppose
this clause for the reason, as stated
by my friend Khwaja Inait Ullah,
that there is no need for it. If you
want to keep this clause then the in-
dustrialist-capitalists will try to avoid
coming under this Bill by putting
less capital, having the capital for
financing it invested in some friend's
bank, keep the stock in the bank,
keep the raw material also in the
bank and thus hoodwink the authori-
ties and try to keep themselves away
from the clutches of this Bill. There-
fore my submission is when you have
given the definition there is no need
to limit the capital to one lakh. I
therefore oppose the clause.

Shri Syamandan Sahaya: There is
no doubt that there seems to be a
great force in the contention which
has been put up by my friend Khwaja
Saheb. Actually you create two kinds
of limitations. One limitation is
where you define the factory by lay-
ing down the number employed in
the factory concerned. Here you lay

[Shri Syamnandan Sahaya]

down the limitation of the amount of capital invested. It may be that in some cases although the factory is working with a labour of hundred the capital may be Rs. 99,000. And it may be that in another place the capital may be Rs. 2,50,000 but the actual labour employed may be less than hundred. So my submission is that if you put both these limitations, that is the limitation with regard to the amount invested in the factory as well as the number of workers employed, then you will come across tremendous difficulties when you are enforcing this Act. There may be a factory which employs less than fifty—it may be forty-nine—if it is worked on power.....

Mr. Deputy-Speaker: So the hon. Member's suggestion is that alternatively it should be either the value or the number?

Shri Syamnandan Sahaya: You may either omit it or say 'alternatively'. If you have both you may be faced with difficulties. There may be a factory working on power, having less than fifty persons employed, but the capital may be Rs. 2,50,000. There may be another factory employing more than hundred persons, but the capital may be only Rs. 99,000 or Rs. 50,000. When Government enforce this Act they will come across this difficulty. I therefore say you must retain one of these clauses. Either go by the number employed in the factory or by the amount of capital involved. The number employed in the factory would be a better thing in my opinion because the Factories Act itself is based on numbers employed.

With regard to this one lakh capital clause my own view is, as you have suggested, that it may be put alternatively if Government agrees. But the difficulty envisaged is a real one and deserves the attention of Government.

Shri Venkataraman: The object with which the two restrictions have been provided in this Bill is to see that in the scheduled industries some of those which come under the definition of 'undertaking' do not escape control. The factory by itself is not controlled under this Bill. First, the industry has to be in the schedule as one of the scheduled industries. Secondly, that scheduled industry must have an undertaking consisting of one or more factories; and that factory must employ fifty persons if it is a power factory, and hundred persons if it is a non-power factory.

If any person wants to evade the provisions of this law he can split up his undertaking into several factories each one of which may employ less number of persons and say that they do not come under the definition of 'factory' and therefore should be excluded from the operation of this Bill. If you put alternatively that either the capital should be one lakh or the number of persons employed should be fifty or more, then there will be a loophole provided in the law itself for escaping by one or the other of the ways. The best way which the Select Committee thought of bringing under the operation of this Bill all undertakings under the scheduled industries is to say that the capital of that undertaking is sufficiently low as to bring it within the provisions of this Bill and also see that there is no evasion of the particular law.

As far as I am concerned I feel that the figure of one lakh is too much. But we all agreed to that figure because we wanted to arrive at a compromise with regard to the undertakings that are to be controlled. To say that the control should be exercised only in respect of factories or undertakings which have a capital of five lakhs would be to ignore a very large number of factories which come under that definition and thereby to practically nullify the Bill in its operation. I very strongly oppose the suggestions made.

Shri Mahtab: These are two separate clauses—clause 3 and clause 4. Clause 3 has relation to clause 10 wherein it is provided that the owner of every existing industrial undertaking shall within a period of six months from the commencement of this Act, register the undertaking in the prescribed manner. According to clause 3 the same definition has been given, i.e., an industrial undertaking where a limited number of workers are working will not be required to be registered. Here clause 4 says that whatever may be the number of workers, if the total investment does not exceed Rs. 1 lakh, it will not come under the regulations here. It may so happen that in a factory where 500 workers are working the capital invested is Rs. 50,000 or Rs. 90,000 and in that case also it will not come under this. In that case it will be presumed that it is some rural industry where no machinery has been used. If real machinery is used, electric power is used, then a less number of workers employed but more capital is invested. There is some relation in regard to the

size of the factory. It is not only a question of the number of workers, but also the money invested. It may happen that very few people may be employed, but it may be a great productive industry if the most up-to-date machinery is used. In that case the capital invested will be much high. In order to meet all these we have struck on a compromise and this would serve all the purposes. The smaller units will be exempted and the sizable industries will come under the regulation.

خواجہ عنایت اللہ - اس کلاز کے
تو یہ معلیٰ ہونگے کہ اگر کسی انڈسٹری
میں وندہ پارہ ۱۰۰ آدھی بھی کام کرتے
ہیں اور اس کا انویسٹمنٹ ایک لاکھ
نہیں ہے تو اس پر یہ قانون نہیں لایا
ہو گا -

[**Khwaja Inait Ullah:** This clause means that though in some industry even working with power, the number of employees is one hundred but the amount invested is less than Rs. one lakh, the Act shall not apply to it.]

Mr. Deputy-Speaker: The hon. Member says in practice it would not exceed. More than 50 per cent. of the employers' capital would naturally go over Rs. 1 lakh. That is what he means. If there are marginal cases, probably the hon. Minister does not worry himself. I take it that the amendments are not pressed.

The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5.—(Central Advisory Council)

Dr. Deshmukh: In amendment No. 52 I suggest that in page 2, line 18, for "thirty" substitute "ten". I find the words "Central Advisory Council" has not been altered to "Central Industries Board or Council" as was suggested by some Members of this House. So the functions will remain advisory and the functions are defined in clause 5, sub-clause (4). The obligatory functions assigned to the Advisory Council are only two in number, that is, they have to be shown the rules that the Central Government propose to make before 375 PSD.

they are finalized and secondly any action that the Government proposes under clauses 16 and 17(1) are to be placed before the Advisory Council. So far as the rest of the matters are concerned, it is the choice of the Central Government to consult the Advisory Council or not. If it is not intended that the Advisory Council should function beyond the two purposes mentioned in sub-clause (4) of clause 5, then it is another matter, but I envisage that it is not the intention of the Central Government not to consult the Advisory Council. That being so, continuous consultation or regular consultation of a body of people consisting of thirty Members would be an arduous task and very expensive. I do not know if a body of thirty can give correct advice to any Government. Under these circumstances, I think the number of Members ought to be reduced and should be a sizable one. Otherwise many people whose opinion is not worth having would probably find a place. The whole procedure will be cumbersome and the Government would not get that guidance which it expects from such a body. So I would like to press that the body should not be unwieldy and it should be reduced to ten persons.

Khwaja Inait Ullah: I have an amendment in my name. No. 53. i.e. in page 2, lines, 19 and 20 omit "appearing to it to be persons".

Mr. Deputy-Speaker: Otherwise it will lead to complications. Who is to decide whether a man has got a qualification or not? There will be a suit on that.

Khwaja Inait Ullah: I wish to omit the words "appearing to it to be persons".

Mr. Deputy-Speaker: It is likely that incompetent persons may come in and there may be a difference of opinion that better persons have not been appointed and there will be litigation.

Khwaja Inait Ullah: The clause reads:

"The Advisory Council shall consist of a Chairman and such other members, not exceeding thirty in number, all of whom shall be appointed by the Central Government from among persons appearing to it to be persons. . .

[Khwaja Inait Ullah]

I say it should be: "from among persons who are capable of representing the interests." In the next clause, No. 6 while appointing the Development Council the same Bill says that the Council shall consist of members of the following categories, i.e. you are appointing the members who shall consist of the following categories. But then why put in "appearing to it to be persons"? Why not say: "They shall be members who are capable of representing the interests."

Dr. Deshmukh: There would be no harm in dropping the words.

Mr. Deputy-Speaker: Why should a difference be made between one and the other?

Khwaja Inait Ullah: Any Government officer may say, it appears to be representing labour, it appears to be representing the owners and it is possible that they may not be. They should really be the representatives of labour, representatives of the owners and the representatives of the manufacturers and consumers. The words 'appearing to it to be persons' are useless words. I think they should be omitted.

✓ **Shri Syamnandan Sahaya:** There is a great deal in this amendment and it appears to be very sound. I would invite the hon. Minister's attention to this. No harm would be done by omitting these words. In fact the whole purpose of this clause is to introduce the representatives of persons whose interests are concerned in the particular industry and therefore it lays down owners, persons employed and the consumers. Instead of saying 'who are capable of representing the interests of owners' it says 'which appear to it to be persons representing the interests of the owners'. If this is a conscious insertion then it appears that there is something else which the Government have in view or which is behind their mind than what appears in the Bill. Otherwise it should be 'persons who are capable of representing the owners', persons who are capable of representing labour and persons who are capable of representing the consumers. Why should they appear to be and not actually be representing those interests?

Khwaja Inait Ullah: Every body can be 'appears to be'.

Shri Mahtab: This expression has been copied from the British Act.

Mr. Deputy-Speaker: Why is there not uniformity?

Shri Mahtab: In other words it may have been those who in the opinion of Government are capable of representing a certain interest. Unless we put in that, then whose opinion will be final and one person may be considered as representing a certain interest and the other not?

Mr. Deputy-Speaker: Whoever appoints, his opinion will prevail. The point that hon. Members are trying to make out is this. Some persons have to be appointed or elected under clause 6. Some persons have to be nominated under clause 5. In clause 6 it is not stated, 'who in their opinion are capable of representing' or 'are considered to be', etc. Such qualifications are not there. Why should such things be stated in clause 5? Either have it in both the places or omit in both the places.

The Deputy Minister of Commerce and Industry (Shri Karmarkar): In addition to what the hon. Minister has stated, our intention is quite clear in both the cases. The wording is in the British Act and we have adopted that. We are quite amenable to change the wording. It may be 'who in the opinion of the Government' in both the places. That is the intention of the Government and that could be the only possible interpretation.

Mr. Deputy-Speaker: The hon. Minister will also consider this. It is not merely by nomination as in clause 5. Sub-clause (2) of clause 6 runs as follows:

"The number and the term of office of and the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among Members of a Development Council shall be such as may be prescribed."

What is the method of filling up? Originally, they may be appointed. How is casual vacancy filled up? Clause 6 (1) says :

"The Central Government may, by notified order, establish for any scheduled industry or group of scheduled industries, a body of persons to be called a Development Council which shall consist of members of the following categories, that is to say, in the case of every Development Council—
(a) persons capable of representing the interests of . . ."

Therefore, the appointment is wholly by the Central Government.

Shri Karmarkar: Yes.

Mr. Deputy-Speaker: Filling up of casual vacancies is also in the manner prescribed. Therefore, the same wording may be in both the places.

Shri Karmarkar: The wording "who in the opinion of Government" may be inserted in both the places.

Khwaja Inait Ullah: I do not object to the Government appointing. But, we do not want these vague words: "appearing to it to be persons who are capable of". What is meant by "appearing to be"? That is not the wording in a law for the whole of India. It must be clear. If the Government wants to appoint, let it be said, who in the opinion of Government are.....etc.

Shri Venkataraman: This wording 'appearing to be' was discussed in the Select Committee. The British Act, was brought and it was looked into. The reason why this wording, "appearing to it to be persons who are capable of" though it is very clumsy, is this. Where it is objectively stated "persons representing industry, labour, consumers..." it is a justiciable matter and can be taken to a court.

Mr. Deputy-Speaker: I do not know all that. If power of appointment is given to X, it is left to his discretion. Who is to decide the matter. I do not think it is justiciable though it may have been thought to be so.

Shri Venkataraman: Let me make the position clear. Suppose Government is given power to appoint a person representing labour in the Industries Council. This council is a general council; it is not a case of a particular industry, steel industry or cotton textile industry or something of the kind. I may represent plantation labour and I may still be considered by the Government to be capable of representing the interests of labour. If you say 'representing labour', the question would arise whether he represents that particular labour in the particular Industrial council. The question whether he represents labour ought not to be the subject matter of any dispute in any court.

Mr. Deputy-Speaker: Why is it not put in in clause 6 also?

Shri Venkataraman: In clause 6, the wording should be, 'who in the opinion of the Government are capable of.....'. There, the reason is this. So far as Development Councils in clause 6 are concerned, it is intended that persons representing that particular labour or particular industry would have to be put in.

Mr. Deputy-Speaker: Government may appoint; but who is to decide. Even among them, there may be some people who are absolutely ignoramuses.

Shri Syamnandan Sahaya: Not there may be; there are.

Mr. Deputy-Speaker: They should be capable of representing that particular industry in the Industrial Council. I think the hon. Minister is agreeable to have the same wording in both the places.

Shri Karmarkar: Yes.

Mr. Deputy-Speaker: So far as clumsiness is concerned, we will follow the language in the British Act with all its clumsiness.

Shri A. C. Guha (West Bengal): Reference has been made to the British Act. There is no clumsiness in that Act. As far as I have been able to see, the language in the British Act is this...

Mr. Deputy-Speaker: The language of the British Act, whether it is clumsy or not, will be incorporated in clause 6 also.

Khwaja Inait Ullah: We are objecting to this clumsy language in clause 5; why should it be introduced in clause 6 also?

Mr. Deputy-Speaker: What appears to be clumsy to the hon. Member does not appear to be clumsy to the other hon. Members.

Shri A. C. Guha: The language in the British Act is, "persons capable of representing those carrying on business in the industry". There is no wording like "appearing to be persons who are capable of..."

Shri Karmarkar: Since we have agreed on what we mean thereby, both the Government and the House, I think we should adopt the wording "who in the opinion of Government" in both the places. Let us not worry about what the language of the British Act is.

Dr. Deshmukh: I beg to differ from the hon. Minister. When the appointing authority is the Central Government, any appointment is bound to be a proper appointment in the opinion of the Central Government. There is no point in adding these words and making it equally cumbersome as it exists today. As a matter of fact, the words "appearing to it to be persons who are" may be omitted. Then, it will read absolutely similar to what we find in clause 6. There is no necessity for adding these words, I submit with a great deal of emphasis. Every time an appointment is made, it means, they are capable in the opinion of the Government. It is no use stressing the point and making specific provision about the opinion of the Central Government that a particular person is fit and proper. I therefore submit that these words "appearing to it to be persons who are" may be omitted, and a provision similar to the one which exists in clause 6 may be restored. That would be quite correct and there would be no difficulty of any kind.

बौधरी रमबीर सिंह : उपाध्यक्ष जी,
मुझे बलाश ५बी के बारे में कुछ कहना है।

[Ch. Ranbir Singh (Punjab): Sir, I want to say something with regard to clause 5(b)].

श्री:श्यामनन्दन सहाय : दो अमेंडमेंट्स
हम को भी मूव करना बाकी है।

[Shri Syamnandan Sahaya: I too have to move two amendments.]

Mr. Deputy-Speaker: Let us finish these amendments first. I shall come to the hon. Member later on. I think the wording, "in the opinion of Government" may be accepted.

Shri Mahtab: But, our fear is that suppose we limit it that way and say "persons who are capable of"; somebody may question that, and say that this Central Advisory Council is not a competent body. Because, we are bound to consult them.

Dr. Deshmukh: There would be no unreasonable questioning. It would be reasonable and legitimate questioning.

Shri Mahtab: I am told that in the Banking Enquiry case, although the wording was that independent per-

sons should be appointed, the definition of the word 'independent' was also questioned. We ought to make the point clear and should not leave scope for future litigation.

The Minister of Finance (Shri C. D. Deshmukh). I might add with reference to what Dr. Deshmukh said that it is not likely to be unreasonable, when it is a question of taking disciplinary action against an industry, they might think of all kinds of possible obstacles that could be put. In the Banking Tribunal, one Member was supposed to be non-independent because he had a son who had a job in a bank. One would say, *prima facie* that this is unreasonable. Then, they would go on from son to nephew and one never knows where this would stop.

Dr. Deshmukh: If we want to imagine what is likely to be regarded as unreasonable, there will be no limit and we will have to.....

Mr. Deputy-Speaker: The hon. Member is an eminent lawyer and he need not carry the point further.

Shri Syamnandan Sahaya: I have two amendments to this clause, Sir,

Mr. Deputy-Speaker: I am not disposing of the whole clause. I am coming to them later. Let me dispose of this amendment first. The amendment is, for the words "appearing to it to be persons who are" the words "who are in the opinion of Government" be substituted.

Amendment made:

In page 2, lines 19 and 20 for "appearing to it to be persons who are" substitute "who are in their opinion".

—[Shri Karmarkar]

Khawaja Inait Ullah: "Its" or "their"?

Mr. Deputy-Speaker: Government is both singular and plural.

Shri Syamnandan Sahaya: I have two amendments—Nos. 20 and 54 to clause 5. In my amendment No. 20 I seek the omission of the words "other than the first rules to be made under this Act" in lines 33 and 34, i.e., from sub-clause (4)(a). This relates to the functions of the Central Advisory Council and it is laid down in clause 5 sub-clause (4) that the Central Government shall consult the Advisory Council in regard to the making of any rules, other than the first rules to be made under this Act. I submit, Sir, that these words—

"other than the first rules to be made under this Act" should be omitted. Perhaps the difficulty, which the Government had in view when putting in these words was that they have got to make the rules and then appoint the Advisory Council. I submit that the process should be in the reverse order, namely, the appointment of the Advisory Council should not be made dependent upon the framing of the rules, but the Advisory Council should be appointed forthwith, and this Council should be consulted with reference to the framing of the first rules to be made under this Act. I say this because, it is not laid down how long the first rules will be in force. If the first rules are made and they do not admit of a change for a long time, then how are the members of Council to be consulted about these rules? And therefore I say the rules should be prepared after the appointment of the Council and in consultation with the Advisory Council. The preparation of the rules should not precede the formation of the Advisory Council, but the Advisory Council should precede the framing of the rules. That is my view. Perhaps some people may think that I am in the wrong. But there is nothing to prevent the contingency that I mentioned, namely that the rules once framed may be there unchanged. Moreover, it is not laid down anywhere that the Advisory Council must necessarily be constituted after the framing of the rules.

Shri C. D. Deshmukh: But the point is, some rules have to be made in regard to the formation or constitution of the Advisory Council itself.

Shri Mahtab: As has been stated in clause 5(3)—

"The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, members of the Advisory Council, shall be such as may be prescribed."

Shri C. D. Deshmukh: It is just the old question of which comes first, the chick or the egg.

Mr. Deputy-Speaker: It is an age-long riddle, we know. But here it is laid down that in the two cases it shall be obligatory and in the others it is optional. Rules relating to procedure etc. may be laid down in consultation with the Advisory Council.

Shri Syamnandan Sahaya: What I thought was that the words the

"making of rules other than the first rules" do not leave any option.

Mr. Deputy-Speaker: The rules for the very constitution of the Council have to be framed...

Shri Syamnandan Sahaya: Then the words "or the constitution of the Advisory Council" may be added.

Mr. Deputy-Speaker: Is the hon. Member going to categorise the rules which have to be framed in consultation with the Advisory Council?

Shri Syamnandan Sahaya: It is admitted that this is not an ordinary authority. The apprehensions of those concerned ought to be allayed. Suppose, as I said, the first rules are made and are not changed; how will the Advisory Council be consulted at all with regard to these rules? So if you say that the rules with regard to the constitution of the Council may be framed, then the position would be clear, not otherwise.

Shri Mahtab: To remove all misapprehensions I suggest that the following amendment may be made in clause 5, sub-clause (4) (a), though I have not given any formal notice of this amendment. The making of rules should mean the rules relating to sub-clause (3) of clause 5. So, for the word "Act" at the end of (4)(a) we may substitute the word and letter "sub-clause (3)".

Amendment made:—

In page 2, line 34, for "this Act" substitute "sub-section (3)".

—[**Shri Mahtab**]

Shri Syamnandan Sahaya: My second amendment relates to the matters in which the Central Government may consult the Advisory Council. If you refer to sub-clause (4)(b) you will find the words—

"the exercise by the Central Government of any of the powers conferred upon it under section 16 or sub-section (1) of section 17."

I submit that this consultation should not be restricted.

Mr. Deputy-Speaker: Consultation with regard to these is compulsory, with regard to the others, it is optional.

Shri Syamnandan Sahaya: What I submit is, if you specify a few matters in which consultation is compulsory, there may be others which are of :

[Shri Syamnandan Sahaya]

equal if not greater importance on which there may not be any consultation. And so I have suggested putting in "sections 9, 11, 12, 13, 15, 19, 22, 23, 25 and 26".

Shri Karmarkar: That means almost all the powers.

✓ Shri Syamnandan Sahaya: At least the more important ones.

Mr. Deputy-Speaker: This is an experimental measure and in certain matters it is laid that the Council shall be consulted and the items on which there will be optional consultation will be increased with experience.

✓ Shri Syamnandan Sahaya: These powers are the more important ones. The whole idea of the constitution of the Advisory Council is for consultation on important matters relating to the Act, and the only two points about which the consultation is compulsory are sections 16 and sub-clause (1) of section 17.

Mr. Deputy-Speaker: It is open to the Government to accept the advice of the Council or not. If they go on asking for the opinion of the Council on all and sundry points, the items on which they do not see eye to eye may increase. And so only two items are made compulsory here.

Shri C. D. Deshmukh: And about the licensing, it would be a departure from the whole scheme, for in regard to licensing we may appoint special posts to deal with the matter. Now the Advisory Council is turned by the back-door way into a Central Board.

11 A.M.

Shri Ramalingam Chettiar: How many times will the Advisory Council meet in a year?

Shri Karmarkar: As many times as necessary.

Shri Barman (West Bengal): I beg to move:

In page 2, line 26, after "persons" insert "including primary producers".

In regard to the constitution of the Advisory Council it has been provided that out of 30 persons certain classes of persons will be included such as employers, employees, consumers and also representatives of such other classes of persons who in the opinion of Government ought to be represented.

Mr. Deputy-Speaker: Why are the primary producers excluded?

Shri Karmarkar: We accept the amendment.

Mr. Deputy-Speaker: I suppose it was never intended to exclude the producers.

✓ Shri Syamnandan Sahaya: In this consultation the imposition of the cess should also be included. It is an ordinary principle of taxation. (Interruption) Your parliament will be the Advisory Council.

Pandit Thakur Das Bhargava (Punjab): The number of members of the Council being 30 it will be rather unwieldy body. Sub-committees of the Council should be allowed to be formed. Unless there is a provision it may not happen. The whole body should meet at least thrice in a year.

Mr. Deputy-Speaker: There is nothing to prevent the formation of sub-committees. They will be formed under rules.

Pandit Thakur Das Bhargava: Without provision in the Bill?

Mr. Deputy-Speaker: Ultimately the whole Council will have to act on the recommendations of the sub-committee. Any advice must be the advice of the whole body.

Ch. Ranbir Singh rose—

Mr. Deputy-Speaker: The word "producers" has been introduced and I thought and Ch. Ranbir Singh was in favour of producers.

Ch. Ranbir Singh: It is a vague term. The words "primary producers" may be understood in a different manner also.

Shri Karmarkar: The words "primary producers" will entirely cover the class of persons whom the hon. Member wants to safeguard. Primary producers are the producers of raw materials.

Mr. Deputy-Speaker: The question is:

In page 2, line 26, after "persons" insert "including primary producers".

The motion was adopted.

Shri Mahtab: With regard to the number of the personnel of the Council I may straightaway say that we are very much in favour of the principle underlying the amendment. The Central Advisory Council will not be made unwieldy. Therefore

we have put down "not exceeding 30". We do not know how many interests would like to be represented. From the categories it will be seen that there is a desire on the part of every interest to be represented on the Council. Therefore we have put the maximum limit. I can assure the House that the intention of the Government is to make it a workable body. Dr. Deshmukh suggested that it should be 10. If we do that and supposing there is pressure from certain interests and we make the number 12, there will be virtually no difference between 10 and 12. So to keep it flexible we have put it at a maximum of 30. I can assure the House that this Council will be made a compact body and not an unwieldy body consisting of many people, not particularly representing any interests as such.

As regards consultation I can say that in almost every matter the council will be consulted but to make it obligatory under the law is a different thing. We have made it obligatory under the law only in two extreme cases, but in other matters also the intention is to consult them. If it so happens that the Council does not meet or for some contingency the consultation does not take place all other work will be held up. In the case of issuing directions and other regulative orders they will be held up if no consultation takes place but we have undertaken the risk, even if the work is held up and we have made consultation obligatory. But I can tell the House that in all matters consultation will take place but it is a different thing to make it obligatory under the law. It should be left optional.

Mr. Deputy-Speaker: 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.

Clause 6.—(Development Councils)

Shri Shiv Charan Lal: I beg to move:

In page 3, line 1 and 2, omit "that is to say, in the case of every Development Council".

In page 3, line 16, after "office of" insert "appointment and dismissal of".

In page 3, line 26 and 32, omit all the words beginning with the words

"and for whose exercise by the" to the end.

The relevant part reads "a body of persons to be called a Development Council which shall consist of members of the following categories, that is to say, in the case of every Development Council". The words "that is to say, in the case of every Development Council" are not necessary. It is redundant and my amendment No. 55 suggests that these words should be removed. I have carefully considered the paragraph and it is given there as to who will be the persons who will constitute the Development Council and the entire paragraph relates to every Development Council and therefore the words are nothing but gorashahi English.

As regards my second amendment No. 57 I want the words "appointment of dismissal of" to be inserted after the words "office of" in line 16 on page 3. There is no provision in this section for the dismissal and for the appointment of the members of the Development Council. Therefore, the words "appointment of, and dismissal of", may be added here.

[**PANDIT THAKUR DAS BHARGAVA** in the chair]

The third amendment which I move is as follows:

In page 3, lines 26 to 32, omit all the words beginning with the words "and for whose exercise by the" to the end.

If this is accepted the sub-clause would read as follows:—

"A Development Council shall perform such functions of a kind specified in the Second Schedule as may be assigned to it by the Central Government."

I think this alone is sufficient. The portion which I suggest should be deleted runs as follows:—

"And for whose exercise by the Development Council it appears to the Central Government expedient to provide in order to increase the efficiency or productivity in the scheduled industry or group of scheduled industries for which the Development Council is established, to improve or develop the service that such industry or group of industries renders or could render to the community or to enable such industry or group of industries to render such service more economically."

[Shri Shiv Charan Lal]

My submission is that this portion is redundant and makes the meaning ununderstandable and therefore these words should be deleted. I suggest only the first two lines, that is—

"A development Council shall perform such functions of a kind specified in the Second Schedule as may be assigned to it by the Central Government" will be sufficient.

These are my three amendments. I hope the hon. Minister will accept them.

Ch. Ranbir Singh: I beg to move

In page 3, after line 11, insert;

"(cc) persons representing the interests of producers of raw material of the scheduled industry or group of scheduled industries."

The hon. Minister has accepted an amendment of this very nature under clause 5. This amendment is necessary because in the Second Schedule where the functions of the Development Councils are given the first thing that a Development Council will have to do is to recommend targets for production. Now in fixing the targets they need information regarding the position of raw materials. If, in the absence of facts and figures regarding the position of raw materials, any targets are fixed such targets are bound to fail. There are Commodity Committees under the Agricultural Research Council; constituted mainly for the purpose of research, having other functions also. About 40 per cent. of the representatives on those Committees are those who have nothing to do with agriculture but they are there simply because the Government thinks that their interest is also involved. If the interests of producers of raw materials are not represented on the Development Councils there is every apprehension that their interests will not be considered. Really speaking, at present raw materials are headache for the biggest industries of this country. For example, in the case of the cotton textile industry, the biggest industry in the country, its worst headache is the supply of raw material that is cotton. If the representatives of producers of cotton are not given any place in the Development Council, I think the purpose sought to be achieved will not be served. Similarly in the case of the sugar in-

dustry where the interests of cane producers are at stake. Without a proper knowledge of the quantity of cane produced a definite target cannot be fixed. This is also true in the case of the Vanaspati industry and of vegetable oils where if the producers of oilseeds are not represented in the Development Councils it will be very difficult for the Development Councils to advise Government on the target. I therefore submit that such representation of producers of raw materials is very necessary in the case of all other industries. I hope the hon. Minister will accept my amendment.

Dr. M. M. Das: I beg to move:

In page 3, for lines 24 to 32, substitute:

"(4) A Development Council shall perform such function or functions, specified in the Second Schedule as may be assigned to it by the Central Government."

Sub-clause (4) of clause 6 describes the functions to be performed by the Development Councils. In my amendment I have taken practically the first three lines only of the sub-clause; the rest is a sheer repetition of what has been said in the Second Schedule and there is no necessity of repeating those things again here in the sub-clause. The first three lines of this sub-clause as suggested in my amendment will serve the purpose.

There is another amendment standing in my name. I beg to move:

In page 3, after line 34, insert:

"(6) The Central Government or a Development Council with the approval of the Central Government, may appoint as many officers as necessary and the terms of office of these officers, shall be such as may be prescribed."

The constitution of the Development Councils has been laid down in this clause. The clause has provided only for the qualifications etc. of members and no provision has been made about the appointment of officers. My amendment, if accepted, will serve that purpose. It provides for the appointment of officers according to rules laid down by Government.

Mr. Chairman: Amendments Nos. 3, 15, 55, 56, 57 and 58 are before the House.

Shri Karmarkar: First, to deal with amendment No. 55 moved by Shri Shiv Charan Lal, regarding the omission of the words:

"that is to say, in the case of every Development Council".

We accept that amendment but instead of merely omitting these words we would suggest the substitution of the following words in their place:

"Who in the opinion of Government are—"

and then make the consequential amendments later on.

Mr. Chairman: Does the hon. Minister accept the amendment?

Shri Karmarkar: Yes, but instead of merely deleting those words, in accordance with the understanding arrived at during an earlier case, I would suggest that after the word "categories" the following words be substituted:

"who in the opinion of Government are—",

and omit the word "persons" in the following sub-clauses (a), (b), (c) and (d). It will read:

"(1) The Central Government may, by notified order, establish for any scheduled industry or group of scheduled industries, a body of persons to be called a Development Council which shall consist of members of the following categories who in the opinion of Government are...".

With regard to amendment No. 57, we do not consider it to be necessary. We oppose it.

As regards No. 58, these words do serve a definite purpose. We consider that the enumeration is helpful because it will place before Government and everybody prominently the functions of these Councils and this has been taken out from the British Act. We can accept redundancy if it in any way makes the position clearer. I hope the hon. Member will not press his amendment.

As regards No. 56, we accept the hon. Member's suggestion that raw material producers should be represented on the Central Council. But I am sure he will not like us to complicate the matter by compelling us to make a specific mention of it. For instance, the plastics industry depends on foreign imported raw materials and if specific mention is made, we shall be compelled to give representation to foreign interests, be-

cause they are raw material producers. I think the position may be left as it is, leaving it to Government to give sufficient representation to the consumers' interests and also the producers of raw materials.

Shri Sonavane (Bombay): Why not say 'indigenous producers'?

Shri Karmarkar: That lands us into another difficulty. We are following a policy of non-discrimination. Let us not therefore bring it out in that way. I give the assurance that in accordance with the hon. Member's suggestion, wherever raw materials are grown in this country we shall try to bring in the growers of raw materials under category (d). I am sure the hon. Member will not press his amendment.

Shri T. N. Singh (Uttar Pradesh): How will the other three categories enable Government to bring in producers? They do not make any mention of producers at all.

Shri Karmarkar: We want to bring it under the fourth category. We considered the point very carefully. Originally, the word "consumer" only was there but assuming that the consumer belongs to the first three categories, we shall take precautions to see that under category (d), any person who is a grower of raw materials is given representation, that is to say, he will be given representation both as a representative of grower of raw materials as well as consumers. Otherwise, it will lead to the anomaly that I mention before, namely, that where raw materials are imported from abroad we shall be compelled to give representation to foreigners also.

Shri T. N. Singh: Where is the harm, or what is wrong, in mentioning anybody specifically? After all, you are only referring to your own producers, indigenous producers. There is no question of discrimination at all. Every country is entitled to make laws specifically referring to its own producers. If it does not refer to producers outside the country, what is wrong there? Why should we be in any way hesitant about it?

Shri Mahtab: Hon. Members are making a mistake. These Development Councils are intended to set right the industry itself. The question of price, productivity etc., only will be considered and therefore the consumer's interest has been represented. How shall we fit in the producer? Take steel, for instance. There is no producer there. Whenever hon. Members refer to producer, they have in view the agricul-

[Shri Mahtab]

tural producer. Only those industries where you have agricultural producers interested in them are sought to be covered by these amendments. There also, they will come under the category of consumers. You should take a practical view of the whole thing. The consumers of finished goods are also agricultural producers. We can bring them in in that way, but if we make a specific mention here, then if you will read the clause you will find that every Development Council must consist of that category. Now, how will that be possible? You cannot split up the clause and say "only in industries where agricultural produce is used the representatives of agricultural producers will be there; otherwise every Development Council must consist of a representative of the producers' interests." I ask the House how they will select a representative for the producer of iron ore or soda ash or some such chemical industry? It will be an impossible thing. So, better leave it at that. As the Deputy Minister has assured the House, wherever the question of agricultural products will come in, we shall see that they are brought in under (d), because in that case they will represent also the interests of consumers.

Ch. Ranbir Singh: With the permission of the hon. Minister, I would like to amend my amendment like this: add "wherever the need may be" and substitute for "producers" "agricultural producers".

Shri Mahtab: It will make the whole thing complicated. The structure of the clause will be upset. I think that with my assurance, he will be satisfied.

Shri Karmarkar: As regards amendment No. 3, it is in the same spirit as Shri Shiv Charan Lal's amendment and in view of what I have said in regard to it, I am sure the hon. Member will withdraw his amendment. Then, amendment No. 15 is covered by the rules, i.e. regarding appointment of officers, their number etc. It is not necessary.

Mr. Chairman: How does the position stand now with regard to the amendments?

Shri Shiv Charan Lal: My amendment No. 55 is accepted by the hon. Minister. It can be put to the House. As regards 57 and 58, I beg to withdraw them.

The amendments were, by leave, withdrawn.

Dr. M. M. Das: I beg to withdraw my amendments Nos. 3 and 15.

The amendments were, by leave, withdrawn.

Mr. Chairman: I shall now put No. 56 by Ch. Ranbir Singh. The question is:

In page 3, after line 11, insert:

"(cc) persons representing the interests of producers of raw material of the scheduled industry or group of scheduled industries;"

The motion was negatived.

Mr. Chairman: The question is:

In page 3, line 1, after "categories" insert "who in the opinion of the Central Government are"

The motion was adopted.

Mr. Chairman. The question is:

In page 3, lines 1 and 2, omit "that is to say, in the case of every Development Council"

The motion was adopted.

Mr. Chairman: The question is:

"That clause 6, as amended, stand part of the Bill".

Shri A. C. Guha: This is the most important clause of this Bill and I think there should be some general discussion on this clause. This provision of the Bill has been taken from the British Development of Industries Act of 1947, which provides for the establishment of Development Councils. But there is a difference between the functions of the British Development Councils and the Councils proposed to be established under this measure.

The Development Councils of U.K. are set up by the different Ministries to cover their own sphere of activities. They are the Board of Trade, the Ministry of Agriculture and Fisheries, the Ministry of Supply, the Ministry of Food, the Ministry of Works, Fuel and Power and the Admiralty. These Ministries can set up separate Development Boards for their respective spheres of activities. But under the measure we are discussing, only the Ministry of Commerce and Industry can set up these Development Councils. So far, so good; but I would very much like that at least the Agriculture Ministry should also be brought into the picture, in which

case it may cover the objections raised by my hon. friend Chaudhuri Ranbir Singh. Agriculture being our principal industry, that sector should not be left out of the scope of these Development Councils altogether.

Shri B. Das (Orissa): Please do not bring in agriculture.

Shri A. C. Guha: Unless agriculture prospers, no industry will prosper. I am sure that at least for some time to come India will be a predominantly agricultural country. So agriculture should not be left out of the scope of the activities of these Development Councils; that may be done by a separate Act.

There has been much objection to the reversal of the scheme as put forward by the first Select Committee. I think it has been a wise step on the part of the new Select Committee to have done this. This Bill was practically put in oblivion and it is only the Planning Commission that has salvaged it. The credit for enacting this measure should therefore go to a large extent to the Planning Commission.

My only apprehension in regard to the establishment of these Councils is that we have been setting up too many Boards and two many committees to exercise control over industrial concerns. The other day we passed a Bill for amending the Companies Act under which an Advisory Council would be set up to look into the working of concerns, so far as their compliance with Company Law is concerned. Here we have Advisory Councils and Development Councils. Then we have got the Tariff Board, which will shortly become a Commission. I would suggest for the consideration of the hon. Minister for Commerce and Industry, that instead of various committees and boards working at cross purposes there should be one consolidated body to coordinate the working of industrial concerns. Government have not earned so much reputation for efficiency and that is also a point to be seriously considered. By the multiplication of these boards and committees, they might be increasing their own responsibilities without increasing efficiency proportionately. I hope Government will take into consideration this aspect of the matter and instead of increasing the number of committees and boards, attempt to concentrate authority in the hands of one such autonomous organisation—not fully autonomous, because of our experience with the Damodar Valley Corporation—

bodies as recommended by Mr. Goralwa, instead of entrusting them in the hands of the Secretariat.

I think the House will agree, and the hon. Minister will also agree, that the administration which is now vested in the hands of the permanent services has not proved efficient; nor have they established any reputation for integrity. As we all know, the services were recruited by a foreign power mainly for the purpose of maintaining law and order. Overnight our country has been transformed from a police State to a welfare state. Unfortunately the permanent services have not changed their outlook—nor can they be expected to do so suddenly. This is a great danger which we are to face.

I am sure the hon. Minister will take note of these facts and see that the Development Councils work efficiently and that their administration is not transformed into so many sub-Departments of the Secretariat.

श्रीधरी रत्नबीर सिंह : सभापति महोदय, बाबजूद माननीय मंत्री महोदय के आश्वासन के मैं अपने संशोधन को वापस नहीं ले सकता।

Mr. Chairman: His amendment has already been lost.

श्रीधरी रत्नबीर सिंह : तो मैं अपने अमendment को वापस नहीं ले सका।

Mr. Chairman: I would request the hon. Member to take the decision of the House and not comment upon the decision of the House. If he has got any other new points he may comment upon them.

Ch. Ranbir Singh: I was saying by way of argument.

Mr. Chairman: Not the old one; which have been disposed of by the House, but fresh ones.

श्रीधरी रत्नबीर सिंह : मुझे यह बात मालूम है कि माननीय मंत्री महोदय अपने इलाके में बहुत पापुलर (Popular) हैं और वैसे भी बहुत पापुलर हैं। तो इस में तो हमें कोई शक नहीं कि जहाँ तक अगले हाऊस का ताल्लुक है उस में तो हमारे

[चौबरी रबीर सिंह]

माननीय मंत्री ज़रूर चेयर पर आयेंगे लेकिन यह हो सकता है कि हमारे माननीय मंत्री महोदय को कोई दूसरा महकमा दे दिया जाय और इस कुर्सी पर कोई दूसरे सज्जन आ जायें और उन का वैसा ख्याल न रहे जैसा कि आश्वासन दिया गया है और वह कह दें कि कंज्यूमर्स (consumers) में प्रोड्यूसर्स (producers) शामिल नहीं हैं। तो जैसा कि मैं ने आप से पहले भी कहा मैं अपने अमेंडमेंट पर तो यदा कोई बात नहीं कहना चाहता लेकिन जिस वक्त उन्होंने आश्वासन दिया था उस वक्त मैं एक बात कहना चाहता था और अब भी कहना चाहता हूँ कि यह बदकिस्मती है कि मेरा संशोधन उन्होंने मंजूर नहीं किया। जहां तक मेरा अपना ख्याल है उन्होंने दफा ५ के अन्दर संशोधन मंजूर फरमाया है, बर्मन साहब का, पर उस की वहां आवश्यकता नहीं थी। वहां पर तो वह एक आश्वासन दे सकते थे। यहां आश्वासन से काम नहीं चल सकता था इस लिये बावजूद उन के आश्वासन के मुझे इस बात पर मजबूर होना पड़ा कि मैं अपने अमेंडमेंट को प्रेस करूँ। लेकिन जैसा कि अभी आप ने फरमाया और मैं भी मानता हूँ कि मैं उसे चेर्जेज नहीं कर सकता और न करना चाहता हूँ। लेकिन अब मैं चाहता हूँ कि वह अपने आश्वासन के बारे में कोई ऐसा कवम उठायें कि अगर उन की कुर्सी बदले भी और उन का महकमा बदले भी तो हमारे इंटेरेस्ट्स (interests) का ख्याल रखा जाये।

श्री श्यामनंदन साहाय : वह डिप्टी साहब ख्याल रखेंगे।

चौबरी रबीर सिंह : डिप्टी साहब भी बदल सकते हैं।

(English translation of the above speech)

Ch. Ranbir Singh: Sir, I cannot withdraw my amendment inspite of the assurance given by the hon. Minister.

Mr. Chairman: His amendment has already been lost.

Ch. Ranbir Singh: Then I could not withdraw my amendment.

Mr. Chairman: I would request the hon. Member to take the decision of the House and not comment upon the decision of the House. If he has got any other new points he may comment upon them.

Ch. Ranbir Singh: I was saying by way of argument.

Mr. Chairman: Not the old ones which have been disposed of by the House, but fresh ones.

Ch. Ranbir Singh: I am aware of the fact that the hon. Minister is very popular in his constituency and even otherwise he is very popular. I have no doubt that the hon. Minister will occupy a seat on the Treasury Benches in the next Parliament also, but there is a possibility that he is allotted another portfolio and the gentleman who gets his present portfolio may not agree with the assurance given and may hold that 'producers' are not included in the term 'consumers'. As I have already said I do not propose to dilate on my amendment, but when the hon. Minister gave that assurance I wanted to express my regret, and even now I wish to do so as he has not accepted my amendment. As far as I think he has accepted the amendment of clause 5 moved by Shri Barman, but it was not necessary. On that point he could give an assurance. In my case merely an assurance would not do and that is why in spite of his assurance I have been obliged to press my amendment. As you pointed out just now—and I agree with you—that I cannot challenge it nor do I wish to do so. But I want that he should take such steps with regard to his assurance that even if he does not continue in his present portfolio and gets another portfolio, our interests are looked after.

✓ **Shri Shyamandan Sahaya:** The hon. Deputy Minister will see to that.

Ch. Ranbir Singh: He can also change.

Shri T. N. Singh: As a Member of the Select Committee I have not much

desire to say anything during the progress of this Bill. But I would like to say a few words since certain points have been raised by my friend Mr. Guha which I think go contrary to the whole object of the Bill. Let us not forget that this Bill is being introduced in the context of the Planning Commission and the Report that they have submitted—that the Government desire, and it is the desire of the people and the nation, that somehow or other we should straightway try to proceed with the development of industries on a planned basis. That being so, to plead let us salvage as much of private interest as possible and try to give autonomy to all the.....

Shri A. C. Guba: I do not think I have said anything in favour of private industries or private enterprise.

Shri T. N. Singh: I will come to that. Then my point will be clear. When our friend just pleaded the cause of making these Development Councils so very autonomous that Government may not interfere with them, there I said it is going contrary to the whole spirit. Let us be firm in our conviction that the development of industries is possible only through national planned economy and the direction and control must be from the National Government, whosoever happens to be in power. Once we made that clear then alone can we make this Bill a success. Otherwise I may tell the House that all our efforts would just have been wasted. Probably, limitations there are, because Development Councils in all branches of industries, in all spheres and in all fields may not be possible with the resources, knowledge, experience, man-power and other things that this country possesses. Therefore, probably the Government will have to begin the whole thing in a limited way. But at the same time, because we cannot do so many things in one attempt just at present, we should never give any loophole giving the private interest a plea or a pretext to get control over these Councils. That is one great danger against which we must guard the whole scheme. With these few words I resume my seat.

Shri B. Das: During the general discussion of the Bill I had stated that I am not enamoured of the Development Councils. Since then I have heard the speech of the Planning Minister, and I stood more confused. We heard of the economy, of the duel of the Planning Minister with his labour colleagues here. Both the speakers were absent when my hon.

friend Mr. Gulzarilal Nanda spoke against nationalisation which is the set principle of the labour spokesmen on the floor of this House. I am glad that that principle was contradicted emphatically by my hon. friend Mr. Gulzarilal Nanda.

We are not discussing here the Planning Commission's Report—that we will do probably on Monday. And what is that Report? It is only provisional suggestions for consideration in this House and outside. I stood a little alarmed when my friend Mr. T. N. Singh began to say "Here is the Planning Commission Report; we must plan". But the Members of the Planning Commission have themselves not planned. They want our criticism so that they may plan a new and bring out proper recommendations. (*Interruption*). I am not supporting anything, until I see the whole picture. The whole picture has yet to come.

Shri Karmarkar: May we know whether the hon. Member is supporting the Development Councils or opposing their formation so that we may understand and appreciate the point of view?

An Hon. Member: He is doing neither.

Shri B. Das: I like you to understand what we want to do by the Development Councils. Development Councils, as I said yesterday, would prove a failure. As we know, everything has failed in which we have imitated U. K. My own view is that for four years you have dilly-dallied. I am not saying against you or my Oriya friend Mr. Mahtab, but I am saying this that the Government dilly-dallied and shilly-shallied all these four years and our inspiration spring is at its lowest ebb. What is the good of your telling us at present that India will be industrialised by these Development Councils where my friends Mr. Venkataraman and Mr. Harihar Nath Shastri will be represented in adequate number and will interpret everything through one test namely whether industries are nationalised, where representatives of the various industrial interests—be it my friend Mr. Ramalingam Chettiar or the Ahmedabad exploiters or the Bombay exploiters—will all be there. They will talk sweetly and controvert every point. I do not mean you, Mr. Chettiar.

✓ **Shri Syamnandan Sahaya:** Present company excepted.

Shri B. Das: Not present company. I have great respect for him.

Mr. Chairman. May I request the hon. Member to speak on clause 6?

Shri B. Das: I am saying how the Development Councils will not be justified and how they will not do any work towards industrial development. My hon. friend Mr. Hare Kru-shna Mahtab was responsible for the State Corporation of Sindri. Unfortunately it died in its infancy. It has gone to my hon. friend Mr. Gadgil who is still thinking whether the Under Secretary or Assistant Secretary of his Ministry of Works, Production and Supply will control the management of the thirty-two crores worth of Sindri concern or whether it will be a State Corporation. My friend Mr. Arun Chandra Guha drew attention to this point and I very much liked his speech. Will it be controlled by an Under Secretary or Assistant Secretary of a Ministry? Development Councils are nothing but mere advisory bodies like the Agricultural Research Council which conducts annual *jantas* in Delhi, where a hundred or fifty people come and discuss matters. Then the Chairman, whoever he will be, adjourns the meeting. Then the Under Secretary or Assistant Secretary concerned will write a note and submit it to the hon. Minister. So, who is the brain-trust or the man of drive? I do not like, after hearing my hon. friend Shri Gulzarilal Nanda, the confusion of the issues when we consider the attitude of the Planning Commission to the development of industries with the original attitude of the Resolution that was moved by Dr. Syama Prasad Mookerjee and which, however much we differed at that time because Dr. Mookerjee did not do much to the development of cottage industries, we welcome as we wanted it to benefit us. Today one is not in a happy mood and in the same spirit of 1948 and we are not clear whether things are moving in the direction of India's prosperity by industrial development. Today there is no money. The Rs.500 Crores which Mr. Liaquat Ali Khan had offered for industrial development had melted away. There is no money and anything has to be done by mutual cooperation: Industries want, of course, co-operation of the Government, but if the Government want to play the role of dictators what can be done? Has the hon. Minister's machinery—I mean an Assistant Secretary or an Under Secretary of his Ministry—told the hon. Minister what will be the machinery to control the functions of the Development Council? Will one Assistant Secretary or an

Under Secretary or a man chosen from the industrial community be put as the head of that organization? You have abolished the main thing which we wanted, namely the Industries Board. I would like to know how will this Council function. Unless it is proved to me by the Ministry of Commerce and Industry or the Ministry of W.P.S. that Government has got some definite plans whereby they propose to develop the industries, I am not going to be satisfied with this Bill. I repeat my protest and if I were to come back to this House or those who will come back should raise their voice of protest to the then Minister of Commerce and Industry as to what happened to the Utopian ideas which have not brought the right spirit of industrial development in the country.

Shri Syamnandan Sahaya: There is one thing to which I wanted to draw the attention of the hon. Minister in this clause; I am encouraged to do so because of the opportunity given to us by Mr. Guha for a general discussion. Sub-clause (4) of clause 6 says:

“A Development Council shall perform such functions of a kind specified in the Second Schedule as may be assigned to it etc.”

I should like to know if it is ‘of the kind’ or ‘of a kind’.

Mr. Chairman: In sub-clause (4) of clause 6 for the words ‘of a kind’ the hon. Member wants the words ‘of the kind’ may be used.

Shri Venkataraman: If it is pure question of English, it is ‘of a kind’ and not ‘of the kind’.

Shri Mahtab: It has been taken from the British Act, and I think they know more of the words used therein.

ذراچہ علمیت اللہ - سہا پتی جی -
اس کالز کو پاس کرنے کے پہلے مجھے
تعجب معام ہوتا ہے کہ ڈولہمنٹ
کونسل ہم بنا رہے ہیں اس میں
ہندوستان کی اس جدت کا جس پر
کہ ہماری ساری اندسٹری کا دارومدار
ہے اس کا کہیں نام و نشان تک نہیں
ہے - جیسے کہ میں نے سنا آئیہیل
منسٹر نے یہ ضرور کہا کہ ہم

اس کا خیال رکھیں گے - لیکن جب ہم قانون بنا رہے ہیں تو ہمیں اس کو ایکٹ کے اندر شامل کرنا چاہیے اور محض خیال رکھنے کی بات کہنے سے کہا فائدہ ہو سکتا ہے -

[Khawaja Inait Ullah: Sir I would like to say something before this clause is passed. I am surprised that in the Development Council that is being constituted, there is not a single representative of the class on which the whole of this industry depends. The hon. Minister said that he would keep them in mind, but when we are enacting a law, we should incorporate it into it. Merely saying that this matter would be kept in mind does not take us anywhere.]

Mr. Chairman: I do not want to interrupt the speech of the hon. Member. When the amendment was moved, he was quite silent. That was the proper time to make a speech in support of the amendment and this is not the proper time to rub in something which was lost in the House. I request him to speak on other aspects of the case.

Khawaja Inait Ullah: I could not catch your eye. I did try to do so.

Mr. Chairman: The thing was put to the House in a proper manner and a specific matter was put. That was the proper time for the hon. Member to stand up and speak. This is not the time to do so. If he wants to say any other thing or any other matter, then he is competent to do so.

Khawaja Inait Ullah: I have the right to oppose the whole clause. I am opposing the clause.

Mr. Chairman: I am not suggesting that he may not oppose the whole clause. I am only saying that so far as the particular amendment is concerned, that was lost.

Khawaja Inait Ullah: I am not talking of any particular amendment. I wish to only remind the hon. Minister.....

Pandit Kunzru (Uttar Pradesh): May I place a consideration before you? The House may have opposed a particular amendment but when an hon. Member wishes to oppose the clause in which that amendment has not been made, he can surely express his dissent on that clause. That is not a

duplication of the proceedings. It is the right of every Member to dissent, from the judgment or decision of the majority in this House.

Mr. Chairman: That is perfectly right.

Pandit Kunzru: It is precisely because the majority has opposed such and such an amendment that he disapproves of the whole clause.

Mr. Chairman: So far as the discussion of the whole clause is concerned, it is quite right that even if an amendment is lost it is the right of an hon. Member to make a speech to oppose that clause. The particular point is only taken at the time when the amendment is being discussed. I am not arguing that he should not oppose generally but once the specific question was on, he should have spoken then in support of it but that occasion is lost now.

خواجہ عذیت اللہ - تو میں عرض کر رہا تھا کہ اس کلاز میں کونسل (Development Council) بنانے کے بارے میں مجھے کوئی عذر نہیں تھا اگر کونسل ویسی بلاتیں جس سے کہ ہم سمجھتے کہ ان کے اندر ہمارے پورے ہندوستان کی جلتا کے ریپریزیٹایٹو (representative) ہیں - اب چونکہ اس کلاز میں املڈمنٹس کر چکی ہیں اور جھسا کہ یہ کلاز پاس ہونے جا رہا ہے اس سے ہمیں صاف ظاہر ہو رہا ہے کہ اس کونسل (Development Council) کے بنانے میں ان لوگوں کو چھوڑ دیا گیا ہے جن کی کہ ہندوستان کی انڈسٹری میں مہجارتی (majority) ہے - جن کی محدثوں پر - جن کے بل پر اور جن کے کلدھوں پر ہندوستان کی پوری انڈسٹری کا دار و مدار ہے - اس لئے میں چاہتا

[خوابہ علیہت الہ]

ہوں کہ اس پرورے کلاز کو ہی نکال دیا جائے جس سے کہ نہ یہ بانس ہی رہے اور نہ بانسری ہی بچے۔ کیونکہ آپ کسی بھی انڈسٹری کو لے لیجئے۔ کھڑے کی انڈسٹری کو لے لیجئے۔ چینی کی انڈسٹری کو لے لیجئے۔ گڑ کی انڈسٹری کو لے لیجئے۔ لوہے کی انڈسٹری کو لے لیجئے۔ تو آپ کے لئے ضروری ہوتا ہے کہ سب سے پہلے آپ جو پروڈیوسرز (producers) ہیں اور جن کی ہلدوسان کے اندر مہجارتی ہے اور جن کی کہ آپ بھلائی کرنا چاہتے ہیں۔ جن کی بھلائی ہمارے مد نظر ہے۔ ان کو ہی آپ ان کونسل (Council) میں نہیں لیتے ہیں۔ تو ہم نہیں سمجھتے کہ اس کے کیا معنی ہونگے۔ یہ تو اس طرح سے ہوا کہ کہہوں پھدا ہرنے والوں کی بھلائی سوچنے کے اٹھے مل مالکوں اور لہبدرس کو اکتھا کر کے کہا کہ سوچئے کہ کس طرح سے کام ہو۔ کس طرح سے کہہوں اچھا پھدا ہو سکتا ہے۔

श्री हरिहर नाथ शास्त्री : ६ (बी)

बाप देखिये ।

خوابہ علیہت الہ - میں تو اس کلاز کے ساتھ ہوں - میں تو خود چاہتا ہوں کہ یہ دولتہملت کونسل بنیں اور یہ بل پاس ہو جائے - لیکن چونکہ میں انگریست (main interest) کو مہجارتی کو ، دہریزنگ کرنے والے ہی

موجود نہیں رہے اس لئے مجھے اس پرورے کلاز کو ایوز (oppose) کرنا پڑا۔ تو اب بھی موقع ہے - میرا خیال ہے کہ اب بھی موقع نہیں گیا اور ہمارے آئیڈیل منسٹر اور ہاؤس اس کو مناسب سمجھے تو پریس (press) کو سکتے ہیں کہ اس مہجارتی کو چھوڑا نہ جائے۔

(English translation of the above speech)

Khwaja Inait Ullah: I was submitting that I have no objection to the formation of the Development Council as provided in this clause, if it contains representatives of the people of India. As all the amendments to this clause have fallen through and it is going to be passed, it is obvious that those persons have been left out of the Development Council on whose labours our Industry is based and who constitute a majority of the participants in this industry. So I request that this clause be dropped altogether, so that it may not give rise to any mischief whatsoever. Any Development Council to whatever Industry it may pertain, be it textile, sugar, gur or steel, must include the representatives of the producers, those who form a majority and whose good is always before us. If they are not included, the Council does not have any meaning. It will be like formulating schemes for the good of the wheat growers by consulting mill-owners and labourers.

Shri Harihar Nath Shastri: Kindly look up clause 6 (d).

Khwaja Inait Ullah: I am in favour of this clause. I want that Development Councils should be formed and that this Bill passed. But because the representatives of the majority, the main interest, have been left out I have nothing left but to oppose the whole of this clause. There is still time; the hon. Minister and the House can, if they think fit, press that the representatives of the majority may not be left out.

Shri Mahtab: It seems to me from the vehemence of the speech which was just now delivered that the whole purpose of the Development Council has not been appreciated properly. Schedule 2 will show the consensus of the Development Council and I would request hon. Members to

go through the Schedule and if they do so, they will find that the representatives of the agricultural produce have no part to play in that particular thing. The Development Council is not intended to be a sort of Parliament where all the interests, and all classes and the majority and minority will be represented. The Development Councils are intended to be set up for a definite purpose and that purpose is to increase the productivity of the industries. Here the Schedule will show the work which the Development Council is expected to perform. Take the case of the sugar industry. The Development Council will look into the working and the productivity of the industry, whether the production is not up to the mark of installed capacity and what sort of improvements ought to be made to the machinery which will produce more sugar and how the price of sugar can be reduced. All these factors will be taken into account by the Development Council. I do not understand how the agricultural producer can have any say in the matter. To safeguard and protect the interests of the agriculturists, there may be some other organisation.

12 Noon

In the case of the Central Advisory Council, I immediately agreed to include the primary producers for this reason. The Central Advisory Council is expected to take an overall view of the situation. They will not look into the case of any particular industry; they will take an overall view. When that work is done, necessarily a representative of the agricultural producers should be there. Therefore, I accepted that. So far as the Development Council is concerned, it is not expected to go into the question of agriculture, how agriculture could be improved and how the interests of the agriculturists could be safeguarded. That is not the purpose of the Development Council. The object of the Development Council is to see to the improvement of industry itself. As the hon. Members know, industry is something different from agriculture. That distinction is always made. Mr. Guha has suggested that agriculture should be considered as an industry. In that case, the definition of industry or industrial undertaking should have been something else. The definition which we have already passed does not include agriculture. Whether agriculture is an industry or not, is a separate question altogether. So far as we are concerned, with the definition of industrial undertaking as we have passed here, we have to provide for a

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machinery to improve industry. As such, this is a workable machinery. The Development Council is proposed to consist of several persons. Let us assume a hypothetical question that we are appointing a suitable person to look into the interests of industry and see that industry is developed. In that case, we cannot presumably say that that person must have some knowledge of agriculture. That is quite a different thing. Therefore it is provided that persons capable of representing the interests of the owners, interests of the employees, interests of the technicians will be there. There will be representatives of persons having special knowledge of matters relating to the technical or other aspects of the scheduled industries. If the hon. Members will kindly take into consideration the part which has been assigned to the Development Council, they will agree that this is not the place to show one's great interest in the agriculturists. There are other occasions when we may bring into prominence the difficulties of the agriculturists and try to solve them. For instance, a proposal may be made separately that a Corporation should be formed.

Ch. Ranbir Singh: It is not a question of the interests of the agriculturists; it is a question of the interests of industry.

Shri Mahtab: Indirectly. Therefore, they have been represented in the Central Advisory Council. There is a Sanskrit verse which gives the definition of (*interruption*)

Mr. Chairman: Order, order.

Shri Mahtab: The point is agriculture is not necessary to be represented on the Development Council.

Mr. Guha suggested, I am constrained to make this observation. . . .

Shri A. C. Guha: I think my suggestion has not been properly understood.

I was only saying that agriculture should also be. . . .

Shri Mahtab: I am going to say something in reply to what he said.

Shri T. N. Singh: I wanted to ask the hon. Minister a question before he proceeded to the next point. In the course of the discussion, the hon. Deputy Minister said that it does not prevent the Government to have some of the agriculturists represented as if they were consumers. Under the categories (a) to (d) they could be brought in. What the hon. Minister is

[Shri T. N. Singh]

saying is something quite different. He is altogether ruling them out. I want to know.

Shri Mahtab: If the hon. Member has patience and would give consideration to what I am saying, he would not have seen any difference. When I say consumers interests, the representatives will see what is the price of the manufactured goods and naturally their desire will be to reduce the prices as much as possible. In that way, the agriculturists will be indirectly helped.

Shri T. N. Singh: Last time, what I heard from the hon. Deputy Minister was this. He took the case of sugar industry. In this case, there is the question of coordinating the interests of all parties. There may be the interests of the cane grower who wants more price. If it is only the consumers point that is represented there, that man will not also function as the representative of the cane grower. The result will be, always an attempt will be made to see that the agriculturists get a lower price for their cane. I understand from the hon. Deputy Minister that the attitude was something different. That is why, in order to avoid unnecessary heat, I wanted to put a question. I hope the hon. Minister will clarify the point in the light of the observations made earlier.

Shri Mahtab: I shall take the example of the sugar industry. When a Development Council is formed for the sugar industry, when we select representatives to represent the interests of the consumers, we take in some representatives of the agriculturists who are also consumers. What will be the benefit? The benefit will be in this way. The Development Council may decide that a particular type of sugar cane should be produced in order that more sugar could be made out of that sugar cane. In that way, they come in and this is how they will play their part in industry so that a particular type of sugar cane may be produced where the percentage of sugar may be great. There are several varieties of sugar cane. The agriculturist may be persuaded to grow more of that variety which will give more percentage of sugar. In that way the interests of the agriculturists will be served there. I stand by what the Deputy Minister said.

Ch. Ranbir Singh: What about cloth and jute industries?

Shri Mahtab: That is to say, in specific industries where agriculture will come into play in some shape or

other, in this category of consumers, we shall try to bring in representatives of agriculturists also. These are not two different things. I simply wanted to place before the House the exact functions of the Development Council. It is not that raw materials have nothing to do with manufactured goods. There are cases where the primary producers cannot be represented. It goes without saying and it needs no argument that raw materials have a large part to play in the manufacture of goods. That process is known to industry. The Development Council, when they are charged with the work of improving industries, they will be interested in seeing that the proper type of raw materials are produced so that that will add to the efficiency of industries. Therefore it was that I referred to the work of the Development Council. Similarly in the case of cotton. Suppose if some varieties of cotton are grown in larger quantities, it would help the textile industry, in that case also, the cotton growers will be of considerable help so far as the work of the Development Council is concerned. In that case, whenever the interests of the consumers will be sought to be represented, naturally some agriculturists may be brought in. The agriculturists will come there as knowing something about agriculture and also representing the interests of the consumers. But, if we make it compulsory that on all Development Councils, there must be representative of the primary producers, it will lead to something absurd, as I have already explained.

With regard to the other point raised by Mr. Guha, it was doubted whether these Development Councils would efficiently function or not. I do not think that that is the way of starting a thing. When we start, we must start with all enthusiasm. Why should you presume that a thing which is proposed to be started will start with inefficiency from the beginning? It is not correct to say that Government departments have been proved to be inefficient. If, in the course of three years, anybody says that a certain thing has been proved conclusively to have failed, I would strongly disagree with that. Criticisms are made on the floor of the House about the efficiency or otherwise of the Government. If hon. Members go through the proceedings of the House of Commons, they will find the same kind of criticism made against the Government there also the same kind of criticism against controls there also. I am not saying all this to find out excuses for whatever defects are there. All sorts of defects and inefficiencies must be removed.

Shri Kamath: Did the hon. Minister find that in London on his recent visit?

Shri Karmarkar: The hon. Member may table a question for that.

Shri Mahtab: The hon. Member can find it from the library here. He can go through the proceedings of the House of Commons in the Library without going anywhere else. I simply wanted to point out, let us not develop an inferiority complex...

Shri Kamath: Not at all.

Shri Mahtab: ... and say that everything in this country is going wrong and everything outside is satisfactory. And then it was said that there were too many committees. This again is a mistaken notion. So far as the industries are concerned, I do not think there is a single committee to control them. There is only one Development Committee and that meets sometimes to decide the policy questions. And there is only a Textile Development Committee which looks after the textile control. So far as that Committee is concerned, I can say with complete confidence that it has been rendering very very useful work and it is because of the assistance rendered by this committee that the textile problem could at all be tackled successfully and in such short space of time. Otherwise it would have been almost impossible to tackle the problem that arose some time back. And so I do not think it is right to preach that there are too many committees and they are not discharging useful functions. Let us see the work and I have full hope that the Development Committee will function well and when it does start working, all the doubts expressed now will clear away.

Shri Kamath: Regarding the raw materials referred to, may I know whether human raw material also has been provided for?

Shri Mahtab: Yes, it is included in the shape of technicians.

Mr. Chairman: The question is:

"That clause 6, as amended, stand part of the Bill.

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 7.—(Reports etc. of Development Councils)

Dr. M. M. Das: In sub-section (3) of section 7, provision is made for the

submission of account statement in forms to be prescribed. The Development Councils will submit these statements to the Central Government and in these statements they will enumerate the remuneration and allowances paid during the year to members of the Council. My amendment seeks to say that along with the remunerations and allowances paid to the members, the total expenditure on the officers in the shape of remuneration, allowances etc. should also be given.

Shri Mahtab: I see no objection to accepting this amendment, because anyway if there is not the appointment of any officer, no expenditure will be shown, and if there is some officer appointed, the expenditure relating to him will be shown in the statement. So I accept the amendment.

Amendment made:

In page 3, line 46, after "members" insert "and officers —[Dr. M. M. Das]

Mr. Chairman: The question is:

"That clause 7, as amended, stand part of the Bill".

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clause 8 was added to the Bill.

Clause 9:—(Cess on Scheduled industries)

Shri Syamnandan Sahaya: I beg to move:

In page 4, lines 41 and 42, omit: "and its administrative expenses".

If you refer to sub-clause (4) (d) you will find the following:

"to meet such expenses in the exercise of its functions and its administrative expenses as may be prescribed."

I want the words "and its administrative expenses" to be deleted, because I think that these administrative expenses should be borne by the Government and these should not be met out of the cess realised from the industry. In fact, I expressed my apprehension when generally discussing the Bill that the administrative expenses might cover up all the cess and we might be left with little or nothing for the development and improvement of the industry. Therefore I have moved this amendment for the omission of the words "and its administrative expenses."

[Shri Syamnandan Sahaya]

I do not know what will be the reaction of the hon. Minister to this amendment. I have an alternative amendment and I do not know which of the two will be acceptable to the hon. Minister. Even if it is not found possible to delete the words that I have suggested in my first amendment, I have another suggestion, namely that a maximum limit may be laid down up to which these expenses may be met from the cess. So my amendment No. 60. I beg to move:

In page 4, line 42, after "expenses" insert "not exceeding one sixth of the total cess collected".

I do not know whether this point of view which I am placing before the House will find favour with the hon. Minister and the House. But I think in passing a legislation of this nature it is desirable to place some kind of a check on the totality of the administrative expenses to be incurred. In this country it is well known that one of the main accusations that we always made against the British Government was that it was a very top-heavy administration. I must say—and I say it with a great deal of sorrow—that even now the position does not seem to have improved. On the other hand, if anything, we find that the expenses on administration are going up. I am not in a position to say how far they are justified or whether they are wholly unjustified. Either may be the case. But the fact remains that our expenditure on administration and on the administrative side is certainly what it was before and in fact it is going up on a scale which deserves the serious attention of our administrators in the country. Viewing this clause from the apprehension which I have just expressed, I think it would be desirable for the House to lay down some kind of a check up to which the administrative expenses at least in this case should go. I have, therefore, in the first amendment suggested that the whole of it should be borne by the Government, and if that does not find favour with the hon. Minister, I have the second amendment which suggests a limit of one-sixth of the cess collected. I hope the matter will receive the close and serious attention of the hon. Minister who, I know, is extremely anxious that this Act should be administered in a manner which will really bring about the good of the industries in the country.

Shri A. C. Guha: I would like to speak on this amendment and also on the clause in general.

Mr. Chairman: Very well, but let us hear the reaction of the hon. Minister to the amendments moved now.

Shri Mahtab: I think my friend Mr. Syamnandan Sahaya will be satisfied, if I ask him to go through clause 21, which provides:

"Such administrative expenses as relate to the emoluments of officers of a Development Council who are appointed by or with the approval of the Central Government, shall be defrayed out of moneys provided by Parliament."

In view of this I do not think my friend will press his amendment.

With regard to the limit of expenditure probably his idea is to provide a check on Government. But so far as the expenditure goes it will be controlled by the Development Council itself. Government will simply pass the money to the Council and the expenditure will be under the control of the Council. That being the position, if we make a provision here that the administrative expenses would be to such and such an extent, their hands will be bound down and not the hands of Government. I do not think it is the intention of any hon. Member to bind the hands of the Development Council. It is made an autonomous body and the control of expenditure should be left to the Council. As the Council does not consist of any Government officer I am sure it will be beyond any criticism of extravagance. They will be business people and will stick to the limit proposed by the Member or spend much less than what is proposed. Some freedom should be left to the Development Council.

Shri A. C. Guha: The cess will give about 2 crores or something like that. We have already 11 such autonomous bodies and among themselves they handle several crores. Several times I have raised the question that these funds are under the absolute control of these autonomous bodies and neither this House nor Government have any control over the funds. They are not audited by the Auditor General of India. The clause as amended amply safeguards that the funds will be audited by the Auditor General and will come to and be disbursed from the consolidated fund of India and also will be shown in the budget account. The funds of some of the autonomous bodies are not shown in the budget account. Government simply collects the money and hands it over to the

autonomous bodies and thereafter Government has no control whatsoever. The clause as now proposed to be amended provides that every pie will be accountable to this House. It will be audited by the Auditor General and shown in the budget account. I want the hon. Minister to give this assurance. It was the intention of the select committee that the funds should be shown in the budget account and audited by the Auditor General of India.

خواجہ علیہت الہ - کسی کلاز کے

ایک لفظ کے بھی خلاف ہونے کی وجہ سے میں سمجھتا ہوں کہ مہرا حق ہے کہ اس کلاز کو اپوز (oppose) کروں - میں نے اس کلاز میں ایک امدت دی ہوئی تھی جسے میں پھس نہیں کر سکا - بدقسمتی سے میں کچھ رفرنس (reference) لینے کے لئے لانڈھیری چلا گیا اور اس کے بعد جب واپس آیا تو مہرا وقت گذر چکا تھا - تاہم میں چاہتا ہوں کہ اپنے خیال کا اظہار کروں - مہرے امدت میں یہ تھا کہ اس کلاز میں لکھا ہوا ہے

"Provided that no such rate shall in any case exceed two annas per cent. of the value of the goods."

ان لفظوں سے پھر مجھے یہ شک پڑتا ہے کہ جو عام شکایت ہماری حکومت کے خلاف لوگوں کو ہے وہ ان الفاظ سے بھی ظاہر ہو رہی ہے - یعنی جب کوئی سوال آتا ہے پبلک سے کچھ سبس لینے کا یا کسی طرح کا روپیہ ان سے وصول کرنے کا مثلاً ہمارا انٹرنیشنل ٹیکس (entertainment tax) ہے - یا سلس ٹیکس (sales tax) ہے اس کا سوال آتا ہے پبلک سے لینے کا تو سوال آتا ہے ایک آنہ روپیہ - دو آنہ

روپیہ - کبھی سوال آتا ہے دس پرسنٹ یا پانچ پرسنٹ کا - لیکن جب کسی انڈسٹریسٹس (industrialists) سے جن کے پاس روپیہ کافی ہے - ان سے لینے کا سوال آتا ہے تو سوال ہوتا ہے دو آنہ سہلکڑہ - مہری سمجھ میں نہیں آتا کہ جب حکومت کو روپیہ کی اتنی سخت ضرورت ہے - انڈیا بوجھ ہماری حکومت پر ڈالا جا رہا ہے - اس حکومت کے اوپر بوجھ ہے ہلندوسٹان کو فٹہ دہلیے گا - کھڑا دیلے گا - جہالت دور کرنے کا اور سب ضروری کاموں کو کرنے کا - تو کیا اس کے پاس کافی روپیہ ہے کہ ایسے کاموں کے لئے بھی جن کاموں کے لئے ہم روپیہ دوسری جگہ سے لے سکتے ہیں اس کے لئے بھی ہم حکومت پر بوجھ ڈالیں - دو آنہ سہلکڑہ کے معنی کیا ہیں - میں ہاؤس کو بتا دوں کہ ایک کمپنی ہے جو موٹر کار بناتی ہے اور اس کا دام ہے دس ہزار روپیہ - اس کمپنی سے وصول کیا جائے گا ۱۲ روپیہ - اسی طرح جتنے بڑے بڑے سرمایہ دار ہیں جتنے بڑے بڑے انڈسٹریسٹس ہیں جو پانچ ہزار روپیہ یا دس ہزار روپیہ اپنے مہلکچر کو دیتے ہیں - اپنے اسٹاف کو دیتے ہیں - ان سے جب سوال آتا ہے سبس (Cess) لینے کا تو گورنمنٹ سوچتی ہے دو آنہ پرسنٹ کی بات - پھر وہ روپیہ خرچ کہاں کیا جائیگا - وہ خرچ کیا جائیگا انہیں کے کاموں پر - انہیں کی انڈسٹری کو چلانے کے لئے اور انہیں کے کام کو بہتر (improve) کرنے کے لئے -

[خواجہ عذایت الہ]

تو پرووائڈ ٹریڈنگ، تو پروموت اسپرو
 ملٹ، تو پروموت سائنٹیفک ایڈ
 انڈسٹریل ریسرچ - (to provide
 training, to promote improve-
 ment, to promote scientific
 & industrial research) ان سب
 کاموں کے لئے - جب انڈسٹریز کے
 سارے کاموں کے لئے وہ روپیہ خرچ
 کرنا ہے تو وہ روپیہ ہم لیتے ہیں دو آنہ
 سیلکڑا - میں سمجھتا ہوں کہ اگر دو
 آنہ روپیہ ہو جانا تو ہمارے پاس کافی
 روپیہ ہوتا - ہم انڈسٹری کو بھی
 طاقت پہنچا سکتے اور اس سے ہماری
 عوام کو جو چیزیں نہیں مل رہی
 ہیں جن کے لئے ہم دوسرے ملکوں کے
 محتاج ہیں ہم کچھ آگے بڑھا سکتے -
 دو آنہ روپیہ لے کر ہمارے پاس اتنا بڑا
 فنڈ ہوگا کہ ہمیں کہیں سے نہ لینا پڑےگا۔
 آج گورنمنٹ کے پاس اتنا فنڈ نہیں
 ہے گورنمنٹ کے پاس ریہیبیلیٹیشن
 (Rehabilitation) کا کام پڑا ہوا ہے۔
 ہندوستان بھوکا مر رہا ہے اس کے لئے
 فلو ملکانا ہے - ہندوستان نلکا ہے اس
 کے لئے کھڑا بہم پہنچانا ہے - اس کے
 پاس ممکن نہیں ہیں اس لئے ممکن
 بدلانا ہے - اتنے ضروری کام ہمارے پاس
 موجود ہیں اس کے لئے ہمیں روپیہ
 نہیں ملتا - ابھی کل کی بات ہے
 میں نے پوچھا ایجوکیشن منسٹر
 صاحب سے کہ تعلیم کا کام کیوں تھیک
 سے نہیں ہو رہا ہے - وہ کہتے ہیں کہ

ہمارے پاس فنڈ نہیں ہیں - ٹیلنٹ
 منسٹر سے پوچھا گیا کہ ہیلتھ کا کام
 کیوں تھیک نہیں ہو رہا ہے تو کہا کہ
 ہمارے پاس چند روپیہ ہے اس میں
 سے جتنا ہو سکتا ہے اتنا کام ہم کر رہے
 ہیں - تو جب روپیہ ہمارے پاس نہیں
 ہے سارے کاموں کے لئے تو ہم پبلک
 سے روپیہ وصول کرنا چاہتے ہیں - لیکن
 دوسری جگہ جہاں فنڈ موجود ہے
 وہاں سے نہ لے کر کہا وجہ ہے کہ ہم
 گورنمنٹ پر بوجھ ڈال دیں - دو آنہ پر
 سب کو ایک مذاق سا نظر آتا ہے -
 ایک موٹر جس کی قیمت دس ہزار
 روپیہ ہے اس سے آپ دس روپیہ لیتے
 ہیں دس روپیہ تو خریدنے والا وہاں کے
 چھڑاسی کو دے دے گا - سو، دو سو،
 چار سو روپیہ کمیشن کے طور پر دے دیا
 جاتا ہے - اس طرح تو کٹر بنیں گے - کیوے
 پر جو ایکسائز ڈیوٹی (excise duty)
 پبلک کی جیب سے نکلتی ہے وہاں پر
 کتنے روپیہ سیلکڑا ہے - آپ سہلس
 ٹیکس (Sales Tax) دیتے ہیں جو
 پبلک کی ہر جیب سے نکلتا ہے - وہ
 دو پيسے روپیہ، چار پيسے روپیہ لیتے
 ہوں اگر یہ سہس (Cess) کارخانوں
 پر لگایا جاتا - وہ کارخانے جو پانچ لاکھ
 سے زیادہ کی رقم کے ہیں - تو کتنا
 روپیہ مل جاتا - پر کارخانوں سے جو
 کروڑوں روپیہ کمارہے ہیں ان سے سہس
 کتنا وصول کیا جاتا ہے - دو آنہ سیلکڑا
 اس کے معنی تو یہ ہیں کہ گورنمنٹ

ضرور سرمایہ داروں کی حمایت کرنا چاہتی ہے۔ اور فریڈوں کو مدد کرنا نہیں چاہتی ہے۔ اگر سرمایہ داروں سے زیادہ وصول کیا جا سکتا ہے تو اس سے زیادہ روپیہ کہوں نہیں وصول کیا جاتا میں چاہتا ہوں کہ یہ سبس اگرا ایک روپیہ فی سیکڑا نہیں تو کم سے کم آٹھ آنہ فی سیکڑا رکھا جاتا۔ مجھے تو تعجب ہوتا ہے کہ جب روپیہ پیسہ کی بات آتی ہے تو وہ روپیہ فریڈوں سے چھلنے کی کوشش کی جاتی ہے۔ لیکن جہاں سرمایہ داروں کا سوال ہے وہاں سبس رکھتے ہیں دو آنہ سیکڑا۔ پھر وہ سبس کس کے لئے ہے۔ وہ فریڈوں کے لئے ہوتا، لوگوں کی پڑھائی میں کام آتا، علاج میں کام آتا تو میں سمجھتا کہ چلو مناسب بات ہوئی۔ لیکن وہ انہیں سرمایہ داروں کے لئے خرچ ہوگا۔ انہیں کے کارخانوں کی ترقی ہوتی ہے۔ انہیں کی انڈسٹری کی ترقی ہوتی ہے۔ تو ہم گورنمنٹ پر دوسرے بوجہ کہوں ڈالنے ہوں۔ ہم کہوں نہ اس سبس کو دو آنہ کے بجائے ایک روپیہ سیکڑا کر دیں۔ اور ایک روپیہ زیادہ ہے تو کم سے کم آٹھ آنہ سیکڑا کر دیں۔ جس میں گورنمنٹ پر کوئی بوجہ نہ پڑے۔ میں چاہتا ہوں کہ آنریبل منسٹر اس کے متعلق اگر مناسب سمجھیں تو اب بھی فور کر لیں۔ ویسے جواب تو ان کے پاس بہت ہونگے۔ بعض جواب دہانے سے کوئی فائدہ نہیں ہے۔ میں صرف اس خاص نقطہ پر ان سے کہتا

سنا چاہتا ہوں کہ بہت معمولی چیز ہے۔ دو آنے کے بجائے چار آنے، آٹھ آنے کر دیا جائے گا تو کسی بھی بڑے آدمی کو احساس بھی نہیں ہوگا۔ لیکن اس احساس کے نہ ہونے کے باوجود ہم کو اتنا روپیہ مل جائے گا کہ جس خزانے کے لئے سخت ضرورت ہے وہ پورا ہو جائے گا۔ وہ روپیہ ہم آسانی سے حاصل کر سکتے ہیں ہم فریڈوں سے روپیہ لے سکتے ہیں ماچس (Match Boxes) پر ٹیکس لگا کر تو ہم ان اہموں پر ٹیکس کہوں نہیں لگا سکتے۔ ٹیکس نہیں تو سبس لگا سکتے ہیں۔ لیکن دو آنہ تو ایک مذاق سا معلوم ہوتا ہے اس کو آپ اڑا دیجئے۔ ہماری حکومت پر خواہ مخواہ یہ نام کہیں ہو کہ سبس لگا رہی ہے۔ اس لئے اسے چھوڑ دینے میں کوئی ہرج نہیں ہے۔ پر حکومت کو تو انڈسٹری کو چلانا ہے۔ سائنٹیفک ریسرچ (Scientific Research) بھی ہونا ہے۔ اس لئے یا تو یہ کر دیجئے کہ یہ دو آنہ سیکڑا بھی اڑا دیا جائے یا صحیح سبس لگایا جائے۔ یہ کارخانوں کی انٹریسٹ (Interest) ہے کہ دو آنہ سیکڑا سبس لگایا جائے۔ اس لئے میں سمجھتا ہوں کہ اگر حکومت اور خاص کر آنریبل منسٹر اس نقطہ پر خاص فور کریں گے۔ اور اگر ممکن ہو سکے تو ایک ایسی ترمیم اپنی طرف سے پیش کر دیں یا مہری ترمیم کو مان لیں جس سے یہ مذاق کی بات ختم ہو جائے۔

(English translation of the above speech)

Khwaja Inait Ullah: Even if I object to a single word in any clause, I consider it right to oppose that clause. To this clause I had tabled an amendment, which I could not move. Unfortunately I had gone to the Library to find a reference and when I came back, I found that the time allotted to me had passed. Nevertheless I want to express my views. My amendment was in regard to the words in the clause: "Provided that no such rate shall in any case exceed two annas per cent. of the value of the goods".

These words make me feel that the general complaint which the people have against the Government is also apparent from them. When the question is of realizing from the public a cess or any other kind of tax, for instance the Entertainment Tax or the Sales Tax, the rate is fixed at one anna or two annas in the rupee or five per cent. or ten per cent. but when the question is of levying tax on the industrialists, the rate is fixed at two annas per cent. I fail to understand what two annas per cent. means in the face of the fact that Government needs money urgently and that it is burdened with the work of providing foodgrains and cloth to whole of India, of eradicating illiteracy and of discharging other necessary functions. Have the Government enough money for those purposes which can be accomplished only with money obtained from elsewhere? I may tell the House that from a company manufacturing motor-cars priced at Rs. 10,000/- each, only Rs. 12 will be received. Similarly when the question is of levying a cess on big capitalists and industrialists, who pay five or ten thousand rupees each to their managers and, other members of their staff, arises the Government think in terms of two annas per cent. And then, on what will that money be spent? It will be spent to run and improve their industries, to provide training, to promote improvement and to promote industrial and scientific research. When we have to spend that money on the industries, we fix the rate of tax at two annas per cent. I believe that if we increase it to two annas per rupee, we can have enough money to promote industry and to provide our people with those things which they do not get and for which we have to depend on other countries. If the rate is two annas per rupee, we will collect such a huge fund as will obviate the necessity of taking money from any other source.

Today, Government have not so much funds. The work of rehabilitation has to be done. India is starving. Foodgrains have to be imported. India is naked. It has to be provided with cloth. It has no houses. Houses are to be built. We do not have money for these essential things. Only yesterday I asked the Minister of Education as to why the work of education was not being carried on properly. He said that he did not have funds. When Minister of Health was asked why the health schemes were not being done properly, she said that as much work as was possible was being done with the funds at their disposal. When we do not have money for all these things and we want to raise it from the public, we do not want to collect it from the place where funds are available. Why should we burden the Government? Two annas per cent. seems to be a joke. From a motor car manufacturer, the price of whose car is Rs. 10,000/- you take only Rs. 10/-. Ten rupees will be paid by the buyer even to the peon of that place. A sum ranging from one hundred to four hundred is given away as commission. Tractors are manufactured in the same way. How many rupees per cent. is the excise duty on cloth which is extorted from the public? The Sales Tax which comes out of the pockets of the people is also charged at the rate of 2 pice or 4 pice per rupee. Had this cess been levied on mills worth more than Rs. 5 lakhs, a huge sum of money would have been collected. But how much cess is levied on the mills making a profit of crores of rupees? Two annas per cent. This means that Government certainly want to help the capitalists and not the poor people. If more money can be received from the capitalists, why is it not done? I wish that this cess should be fixed at least at As. 8 per cent., if not at Re. 1/- per cent. I am surprised to note that when the question of money comes up, this money is tried to be snatched from the poor. But where the capitalists are concerned, the rate of cess is fixed at two annas per cent. And then, what is that cess meant for? If it was to be used for the poor, on the education of the people and on medical aid to them, I would have thought that a proper use was made of it. But this is to be spent for the benefit of the capitalists and for the growth and development of their own mills and industries. Why should we place other burdens on Government's shoulders? Why should we not raise this tax to one rupee per cent. instead of two annas per cent? If one rupee per cent. is thought to be heavy, it should be raised to at least

eight annas per cent. It would not burden the Government in any way. I want that the hon. Minister, if he thinks proper, should consider it even now. He will have many answers to this, but merely giving answers is of no avail. I want to tell him that this is a very ordinary thing and that if the rate is increased to four annas or eight annas instead of two annas, none of the big people would feel it. Rather we would get so much money that all the urgent task which need to be done would be done. This money we can get easily: If we can take money from the poor people, if we can levy a tax on match-boxes, why can we not levy taxes on the rich also? We can levy a cess, if not a tax. But the rate of two annas seems to be a joke. It should rather be done away with. Why should our Government earn a bad name for nothing on account of this cess? Therefore, there is no harm in removing it. But the Government have to run the industries and to carry on scientific research. Therefore, either this cess of two annas per cent. should be removed or it should be levied at a proper rate. Two annas per cent. cess is an insult to the mills. I hope, Government and particularly the hon. Minister would consider this point especially, and if possible, he should move an amendment on his own behalf or accept my amendment in order to end this joke.

Shri Ramaswamy Naidu (Madras): Even though I could not fully follow the speech of my hon. friend who has just spoken, I understood that he wanted to increase the cess. I strongly object to it on the ground that it will be added up to the cost of production and will be imposed on the heads of purchasers who are already poor. Therefore, I suggest that no increase should be made in the matter of the cess.

श्री टी० ऐन० सिंह : अगर आप इजाजत दें तो मैं दो शब्द इस के बारे में कहना चाहता हूँ। मेरी यह धारणा है कि हमारे माननीय सदस्य इनायत उल्ला साहब ने कदाचित् इस पूरे बिल की स्कीम को ही नहीं समझा। क्योंकि दो आना जो सेस (cess) लगाया जा रहा है और उस से जो काम इस में उद्देश्यों में लिखे हुए हैं उन को आप देखें कि क्या किया जायगा तो आपको पता चलेगा कि प्रारम्भ में तो हमें इस का श्री-गणेश करना है। और ऐसी हालत में भारी

उद्योगों और व्यवसाय पर इस से अधिक कर लगा दिया गया या अधिक सेस लगा दिया गया तो अन्याय होगा। आखिर आप काम करने जा रहे हैं। वैज्ञानिक रिसर्च अनुसरण या वैज्ञानिक गवेषणा के लिये आप के पास और भी बहुत से साधन हैं। सायन्टिफिक इन्स्टिट्यूट्स हैं उन में कुछ न कुछ काम तो हो रहा है। मुझे तो उल्टे यह दिखाई दे रहा है कि कदाचित् आप इस पर अधिक व्यय न कर सकें। कहीं दोनों तरफ से उस काम पर व्यय ज्यादा हो, शक्ति भी खर्च की जाय और लोगों की जेब का भी कुछ थोड़ा बहुत व्यय हो, यह भी हो सकता है। मेरी समझ में इस को बहुत हल्के से, धीरे से काम करना है, और जैसा अभी आप ने कहा कोई और खर्च उस पर लाद कर चीजों की कीमत बढ़ाना उचित नहीं है। इस वास्ते मेरी समझ में जो इस की पूरी भावना है यह उसके प्रतिकूल है। इस वास्ते मेरा कथन है कि यह तजवीज ही दो आना लगाया जाय बहुत ही उचित है।

[**Shri T. N. Singh:** With your permission Sir, I would like to say a few words in this connection. I am under the impression that perhaps Shri Inait Ullah has not understood the whole scheme of this Bill. If we look to the Objects, it is pointed out that the purpose of imposing this two-anna cess is just to make a beginning. Under these circumstances if a higher cess is imposed on heavy industries and commerce, it will be unjust. After all you have to do something. You have other avenues open for scientific research. There are scientific institutes which are doing something. I feel maybe you won't be able to spend more on it. It is possible that much money may be spent on this on both sides, energy may be spent and it may affect the pockets of the people as well. I think we should proceed steadily and as you have said it is not proper to spend more and thus raise the prices of commodities. My opinion, as far as I have been able to understand this thing, is against the proposal of increasing the cess. So I think that the proposal to impose a cess of two annas is quite appropriate.]

Mr. Chairman: Has the Government anything to say on this?

Shri Karmarkar: We have nothing to add—hon. Members have replied to hon. Members.

Mr. Chairman: I take it that the hon. Members do not press the amendments. The question is:

“That clause 9 stand part of the Bill.”

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10.—(Registration of industries)

Shri Syamnandan Sahaya: The amendment which I have in my name is a very simple one and relates to the existing industrial undertakings.

Shri Karmarkar: Automatic registration and exemption from licensing fees?

Shri Syamnandan Sahaya: Yes; of course they should be registered—I am not opposed to their registration—because if you want to control and plan and guide industry you must have the companies duly registered. What I submit is that those companies which are already existing should be automatically deemed to be registered. They will, of course, come into line with the others and be subject to the other provisions of this Act. In my amendment No. 23 I have therefore suggested that a proviso should be added to clause 10. I beg to move:

In page 4, after line 48, insert:

“Provided that the existing industrial undertakings, will be deemed to be automatically registered and that no registration fee will be charged from them”.

I hope this simple amendment will be acceptable to the Government.

I beg to move: **خواجہ عدايت اللہ**

In page 4, line 48, after “undertaking” insert:—

“and the owner of any industrial undertaking for the establishment of which effective steps have been taken”.

چونکہ اس کلاز میں تمام موجودہ انڈسٹریل انڈرٹیکمنٹس کو حکم دیا گیا ہے کہ وہ فوراً رجسٹر کرا لیں۔ میں سمجھتا ہوں اس پرے ہندوستان

میں بہت سی ایسی انڈسٹریل انڈرٹیکمنٹس بھی موجود ہیں جو ابھی تکمیلت (complete) تو نہیں ہو چکی ہیں مگر ان پر لاکھوں روپیہ خرچ ہو چکا ہے۔ ابھی وہ کام تو نہیں کر رہی ہیں مگر چونکہ وہ دو تین مہینوں کے اندر کام کرنے جا رہی ہیں اور چونکہ کلاز 11 میں ان کے اوپر لائسنس لگو ہو گا تو میں سمجھتا ہوں کہ جو ایسے قائم کر چکے ہیں۔ گورنمنٹ کو یقین ہو کہ ایسی انڈرٹیکمنٹس موجود ہیں جنہوں نے اتنا روپیہ خرچ نہیں کیا ہے۔ لیکن انہوں نے لاکھوں روپیہ کسی انڈسٹری کو قائم کرنے میں خرچ کر دیا ہے تو اس کو بھی اس میں شامل کر لیا جائے۔ اس لئے میں نے ان الفاظ کو کہ وہ انڈرٹیکمنٹس کے بعد بڑھا دیئے کے لئے کہا ہے۔

“and the owner of any industrial undertaking for the establishment of which effective steps have been taken”.

کہوں کہ وہ انڈسٹری قائم کر رہے ہیں اور ان کا کام دو تین مہینے کے بعد چالو ہو جائے گا اور وہ لاکھوں روپیہ خرچ کر دیں گے۔ اس لئے میں چاہتا ہوں جو بھی انڈرٹیکمنٹس کام کر رہی ہیں

[**Khawaja Inait Ullah:** I beg to move: In page 4, line 48, after “undertaking” insert:—

“and the owner of any industrial undertaking for the establishment of which effective steps have been taken.”

Under this clause all industrial undertakings are asked to register themselves. I think that in our country

there are many such undertakings, which have not yet been completed, though lakhs of rupees have been spent on them. They have not yet started working but many would do so within two or three months. Because under clause 11, licence-regulations will also apply to them, so I think that if the Government are satisfied that there are such undertakings as have not spent that prescribed amount but have spent lakhs on the establishment of an industry, they may also be included. That is why I have proposed the insertion of the following words after the word "undertaking":

"and the owner of any industrial undertaking for the establishment of which effective steps have been taken."

As they are establishing new industries which will start working in a couple of months and they have also spent lakhs of rupees, I want that all those undertakings which are working.....]

Mr. Chairman: Amendment moved:

In page 4, line 46, after "undertaking" insert:

"and the owner of any industrial undertaking for the establishment of which effective steps have been taken."

Shri Karmarkar: In order to save time, I may say that we accept that amendment moved by the hon. Member now speaking.

Mr. Chairman: As regards the other one?

Shri Karmarkar: We oppose that because ultimately it will come to exemption from licence fee which will be only nominal and which is not in the nature of a tax.

✓ **Shri Syamnandan Sahaya:** There is no desire on my part to save a few rupees by way of registration fees. My idea was that as after all there are so many industrial undertakings which are already there, it would save you trouble and save them trouble—the money would not matter much to you or to them—if by a simple notification all the existing undertakings are deemed to be duly registered. Otherwise, they may not apply in time, you will write to them asking, "Why have you not applied?", and they will come up and say, "Please extend the time by a few days". It is not my desire to keep them away from the arena of registration nor to save them a few rupees. The idea is to save all the unnecessary botheration on the part of Government as also for those existing

undertakings. But if you do not accept my amendment I will not press it.

Mr. Chairman: The question is:

In page 4, line 46, after "undertaking" insert:

"and the owner of any industrial undertaking for the establishment of which effective steps have been taken".

The motion was adopted.

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.—(Licensing)

Shri Iyyanni (Travancore-Cochin): I beg to move:

In page 5, lines 12 and 13, for "the location of the undertaking" substitute "the locality where the undertaking is to be established".

As it stands, the clause refers to location of the undertaking and according to it Government has the power to interfere even in regard to the actual site where the undertaking is to be established. My point is this. The site may be anywhere, which may be left to the person who is establishing the undertaking and Government need not interfere with the actual site. Only the locality may be prescribed by Government, leaving the site within that locality to be selected by the entrepreneur. I do not think there will be any difficulty in accepting my amendment.

Shri Barman: I beg to move:

In page 5, omit lines 16 and 17.

The hon. Minister stated that companies with a capital of less than Rs. 5 lakhs are exempted and no licence will be required in their case. If this is so, then my submission is that when Government is undertaking the regulation and development of industries, a major portion of the industries will be omitted from the provisions of this Act if industries with less than Rs. 5 lakhs capital are exempted. There should be no exemption for industries up to that limit of capital and only those should be exempted which have a capital of Rs. 1 lakh, in accordance with the amendment that we have already passed to this effect.

i beg to move: خواجہ عیاض الدہ

In page 5, line 17, for "five lakhs" substitute "one lakh".

I have suggested that instead of Rs. 5 lakhs it may be made into Rs. 1 lakh.

اس کی وجہ یہ ہے - اگر آپ پہلے منسٹر اس کلاز کو اور کلاز ۱۳ کے ایکسپلینیشن (Explanation) کو ملاحظہ کر پڑیں گے تو صاف ظاہر ہوگا کہ ہلدوستان کے جو عملدہ اندسٹریٹس میں ان کو لائسنس (Licence) لینے کی ضرورت ہی نہیں پڑے گی۔ وہ ان دونوں کلاز کے ماتحت آکر لائسنس نہ لینے کی ضرورت متکسوس کریں گے۔ کلاز ۱۳ کے ایکسپلینیشن میں لکھا ہوا ہے کہ جو اندسٹری ایکسپنڈ (expand) کر دی جائے اس کو تو دوبارہ لائسنس لینے کی ضرورت نہیں ہے۔ ہاں اگر وہ دوسری اندسٹری کرنا چاہے تو لائسنس لینا ہوگا۔ اگر ہم آپ کے پاس لائسنس کے واسطے جاتے ہیں تو ہم جانتے ہیں کہ آپ ہم سے کتنی بانہیں دریافت کریں گے اور ہم اس جہلجھٹ میں پڑنا نہیں چاہتے۔ اس لئے ہم چار لاکھ نلہانوے ہزار نو سو نلہانوے روپیہ سے کھلی کھلی ہوئے اور کچھ دن بعد اس کو ایکسپنڈ کر دیں گے اور آپ کو پوچھتے ہی نہیں کہ آپ انہیں گے کیونکہ وہاں یہ موجود ہے۔

"substantial expansion" means the expansion of an existing industrial undertaking which is of such a nature as to amount virtually to a new industrial undertaking, but does not in-

clude any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion."

تو وہ نہا تو نہیں ہوگا - ہم نے آج ایک اندسٹری کھولی چار لاکھ نلہانوے ہزار نو سو نلہانوے روپیہ سے - اس کے لئے آپ کے پاس لائسنس لینے کی ضرورت نہیں ہے - تو ہم نے اس طرح چار لاکھ نلہانوے ہزار نو سو نلہانوے روپیہ سے ایک انڈسٹری کھول دیا اور اس کو ایک سال کے بعد ایک پھلڈ کر دیا گئے - اور ایکسپنڈ کرنے کے لئے لائسنس کی ضرورت نہیں پڑتی -

پھر یہ بھی بات ہے کہ ہم اس کے پہلے کلاز نمبر ۳ میں اور ایکسپلینیشن (Definition) میں بھی یہ منظور کر چکے ہیں کہ جس فیکٹری میں ۵۰ آدمی یا سو آدمی کام کرتے ہونگے اور جس کی مالیت ایک لاکھ سے کم ہوگی اس پر یہ پورا قانون لاگو نہیں ہوگا - تو پھر لائسنس لگ بھی آٹومٹیکلی (Automatically) لاگو نہیں ہوگا -

تو جب ہم اس کو پورے قانون سے بچتا دیتے ہیں تو کیا وجہ ہے کہ ہم اس کو لائسنس لگ سے بچانے کی کوشش کریں - ہم سمجھتے ہیں کہ لائسنس لگ بہت ضروری چیز ہے - جب ایک کھلی لائسنس لیتی ہے تو گورنمنٹ کو سوچنا پڑتا ہے کہ جو

کھلی لائسنس لے رہی ہے اس کو
 را مٹیریل (Raw material) کہاں
 سے دیا جائے گا - اگر وہ کہو ہلانے جا
 رہی ہے تو کون سے ایریا میں اس کو
 کہو ہلانے کی اجازت دیں - اگر چھلی
 ہلانے جا رہی ہے تو اس کو ایسی جگہ
 نہ رکھا جائے جہاں پہلے سے چار ملین
 کام کر رہی ہیں - اس لئے میں چاہتا
 ہوں کہ پانچ لاکھ کو کم کر کے ایک لاکھ
 کر دیا جائے - مہرا مطلب صرف یہی ہے
 کہ جو آئندہ نئے انڈرٹیکنگ چلوں ان
 میں سے زیادہ سے زیادہ کو مجبور کیا
 جائے لائسنس لینے کے لئے - روزہ
 ہم اور ہمارے منسٹر صاحبان جانتے
 ہیں کہ لوگ کس طرح ان چیزوں کو
 اوائڈ (avoid) کرتے ہیں اور ہم کو پتہ
 بھی نہیں چلتا اور جب کہیں چلتا
 ہے تو کس طرح وہ چھرتا جاتے ہیں -
 اس لئے میں چاہتا ہوں کہ پانچ لاکھ
 سے ایک لاکھ کر دیا جائے تاکہ جہاں
 تک ممکن ہو سکے کوئی بھی کھلی
 آئندہ ہلا لائسنس کے کام نہ کوسکے -

(English translation of the above speech.)

Khawaja Inait Ullah: I beg to move:

In page 5, line 17, for "five lakhs" substitute "one lakh".

I have suggested that instead of Rs. 5 lakhs it may be made into Rs. 1 lakh.

What is the reason behind this? If the hon. Minister takes the trouble of reading this clause together with explanation to clause 13, it will be evident to him that intelligent industrialists will never be faced with the need for applying for a licence under these two clauses. Explanation to clause 13

states that when an industry is expanded it need not get a fresh licence, which will be necessary for a new industry. If a person applies for a fresh licence he knows what information the Government would like to get from him. He does not want to get into that mess. So he would start a company with a capital of Rs. 499,999/- and expand it after sometime. They would not seek permission because of these words in the clause:

"substantial expansion" means the expansion of an existing industrial undertaking which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion".

That will not be new. A person starts an undertaking with a capital of Rs. 499,999/- and he does not need a licence. After a year he expands it and expansion does not necessitate a licence either. We have accepted in clause 4 and in the definition that a factory employing 50 or 100 persons and started with a capital of less than rupees one lakh will not come under the purview of this law. It follows from this that licencing will also not be obligatory on such factories. When we exempt such factories from the operation of this law, why should we exempt them from licencing regulations also? I think licencing is very essential. When a company applies for a licence, the Government have to consider as to wherefrom it is to get raw material. If it is a textile factory, the Government have to decide the area in which it ought to be allowed to operate. If it is a sugar mill the Government have to see to it that it is not started in an area where there are already four mills. That is why I submit that the exemption limit be brought down from Rs. 5 lakhs to rupees one lakh. My object is that more and more of the new undertakings be compelled to get licences. The hon. Minister and the hon. Members are aware how people avoid these things and the Government do not come to know of them and when they do come to know these people get scot-free. I want that the exemption limit be brought down to rupees one lakh so that no company may be able to operate without a licence.

Dr. M. M. Das: I beg to move:

In page 5, line 17, for "give" substitute "two and a half".

[Dr. M. M. Das]

Clause 11(B) provides that industrial concerns having a capital of Rs. 5 lakhs would be exempted from the operation of this section which provides for licensing. I suggest that the limit should be reduced to Rs. 2½ lakhs. My objection is that the provisions of section 11 will be also applicable to the expansion of industrial undertakings and any undertaking which wants to avoid the application of this law may establish a concern with Rs. 5 lakhs capital and then it can go on every year or every two years expanding the organisation costing about Rs. 5 lakhs, so that the provisions of this Bill will not be applicable to it.

Dr. Deshmukh: I beg to move:

In page 5, line 17, for "five lakhs" substitute, "twenty five lakhs".

This is in consonance with my amendment to clause 4 where I wanted Rs. 1 lakh to be raised to Rs. 10 lakhs. My hon. friend is speaking with very great vehemence on every amendment that he has moved and the Treasury Benches—I do not know for what reason—are prepared to accept any amendment which is vehemently moved. I therefore propose borrowing certain vehemence from him. For instance, I do not find any purpose in the amendment accepted by the House that any undertaking before it becomes an undertaking should be licenced.

Coming now to my amendment I suggest that the provisions of this clause should not apply to an undertaking if the capital invested in it does not exceed Rs. 25 lakhs. As I have already said we are launching on a new experiment, and as has been suggested by more than one speaker we should gather some experience. I do not know how hon. Members of this House imagine that it would be possible for the Government of India to look into every concern with a capital of a lakh of rupees. It would be impossible for the Government machinery to exercise any supervision or control over a large number of such concerns spread throughout the length and breadth of the country. I for one would much rather proceed a little slowly, take up big concerns and license them and then come down to concerns with smaller capital. I do not know what progress my hon. friends have in view, or what calamity they apprehend will befall the nation, if there is no licensing of smaller units. I think they are under a very great misapprehension of the whole position. After all there should be every

possible encouragement for an undertaking to come into being. Our attitude should be one of helpfulness.

Therefore I suggest that Rs. 5 lakhs should be changed to Rs. 25 lakhs. Only then shall we have proper supervision and control. After having seen the Act in actual working for two or three years, then will be the time to bring the limit down a little further.

Shri Karmarkar: We considered this question very carefully from all aspects. There are two extreme views—one being that every industrial undertaking whatever be its capital should be licensed and the other being that only concerns with a capital exceeding say 10 or 15 lakhs should be licensed. After having considered these two views we struck upon a golden mean to limit the amount for which permission in respect of capital issue is necessary. We have every sympathy with both the points of view expressed. As between Rs. 1 lakh and Rs. 10 lakhs, Rs. 5 lakhs is the golden mean.

Khwaja Inait Ullah: Reading clause 11, with the explanation under clause 13 no license is required after three or four years.

Shri Karmarkar: Sufficient unto the day the evil thereof. At the moment, I am opposed to both the amendments.

Shri Venkataraman: The object of this Bill is to control all undertakings with a capital of over Rs. 1 lakh. Because concerns with more than Rs. 5 lakhs have to take sanction for capital issue, a provision has been incorporated in this clause to the effect that no licence need be taken up to five lakhs. Every industry with a capital of over Rs. 1 lakh will be governed by this Bill, but to the extent to which licence is necessary, they will be exempted. This only brings the law in conformity with the existing law and there is nothing new in it. If you introduce some other new provision, it will create confusion.

Shri Jhunjhunwala: I support the amendment which has been moved by my hon. friend Dr. Deshmukh. My hon. friend Mr. Venkataraman adduced the argument that exemptions are given for investment up to Rs. 5 lakhs, because they are covered by sanction for capital issue. My argument against this is that when there is already a control on capital issue of more than Rs. 5 lakhs, it is all the more necessary that there should be no control of licencing of industries with a capital above Rs. 5 lakhs. When

the Finance Ministry has already issued sanction for the issue of capital after careful examination, I fail to understand why it should be subjected to another sanction of the Commerce and Industry Ministry.

This is the time when we have to develop our country and there should be as little restriction as possible by the Government on starting of new industries. I need not dilate on the difficulties which industrialists have to face. Mr. Deshmukh's amendment would at least go some way in removing them. For that reason I support it.

BUSINESS OF THE HOUSE

Mr. Chairman: I have to make an announcement before we adjourn for the Lunch recess. I have to inform hon. Members that the House will sit on Monday, the 15th October for the transaction of government business.

Shri Syamnandan Sahaya (Bihar): And not on Tuesday?

Mr. Chairman: It will meet on Monday, the 15th. Not on Sunday.

Thakur Krishna Singh (Uttar Pradesh): If the intention is to sit on Tuesday also it may also be announced as that will enable us to fix up our arrangements.

Shri Kamath (Madhya Pradesh): Will it be done from day to day? Shall we just drift.

Mr. Chairman: So far as this announcement is concerned it only refers to Monday, the 15th.

Shri Kamath: So we live from day to day, from hand to mouth.

Mr. Chairman: The House now stands adjourned till 3-30 P.M.

The House then adjourned for Lunch till Half Past Three of the Clock.

The House re-assembled after Lunch at Half Past Three of the Clock.

(MR. DEPUTY-SPEAKER in the Chair).

INDUSTRIES (DEVELOPMENT AND CONTROL) BILL—concl'd.

Mr. Deputy-Speaker: We shall take up the further consideration of clause 11. Any other amendments?

Shri Naziruddin Ahmad (West Bengal): Amendments have been moved. We have to speak on the clause.

Shri Barman: I want to speak on this clause.

Shri Naziruddin Ahmad: With regard to clause 11, I wish to draw attention to sub-clause (3) which provides that this clause will not apply to any industrial undertaking whose capital is not more than Rs. 5 lakhs. I should think it should just be the other way round. This provision for license, inquiry and certain prescriptions as to locations, size and certain standards is going to be applied before granting it. I should think that an industrial undertaking whose capital is over Rs. 5 lakhs would in general be a limited company and when such a company is going to be started, its capital structure would be examined by the appropriate authority and its location, size and other standards will be taken care of by experts, whom a big organization like this would be in a position to employ. If this clause confers any benefit upon persons who do not know their business, if the Government is to give that help, as to standards, locations, minimum standards and so forth, it is the smaller concerns which should deserve this benefit, if it is a benefit at all. But the way the matter has been argued shows that this clause should not apply to those deserving persons who really require expert help and so forth. Some Members have suggested that the minimum should be raised to Rs. 25 lakhs and so forth. Hon. Members are unconsciously trying to take away the benefits of this clause from small concerns. As I submitted, it should be just the other way round. The big companies undertake their business after careful consideration and there are a large number of experts and they have to apply for the capital sanction and a lot of things, and they are amply protected. They will not begin things in a wrong way or place an industry in an unsuitable position. For instance, if there is a cotton mill going to be established for Rs. 1 crore or Rs. 50,000 they would not start it because cotton is not readily available but small concerns which have money, probably obtained by black market and other means—they will have more money to spend than to keep—may start a cotton mill business just up to Rs. 5 lakhs in an unsuitable place and I think the benefits of licensing and of inquiry and advice should really apply to such an undertaking. There is again a means of evasion of sub-clause (3).

Dr. Deshmukh: If it is benefit, where is the advice?

Shri Naziruddin Ahmad: In sub-clause (2) the Government have laid down conditions.

Dr. Deshmukh: Conditions but that is not advice.

Shri Naziruddin Ahmad: I suppose these conditions are supposed to be beneficial for the company but why should small concerns be deprived of the venerable advice and specification of the Government? I believe hon. Members are trying to take small concerns out of this benefit. We must once for all settle an attitude to clause 11. If it is beneficial, it should rather apply to smaller concerns than to bigger ones and if it is bad, I think it is bad for all and therefore, I should think that the limit should rather be reduced than increased. I think hon. Members should be quite clear about it. I am not an expert in this business and therefore, I should seek advice and inspiration from my colleagues here.

Shri A. C. Guha: Does the hon. Member suggest a maximum limit?

Shri Naziruddin Ahmad: No, no. I should rather say that any concern whose capital is more than Rs. 5 lakhs should be out of it. The benefit should rather go to the weaker and to those who are likely to have no advisers and who might therefore make mistakes.

Shri Karmarkar: Out of it but should not be controlled by this Act?

Shri Naziruddin Ahmad: Control is another matter. I am referring to licensing.

Mr. Deputy-Speaker: A limited concern whose capital is only Rs. 1,000 requires the license of the Central Government. But if it is above Rs. 5 lakhs, it need not. The hon. Member says that the weaker undertakings require all the help from the Central Government. Therefore undertakings whose capital is from Re. 1 to Rs. 5 lakhs require nourishing and careful handling.

Shri Karmarkar: They should be required to get a license and an undertaking above Rs. 5 lakhs should not require the license?

Shri Naziruddin Ahmad: I do not want to exclude them I should say if we make a distinction, the distinction should be that companies above Rs. 5 lakhs can take care of themselves: they have the advice of experts and their capital structure would be supplied by a large number of the public and they would not supply capital unless these specifications are satisfied. But it is the smaller concern which will require this help, if it is a benefit at all.

Then I was going to submit that there is a way of evading these provisions. Supposing an industrial undertaking is going to be started with a projected capital of Rs. 50 lakhs. All that the owner would do is to start with a capital of Rs. 5 lakhs. Then, this question of licensing will not apply. Later on, he expands to the extent of another 5 lakhs and then goes on like this. That is one way of evasion.

Mr. Deputy-Speaker: On what amendment is the hon. Member speaking?

Shri Karmarkar: On a new amendment not yet drafted.

Shri Naziruddin Ahmad: I am speaking on the clause.

Mr. Deputy-Speaker: The hon. Member can certainly go on.

Shri Naziruddin Ahmad: Then, with regard to the proviso to sub-clause (1), I find a verbal improvement is necessary. It is stated here: "Provided that a Government other than the Central Government". I do not know what Government there can be other than the Central Government except the State Government. I should like to say that it should be described as "State Government" rather than as "a Government other than the Central Government". To say 'State Government' would be a more straightforward thing. Then it says,

"Provided that a Government other than the Central Government may, with the previous permission of the Central Government, establish a new industrial undertaking."

Probably it means that they can start with the previous permission of the Central Government, *without a licence*. But the words 'without a license' are absent in the proviso.

Shri Mahtab: On a point of order, can any general discussion take place on a clause before the amendments are disposed of?

Mr. Deputy-Speaker: I have allowed the discussion to proceed both on the clauses and the amendments. I have asked all the hon. Members who have tabled amendments to move them together. Only the numbers are with me. Had I known that the hon. Member had not tabled any amendment.....

Shri Mahtab: May I take it that there will be no general discussion after this discussion?

Mr. Deputy-Speaker: Once for all, whichever hon. Member wants to participate, will speak both on the amendments and the clause.

Shri Naziruddin Ahmad: The Chairman who was presiding at the time asked the hon. Minister as to his reaction—I speak subject to correction. We were given to understand that the reactions are not favourable. So, the amendments have the usual fate. They would not be moved and if moved, they would not be pressed. So I thought it was a futile task and I thought I could speak generally on the clause. The Chairman, just before the lunch hour, actually invited a general discussion. That is why I stood up. If I have stood up at a wrong moment, I apologise.

What I submit is that so far as the proviso is concerned, it should be made clear that a State Government may, with the previous permission of the Central Government establish a new undertaking without a licence. The original sub-clause says that an undertaking could be started only with a licence. The proviso tries to provide an exception in the case of the State Governments. If they do so with the previous permission of the Central Government, they can establish new undertakings without licence. If you do not say that, the result will be, they will be permitted to start an undertaking with the permission of the Central Government and the requirement of licence will also be applicable to them. In order to remove this misunderstanding, two amendments of a verbal nature should be made. At the end, the words, "without a licence" should be added. For the words "a Government other than the Central Government", the words "State Government" should be substituted.

Shri A. C. Guha rose—

Mr. Deputy-Speaker: I shall give preference to those who have moved amendments. Has the hon. Member moved any amendment?

Shri A. C. Guha: I have not moved any amendment. I want to oppose the amendments.

Mr. Deputy-Speaker: Let us first hear them. **Mr. Barman.**

Shri Barman: My amendment purports to eliminate sub-clause (3) which has been added by the Select Committee.

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Mr. Deputy-Speaker: The hon. Member wants to have a limit of one lakh. The hon. Member says that undertakings with a capital of one lakh should be exempted from the operation of the Bill and that there should be no difference in regard to licences. That is what the hon. Member wants. The limit of one lakh is there.

Shri Barman: If it be eliminated, then, the one lakh limitation will stand. On the other hand, amendments have been moved on the floor of the House to raise the limit up to 25 lakhs. I have neither fascination nor any objection to the proposition whether an industry should be licensed or not. Whether an industry is brought within the rule of taking out a licence or not, that is immaterial for my purpose. My main difficulty is this. In sub-clause (2) of clause 11, it is stated that a licence or permission under sub-section (1) may contain such conditions including, in particular condition as to the location of the undertaking and other things. That is to say, if the authorised capital of any industrial undertaking be within the limit of 5 lakhs, that industry is exonerated not only from the onus of taking out a licence, but that can locate its factory at any place it likes. My objection is to that clause. My reasons are these.

If we keep this 5 lakh limit, certainly the medium-sized industries, or according to the Planning Commission, the small-sized industries will be exempted from the operation of this Bill. That is to say that any industry of the size with an authorised capital of five lakhs, will be exempted from the operation of section 11 and will be able to locate its industrial undertaking at any place it likes. My objection is that this freedom will go to kill further the cottage industries. I should therefore ask the hon. Minister to give careful consideration to this matter. The Planning Commission has given elaborate consideration as to how to develop cottage industries. At the same time, it has mentioned how the rural cottage industries have been killed by the bigger industrial undertakings. The rural cottage industries used to supply all consumer goods to that area formerly. Subsequently with the development of industrial undertakings, as soon as one was installed in a place, all the cottage industries of that place were killed. That is not my opinion; but that is the considered opinion of the Planning Commission. So that there may be side by side development throughout the country of not only big industries but also

[Shri Barman]

small scale and cottage industries, the Planning Commission in the concluding remarks on page 120, say:

"These may include, for instance, licensing of industrial units and, in certain cases, a policy of non-expansion of existing capacity, with the object of achieving the targets set for cottage, small-scale and large-scale industries in the common production programmes which may be drawn up".

So long, there was no regulation emanating from the Government. So, when the people were asking the Government to help cottage industries, Government could very well say that practically they have no hand in the matter. Now, they are taking the power in their hands by the passing of this Industries Development Bill. They will not be in a position to reply in that way to the public hereafter. Therefore, before the Government out of consideration or whatever that be, are ready to exonerate the location of small scale industries up to the limit of a capital of five lakhs, they will have to consider whether they will undertake the development of cottage industries and whether their policy today in accepting this limit of 5 lakhs will create hindrances in that undertaking. To my mind, this will be a dangerous thing and the result of this will be, the Government itself will be hampered in the development of cottage industries and in their common production programme, as has been envisaged by the Planning Commission. I therefore, submit that either the Government should omit the location clause from this section, or they should not raise the limit upto Rs. 5 lakhs but keep it at Rs. 1 lakh as it stands now. I humbly submit this much for the consideration of the hon. Minister and of the House.

Shri A. C. Guha: The purpose of this clause is to provide for the best utilisation of the capital available in the country. In the industrial policy declared in April 1948 a certain sector has been left for private enterprise and in a planned industry that private sector has to be regulated and controlled and it has to be seen that the capital available is used for the purpose or for those industries of which the country has the greatest need. So this provision regarding licensing is very necessary.

The question that now remains is about the limit. Here the term "capital" has been used in the sense not of

share capital but in the sense of working capital, including loans, debentures and other such things. So, the original figure which I think was Rs. 1 lakh has been found not sufficient. Today it has been found that for the working of a small undertaking you require much more than Rs. 1 lakh. With Rs. 1 lakh it is hardly possible to start any of the industries given in the schedule. So it is no use putting a limit of Rs. 1 lakh because with that much capital not one of the scheduled industries can be started.

Khawaja Inait Ullah: What about leather and leather goods industry?

Shri A. C. Guha: That will come under cottage industries.

It has been proposed by the Planning Commission and the Government that the small-scale and cottage industries should be fostered, and so the limit should not be so small as to put a check on the development of the small scale and cottage industries. That would be putting a check on decentralised economy.

Further, there is a Capital Issue Control Committee and there also the limit is Rs. 5 lakhs. That is the limit at which any investor has to come to the Capital Issue Control Committee for permission. Therefore it has been thought desirable and proper to keep the same limit in both the cases, both in the case of the capital issue control and for the purpose of starting these industries. It has also been suggested—and the hon. the Finance Minister also was present in the Select Committee when it was suggested—that after the passing of this Bill, the Capital Issue Control Committee might become redundant and that there need not be two machineries to exercise almost the same sort of control. As I have stated on a previous occasion, these industrial concerns and these companies have to conform to the demands and dictates of many committees and boards in whatever capacity it may be. So, I think, after the passing of this Bill and with this provision for licensing, the Capital Issue Control would cease to exist and Rs. 5 lakhs should be the limit to be fixed.

As for the other amendment seeking to fix the minimum at Rs. 25 lakhs, I feel that it will be leaving too big a gap and many of the investments in these industries may escape the provision for licensing, and the available capital might be frittered away in investments not really desirable for the economic development of the country.

I appreciate the point made out by Khwaja Inait Ullah about section 13 re: substantial expansion. That term was also carefully discussed in the Select Committee. There it was found difficult to give a precise definition of substantial expansion. We realised there is some lacuna if sections 11 and 13 are taken together for designing investors to escape. It was not the intention of the Members of the Select Committee to leave this as it is, but yet it was not found possible to cover all possible loop-holes and it is not possible, either, to make any legislation "knave-proof". So the risk has been taken and the limit fixed at Rs. 5 lakhs so that due control may be exercised over the investment of capital.

With these few words, I support the clause as it stands.

Mr. Deputy-Speaker: But I think the hon. Minister is opposing all the amendments?

Shri Mahtab: Yes, Sir.

Khwaja Inait Ullah: If we could know what is the fate of our amendments, we would know how to proceed further.

Shri Mahtab: I shall explain the position so that hon. Members may not feel that their points of view were not taken into consideration.

This clause was inserted by the Select Committee because it was felt that unless there is a clause like this the small units would be very much inconvenienced in the matter of obtaining licences. As Khwaja Inait Ullah has pointed out, this clause, read with clause 13 might create some difficulty. Therefore, when we come to clause 13 we are proposing some amendment to that clause which will meet his point of view. I need not, however, speak on clause 13 at the present moment. It was stated by Mr. Naziruddin Ahmad because he had not followed the trend of the discussion here, that the

Shri Naziruddin Ahmad: If so, it is because of the want of lucidity on the part of the Minister to explain things. We are accustomed to understanding things if properly put.

Shri Mahtab: Licensing is for the purpose of regulation according to a plan. Here no experts and expert-advisers come. There is no scope under this clause for expert advisers. Whatever assistance is given will be given under the Development Council clause which we have already

passed. In this clause the question of location is there, because there is a suggestion of the Planning Commission that there should be no concentration of industries in any particular area of the country, that there should be proper regionalisation. So there are various other considerations which will be borne in mind when licences are granted. Here an effort has been made to relieve smaller units from the inconveniences which may be caused on account of this clause. After some deliberation, the Select Committee came to the conclusion that this clause should be there in order to assist the smaller units. And this is the form of assistance which it has been sought to be given here under sub-clause (3).

Khwaja Inait Ullah: May I point out that according to me, the amending of clause 13 for the purpose of this Rs. 5 lakhs will be more difficult because if you amend clause 13 which relates to expansion, then you would be putting a check to expansion and that would be harmful to the industries themselves. So it would be better to effect the amendment here in this clause.

Khwaja Inait Ullah: May I point to put one question to the hon. Minister. The hon. Minister said that this clause is designed to help the smaller units of the industry. Will the hon. Minister kindly explain to us how the smaller units will be helped by their not having to apply for a licence? While in his opening speech the hon. Minister said there are many uneconomic units seen in many parts of the country which should be closed down, now he says that they should be helped. My difficulty with regard to this clause is this. Suppose you allow such units to the extent of say Rs. 5 lakhs, to be started without any licence and without letting them have any hint as to where they should start their factories and what would be an economic holding. I had expected that after the two years' deliberations of the Planning Commission it would be possible for the Government to attach a list to this Bill giving the places where private industries could be started, saying this place has so much capacity and so such and such industry can be started in this place. In that case I would have understood that those private industries with a capital of Rs. 5 lakhs could start without licence, so that the smaller people can take advantage and not compete before the Government as to who is to get the licence and who not. Otherwise I do not understand how it is going to help them.

[Shri Jhunjhunwala]

4 P.M.

Secondly there are some industries which it may not be necessary to start but which for the time being might give a good profit if a person started it. Take the case of the film industry. There is nothing to prevent a person from starting it with a capital of Rs. 5 lakhs and get all the assistance from the Government. I would like to know how this is going to help the smaller people?

Babu Ramnarayan Singh: They will not have to pay bribes.

Thakur Krishna Singh: Presuming that the provisions of this Bill will be worked efficiently I am raising certain objections. I would certainly object to the retention of sub-clause (3) of clause 11. My friend advanced arguments that it should be one lakh and not five lakhs. I would go further and say that this sub-clause should be deleted altogether. In clause 4 instead of saying:

"Nothing in this Act shall apply to an industrial undertaking if the capital invested therein does not exceed rupees one lakh."

it may be said:

"Nothing in this Act shall apply to an industrial undertaking of the nature of cottage industry...."

That clause has been passed and I cannot say anything about it. If you retain sub-clause (3) of clause 11 it will make licensing infructuous, planning infructuous and would create confusion in the working of the industry. By retaining this particular sub-clause you will be allowing some of the capitalists to evade the licensing clause. If you read the Explanation to clause 13 with clause 11 you will see that there will be always evasion. Even if a person does not take advantage of the Explanation of clause 13 he will try to take advantage under clause 15. If a factory is started with a capital of Rs. 5 lakhs or less he may not be able to maintain the standard or quality of his products. Under clause 15 Government may make an inspection and will come to the conclusion that since the particular undertaking is not manufacturing products of a particular quality, it should give certain directions to that industry. Under clause 16 it may issue a direction:

"requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the developments of the industry to which the undertaking or undertakings relates or relate."

In that case the only argument of the man would be that with the capital he has invested he cannot produce a better quality and that if he is allowed to invest more capital and expand the factory he would be able to produce better quality. He will come with a request before the Government and in that way evade the licensing clause. As has been stated by the hon. Minister the clause on licensing was introduced so that there may not be congestion of industrial undertakings at one place. I am sure that if sub-clause 3 is retained planning would be rendered more difficult and the Government would realise after sometime that it has committed a mistake in retaining sub-clause 3. Therefore it should be altogether deleted so that you may give the advantage of your advice and help to these small undertakings as well and see that they are not situated anywhere and everywhere. It is for this reason that I am objecting to the retention of sub-clause 3 of clause 11.

Shri Ramalingam Chettiar: There seems to be some misapprehension about the object of the two matters to which reference has been made. One is with reference to the exemption from the provisions of this Act for the small scale industries. The idea is that when this Bill becomes an Act, it should only apply to bigger industries and not to cottage and small scale industries. In the old days we did not require very much money for such small scale industries. At the present moment we want to decentralise the industries and take the bigger industries to the villages in the form of small units such as having small factories with 300 or even 1000 spindles in a village worked by electricity. It is said that in Japan there are such small units in the villages. Similarly you can have 5 or 6 looms for silk or other special products. These units will cost more than a lakh at the present valuation. The prices have gone up so high that you cannot start a cottage or small scale industry at a cost less than a lakh, the exemption limit allowed under clause 4. It is to help such small scale industries that this particular exemption was made.

It was asked what was the advantage of this exemption. We do not want to concentrate the industries in a particular area but they will be concentrated, because there is always a limitation with regard to these cottage and small scale industries. There are the limitations with regard to raw materials, the personnel available to work the industry and so on. Take for instance the khand-

sari factory to produce sugar. The limitation in that case is the amount of sugarcane available and the persons available to work the factory. It was in view of this that it was thought that no licence was necessary and no special conditions need be imposed with regard to such small factories. They will grow and adjust themselves according to the needs of the locality. It was with that object that this was introduced. It may be that the upper limit of five lakhs is too high but taking into consideration the present prices it was thought that five lakhs was not too much. For instance if we want to set up a small factory in a village with a spindleage of 500 even that will cost, taking into consideration the working capital, about 4 or 5 lakhs. So it is for that purpose that the limit was fixed. As a matter of fact, in the Select Committee I said five lakhs was too much but the Government thought that taking into consideration the present prices the limit of five lakhs was not too much. To impose conditions of all sorts with reference to small-scale and cottage industries will be very difficult—both to impose and also to work.

I will only add that not only the cottage industries and the small-scale industries, but also the small industries which are going to be started, maybe by the District Boards, maybe by the *Panchayats*, are also included in this provision. For instance, for distribution of electricity several of the local bodies have started making provision. These cost more than a lakh of rupees for the necessary equipment, for distribution and things like that. Do you want the village *panchayats* to come to the Central Government every two days for getting a licence? And if they do, what will be the time it will take and what will be the difficulties they will have to encounter? It was with reference to all these matters that this provision was made in the Select Committee.

As regards the objection that was raised by Mr. Naziruddin Ahmad that we should say "the State Government" and not "a Government", the object of saying "a Government" was to include all these local bodies. The local bodies are included in the term "Government". It was with a view to include those local bodies that the words "the State Government" were not used but the words "a Government" were used. Such being the case, I submit that these two provisions that have been made are quite correct.

Shri Naziruddin Ahmad: Are the District Boards and Municipalities termed as "Government"? Can we apply the word "Government" with a capital "G" to District Boards and Municipalities?

Shri Ramalingam Chettiar: Yes.

Shri Naziruddin Ahmad: I do not think it has ever been done. They are called "local authorities".

Shri Mahtab: After listening to the debate I am inclined to accept amendment No. 17 which seeks to omit this sub-clause for this reason: We had thought in the Select Committee that the smaller units will be very much inconvenienced by having to obtain these licences, but there is a provision in this Bill to delegate authority to the State Governments. In the case of smaller units we may consider delegation of authority to a certain extent. Now, first of all, many Members do not appear to be satisfied with this sub-clause; secondly, this will create some difficulty in working clause 10. Therefore, I accept the amendment which seeks to delete this sub-clause.

Mr. Deputy-Speaker: I will put amendment No. 17 to vote. Instead of saying, "Omit lines 16 and 17", I will say that the sub-clause be deleted.

The question is:

"Omit sub-clause (3) of clause 11."

The motion was adopted.

Mr. Deputy-Speaker: Are the other amendments on this pressed?

Dr. Deshmukh: Now that this has been passed they are barred. I think it was wrong to have put that amendment first.

Mr. Deputy-Speaker: 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.

Clauses 12 and 13 were added to the Bill.

Clause 14.—(Procedure for grant of licence)

✓ **Shri Syamaandan Sahaya:** I beg to move:

In page 5, after line 46, insert:

"Provided that the decision regarding grant of licence or permission shall be taken within three months of the receipt of application in this behalf".

"Provided further that there shall be no public investigation in deciding the question relating to the grant of any licence or permission".

I need not add anything—the provisions are self-explanatory and the matter is so simple that I have no doubt the hon. Minister will accept it.

Mr. Deputy-Speaker: Amendment moved:

"Provided that the decision regarding grant of licence or permission shall be taken within three months of the receipt of application in this behalf".

"Provided further that there shall be no public investigation in deciding the question relating to the grant of any licence or permission".

Khwaja Inait Ullah: My amendment is No. 66.

Mr. Deputy-Speaker: It is the same as that of Shri Syamaandan Sahaya? This also wants to have a time limit of three months.

It is a very essential thing, Sir. I beg to move:

In page 5, after line 46, add:

"Provided the investigation and all other processes for granting or refusing the licence shall not take more than three months."

خواجہ عنایت اللہ :
ہم جانتے ہیں کہ اس تیز رفتاری کے زمانے میں بھی جب کہ ہوائی جہاز ایک گھنٹہ میں چار سو میل چلتا ہے ہماری حکومت کے دفاتروں میں کافڈ بیل گاڑی کی رفتار سے بھی کم چلتے ہیں جب یہ حکومت چاہتی ہے کہ جو انڈسٹریلٹس درخواست دیں وہ اتنے وقت کے اندر دیں - نو جب

گورنمنٹ پبلک سے یہ کہتی ہے تو پبلک کو بھی یہ کہنے کا حق ہے کہ وہ گورنمنٹ سے درخواست کو فیصل کرنے کا ایک وقت مقرر کرنے کو کہہ - اس لئے میں چاہتا ہوں کہ اس میں یہ الفاظ رکھ دیئے جائیں -

"Provided the investigation and all other processes for granting or refusing the licence shall not take more than three months."

اننا وقت بہت ہے - تین مہینے کے اندر سب کچھ ہو سکتا ہے - یہ نہیں ہونا چاہیئے کہ ایک انڈسٹریلٹس دو تین یا دس لاکھ روپیہ لگا کر ایک انڈسٹری قائم کرنا چاہتا ہے - اس نے مشینری کا بھی بلڈریسٹ کر لیا ہے - زمین خریدنے کو، بات چیت بھی کر رہا ہے - اس کے بعد جب وہ گورنمنٹ کو درخواست دیتا ہے تو وہ درخواست گورنمنٹ کے دفاتروں میں ایک ٹیبل پر سے دوسرے ٹیبل پر جانے میں ہفتوں لے لے - تو اس میں روک لگا دیلی چاہیئے - اور جب ہم پبلک کے لئے وقت مقرر کر دیتے ہیں تو ہم کو گورنمنٹ کے لئے بھی وقت مقرر کرنا چاہیئے - تو میں یہ چاہتا ہوں کہ جو درخواست آپ کے پاس لائسنس کے لئے آوے - آپ چاہے اس کو منظور کریں یا نہ کریں - پر اس کے سارے پراسس کو تین مہینے کے اندر ختم کر دیجئے -

Mr. Deputy-Speaker: Amendment moved:

In page 5, after line 46, add:

"Provided the investigation and all other processes for granting or refusing the licence shall not take more than three months."

Shri Mahtab: Sir, I have already explained that the Select Committee have recommended in their report that licences, wherever necessary, should be issued as expeditiously as possible, and they have suggested that a maximum limit of four months may be laid down in the rules for this purpose. In my opening speech I explained how the rules will be made, and I assured that this time limit will be incorporated in the rules. If it is put down here itself in the law, some other complications will arise. The rules will lay down how the applications will be notified, how from that notification enquiry will be started, what period will be required for the enquiry, etc. The total period for all this will be within four months and I have already assured the House that it will be provided for in the rules. I would therefore request hon. Members not to press their amendments for inclusion of the time-limit in the law itself.

خواجہ علیت اہم : مہری سمجھ
میں نہیں آتا کہ جب آئیبل منسٹر
چار مہینے ماننے کو تیار ہیں تو وہ اس
میں وقت مقرر کیوں نہیں کرنا چاہتے۔
وہ چار مہینے کہتے ہیں اور ہم تین
مہینے مانگ رہے ہیں۔ ہم چار مہینے
بھی ماننے کو تیار ہیں۔ اگر وہ چار
مہینے بھی مان لیں تو ہم کو کوئی
اصرار تین مہینے پر نہیں ہے۔ لیکن
اگر قانون میں وقت دے دیا جائے گا
تو ہم پبلک سے کہہ سکیں گے کہ ہم نے
جو قانون بلایا ہے اس میں گورنمنٹ
کے لئے بھی اتنا وقت مقرر کر دیا ہے
اور اس طرح ہم پبلک کو سہستفائی
کر سکیں گے۔

(English translation of the above speech)

Khwaja Inait Ullah: It is a very essential thing, Sir. I beg to move:

In page 5, after line 46, add

"Provided the investigation and all other processes for granting or refusing the licence shall not take more than three months."

We are all aware that in this age of speed when the aeroplanes travel at 400 miles per hour the movement of files in Government offices is slower than that of a bullock cart. When the Government fixes a time limit for submission of applications by the industrialists, the public has also a right to demand that the Government set a time limit for disposal of the same. I want that these words be added:

"Provided the investigation and all other processes for granting or refusing the licence shall not take more than three months".

This much time is sufficient. Every formality can be gone through within three months. Suppose an industrialist, who wants to start an industry with a capital of say two, three or ten lakhs, has made arrangements for purchase of machinery and is negotiating for acquiring land and after that he applies to the Government for licence. It should not be that his application may take weeks to travel from the table of one functionary to that of another. I want that all applications for licence, whether they are accepted or not, should be disposed of within three months.

Mr. Deputy-Speaker: Amendment moved:

In page 5, after line 46, add

"Provided the investigation and all other processes for granting or refusing the licence shall not take more than three month."

Shri Mahtab: Sir, I have already explained that the Select Committee have recommended in their report that licences, wherever necessary, should be issued as expeditiously as possible, and they have suggested that a maximum limit of four months may be laid down in the rules for this purpose. In my opening speech I explained how the rules will be made, and I assured that this time limit will be incorporated in the rules. If it is put down here itself in the law, some other complications will arise. The rules will lay down how the applications will be notified, how from that notification enquiry will be started, what period will be required for the enquiry, etc. The total period for all this will be within four months and I have already assured the House that it will be provided for in the rules. I would therefore request hon. Members not to press their amendments for inclusion of the time-limit in the law itself.

Khwaja Inait Ullah: I fail to understand why the hon Minister does

[Khwaja Inait Ullah]

not agree to the time limit being mentioned in the Bill, when he agrees to four months instead of three. I will not insist on three months if he agrees to the time limit of four months. If he accedes to my request, we would be able to tell the public that a time limit has been laid down for the Government in the Act and thus satisfy them.

Mr. Deputy-Speaker: How many times is he going to speak? He has said what he had to say and he sat down. After that, I called on the hon. Minister and he replied. He must be satisfied with the reply.

Khwaja Inait Ullah: I am not satisfied.

Mr. Deputy-Speaker: That is another matter. The rules are more flexible than the Act itself. According to the nature of the investigation, they may call for more papers and it may take time. Therefore, there cannot be uniformity in the rules. It will be done within four months as far as possible.

Dr. Pattabhi (Madras): May I ask the hon. Minister whether, if the Government are not prepared to give a final answer within four months, the party is to be free to proceed with his business?

Shri Mahtab: The rules will lay down that within four months the application should be disposed of one way or the other.

Mr. Deputy-Speaker: If it fails, then the matter will go to a court of law.

Thakur Krishna Singh: Will this period be put down in the rules?

Mr. Deputy-Speaker: That is what he said.

I take it that both the amendments are withdrawn.

Amendments were, by leave,
withdrawn.

Mr. Deputy-Speaker: The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

✓ **Clause 15.—(Investigation into Scheduled Industries)**

Shri Syamnandan Sahaya: I beg to move:

In page 6, line 10, omit "economic".

It is said here that if due to economic conditions prevailing there is no justification for the fall in production, then an investigation will be made. I

submit that there may be other causes, other than economic conditions, which may also be taken into account.

Mr. Deputy-Speaker: By omitting "economic" he is widening the scope. He may understand the implication of his amendment. "Economic" restricts the scope.

✓ **Shri Syamnandan Sahaya:** I may be wrong, but I submit that my interpretation also requires a little consideration. From the language of this clause which says:

"Where the Central Government is of the opinion that there has been or is likely to be a substantial fall in the volume of production.....for which having regard to the economic conditions prevailing there is no justification....."

it would appear that the only thing which Government will take into consideration will be the economic conditions. I submit there may be other conditions, e.g. labour troubles.

مولانا آزاد : لہجہ و فقہیہ کے جو معاملات میں وہ یہی تو اگانک میں آجاتے ہیں۔

The Minister of Education (Maulana Azad): Labour affairs also include economic affairs.

✓ **श्री श्यामनंदन साहाय :** आपका कहना सही है। लेकिन इसे इकानमिक में ब्रुसाने में दिक्कत होती है। जो इकानमिक का इंटरप्रिटेशन (Interpretation) हुआ है उसमें लेबर (Labour) नहीं आता है। वैसे तो आखिर में हर बात इकानमिक में आ जाती है। लेकिन इस के जो रोज मर्रा के भावी हैं उन में इस को लाने में दिक्कत होती है।

(English translation of the above speech)

✓ **Shri Syamnandan Sahaya:** You are right. But it is difficult to include it in the term "economic". The interpretation of "economic" does not include 'labour.' Though ultimately everything can be included under the head "economic" it is difficult to include 'labour' in its commonly understood connotation.

I would in fact like to have your guidance in this matter. My own feeling is that the clause as it is will mean

that if on account of economic conditions there is justification for the fall in production Government will not step in but supposing it is due to other considerations, then they will step in. When the fall is due to the negligence of the manager or managing agent, Government must recognise that there may be causes other than economic causes. If Government are satisfied that the fall is not ascribable to the management, then there should be no investigation. That is my purpose. If you tell me that this is covered, I shall be glad to know. But I would request you to consider this matter.

Mr. Deputy-Speaker: I think it may be both ways. I shall put it to the House.

Shri Syamnandan Sahaya: After all, in a matter of legislation it is not the individual opinion that counts. We are all jointly responsible to see that a good legislation is passed.

To this very clause I have another amendment, No. 25 regarding consultation of the Central Advisory Council. I desired to bring it in in other clauses too, but in view of the hon. Minister's assurance that they would take good care to consult the Central Advisory Council, I shall not move it.

Mr. Deputy-Speaker: Amendment moved:

In page 6, line 10, omit "economic".

Khwaja Inait Ullah: Mr. Shiv Charan Lal has asked me to move his amendments on his behalf and he has written to you also.

Mr. Deputy-Speaker: I am sorry under the rules it is not possible. Yes, the hon. Minister.

Shri Mahtab: I agree with you, Sir, that the amendment of Mr. Sahaya would widen the scope. As it is, if there has been a shortfall on account of causes which the economic conditions do not justify, then and then alone will Government step in. That is to say, Government will step in when there is absolute mis-management, or when there is something else which has nothing to do with economic conditions. If the proposed amendment is accepted, the result will be that even if the economic conditions justify the shortfall, Government may step in and start an investigation. I will give an instance. Supposing the production of firm X has gone down due to labour trouble. According to this clause, since this is an economic reason Government will not start an

investigation. Supposing you amend the clause as proposed, Government will step in here also and start an investigation. Thus, you are widening the scope.

Mr. Deputy-Speaker: The question is:

In page 6, line 10, omit "economic".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clause 16 was added to the Bill.

Clause 17.—(Direct control by Central Government)

Shri Mahtab: I beg to move:

In page 7, lines 17 to 19, omit:

"either to take charge of the whole or any part of the undertaking in supersession of any other person or body of persons in charge thereof or".

In page 7, omit sub-clause (2) and re-number the subsequent sub-clauses accordingly.

In page 7, lines 46 and 47, for "the control of the industrial undertaking shall vest in the owner of the undertaking" substitute:

"the industrial undertaking shall be released from any control under this section"

I explained the necessity of these amendments in my opening speech. In these amendments we are using those very expressions which have been used in the first Bill when it was introduced and as it was reported on by the First Select Committee. The whole thing has been thoroughly examined by our Law Ministry and they are of the opinion that the wording as it stands will not be satisfactory from the legal point of view. In order to make the whole clause in keeping with the legal phraseology these amendments are being proposed.

Shri Venkatraman: I oppose the amendment moved by the hon. the Industries Minister.

Shri Mahtab: It must be clearly understood that it is one thing to exercise control and entirely a different thing to take over the management.

[Shri Mahtab]

In the case of the latter, clause (2) of Article 31 of our Constitution comes in our way.

This matter was examined by our Law Ministry with particular reference to the recent judgments of the Supreme Court in the Bihar Estates Abolition Act and the Sholapur Mill Case. If management is taken over it will conflict with the provisions of the Constitution, unless compensation is provided for.

Shri A. C. Guha: How is it then that certain light railways were recently taken over by Government.

Mr. Deputy-Speaker: Taking over for the purpose of acquisition is one thing; taking over for management is a different one.

Shri Mahtab: The whole matter was thoroughly examined by the Law Ministry and this is their opinion.

Shri T. N. Singh: May I ask one question of the hon. Minister. In the U.P. there is a Bareilly Turpentine Works which has recently been taken over by Government and it is under Government management even today; but this has not been considered illegal.

Shri Venkataraman: Sir, this Bill has gone through various vicissitudes. A mountain in labour has ultimately produced the proverbial mouse. The only object of this Bill is to control and take over the undertakings of recalcitrant industrialists, when they fail to fulfil certain conditions imposed on them.

So far as the legal aspect of it is concerned, I do not think there is any legal flaw in Government taking over the management of any undertaking. The powers of Government or exactly similar to that of a receiver appointed by a Civil Court.

This is not in any sense taking over the industry itself or acquiring it. On the contrary, it is just taking over management for the purpose of carrying on certain specific functions. I, therefore, strongly urge the retention of this clause as it is.

Shri Mahtab: The point was discussed over many hours. A similar provision has been provided for in the Indian Companies (Amendment) Bill, where some judicial process has been introduced. Here it is purely an executive action. There is no provision that the matter will be referred to a judicial authority and action will be taken according to its decision.

Here when Government finds that a certain management is behaving in an unsatisfactory manner, it steps in and takes over management of that concern. The question that would arise is what would happen to the management. In the Sholapur Mill case the Supreme Court held that there was much force in the contention that no compensation had been paid to the Managing Agents. In the first Bill, as it was introduced, the relevant clause read as follows:

"If after a direction has been issued in pursuance of the rules made under section 10 requiring the Government to take any action or steps with regard to any matters mentioned in clauses . . . or prohibiting the industry from resorting to any act . . . the Central Government is satisfied that such direction has not been complied with, or if the Central Government is satisfied that it is necessary to do so in the public interest, the Central Government may by order authorise any person to exercise with respect to the whole or any part of any such undertaking such control as may be exercised.

"If after a direction has been issued in pursuance of section 16, the Central Government is of opinion that the direction has not been complied with and that any industrial undertaking in respect of which the direction has been issued is being managed in a manner highly detrimental to the scheduled industry concerned or to the public interest, the Central Government may, by notified order, authorise any person or a Development Council or any other body of persons (hereinafter referred to as the authorised person) to exercise with respect to the whole or any part of such undertaking such functions of control as may be provided by that order."

That is, the first alternative "either to take charge of the whole or any part of the undertaking in supersession of any other person or body of persons in charge thereof or" is sought to be omitted.

Mr. Deputy-Speaker: What will remain is "authorise any person. . . etc. to exercise with respect to the whole or any part of such undertaking such functions of control as may be provided by that order". Then sub-clause (2) will go because there is no taking charge of the industrial undertaking.

Shri Mahtab: Yes. In this connection I may read out article 31(2) of the Constitution to see how it conflicts with this. It says:

"No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined and given".

Here we are doing it for public purposes. Except this Government have no other objection.

Mr. Deputy-Speaker: Is it said that a receiver may be appointed for the benefit of the owners?

Shri Mahtab: That is my layman's point of view—that we can provide like this that the management will be taken over and whatever compensation is due to the managing agency will be paid.

Mr. Deputy-Speaker: Let the draftsmen and others look into the matter. We shall come back to it. Whosoever might be interested in it, the main interest so far as the Government is concerned is that the production must be all right. That is all that the Government and the public are interested in. If it is suitably modified then there is no difficulty.

Shri Mahtab: Let it lie over for the time being.

Mr. Deputy-Speaker: We may pass over to clause 18.

Shri T. N. Singh: Under the Constitution the Government can do certain things if it is in the public interest. All these rights take a subordinate position even in the scheme of the Constitution as it exists today where the public interest is involved. Now, with regard to these scheduled industries they are sort of industries of national importance. That is why they have been put into the schedule. They are things of national interest or public interest. And Government does not expropriate them, does not deprive them of the industry itself or the undertaking itself. Government

only takes over the management for the specific object of increasing the production for benefiting both the country and the industry. I do not therefore see how this point has been raised today. As a matter of fact I am really getting, if I may use that word, suspicious as to why this last minute opinion has been advanced on this point.

Mr. Deputy-Speaker: The hon. Minister is considering what wording can be put in without prejudice to article 31(2) of the Constitution so as not to offend it.

Shri Mahtab: Let me place before you what has been my advice. In the case where a receiver is appointed, the property is taken over in the interest of the owner of the property. But here we are laying down that we are taking it over for public purposes, not in the interest of the owner. When it is not taken over in the interest of the owner the liability will be there that the owner might later on say that the property was mismanaged and did not produce the same results.

Mr. Deputy-Speaker: There are two sets of persons always involved. Otherwise there is no need for this Bill and the whole Bill will be *ultra vires*. The main point is the interest of the consumer or the public which is paramount. If an industry is lax on considerations other than economic conditions, if there is a fall in production, it is the duty of the State to give directions. So far we have agreed. If these directions are not carried out, what is the next step? Taking possession without compensation is opposed to the spirit of the Constitution. Managing it for the benefit of whomsoever it may be—and not a pie is touched—for the benefit of those persons who might be interested in it, and then giving away all the profits, is a management for the purpose of increasing the production and the quality. I do not think there is anything wrong there. Anyhow he might consider it.

Shri T. N. Singh: The Constitution was also amended for this very purpose.

Mr. Deputy-Speaker: Article 31 does not come in the way so far as I can see.

Shri Karmarkar: May I add a few words to what you have said? There are these two alternative methods of control: either to take charge of the whole or any part of the undertaking—"take charge" is a very vague term.

[Shri Karmarkar]

It might mean taking charge of the ownership, the management. "To take charge" is to take charge, to take possession, something like that. That is a very wide and vague term which can apply to all things, rights of ownership, management etc. There is the alternate thing which in our opinion is sufficient to achieve the principle purpose in view, namely "to exercise with respect to the whole or any part of such undertaking such functions of control"—which will include management, as you have just now said—"as may be provided by that order". The essential difference between the two is this that one is to take charge of a particular undertaking and the other is to exercise such control as may be necessary. The whole purpose of this Bill as hon. Members will easily see, is to control industrial undertakings with a view to maximising production in the interests of the nation. That is the whole object. That object can be very efficiently served only by one of the two alternatives, that is to say, either to take charge of the whole or any part of the undertaking or to exercise with respect to the whole or any part of such undertaking such functions of control as may be provided by that order. The latter one is a very comprehensive thing. It does not hurt the law or the Constitution, whereas taking charge of the undertaking may jeopardize the law and the Constitution and is moreover very wide. We are content with the second alternative which I very respectfully submit will completely serve the purpose because it will be the whole control of the organisation which means appointing a manager, issuing all the necessary instructions and so on. Control is an all-inclusive word, which will serve all our purposes.

Mr. Deputy-Speaker: Control is different from management.

Shri T. N. Singh: How is it said that this is vague. "Taking charge" means taking charge from the persons who are in charge of that undertaking. It is very specific and clear. In the latter portion of the clause it is said "persons in charge thereof" which means only those in charge, not the owner. "In charge" always means the person in charge of it. It is a clear term. There is no ambiguity about it at all. It only means those who are running the concern, not the owners of the concern. There are two different personalities and you are taking charge from the person who is in charge of it. Nothing else could be better than this. I do not know how the Deputy Minister of

Commerce puts any vagueness in this clause. I think as a matter of fact it is too definite.

Mr. Deputy-Speaker: I believe there is a provision in the Banking Companies Act for assuming charge, or in the recent Act . . .

Pandit Thakur Das Bhargava: In the Railway Act also.

Shri A. C. Guha: Two Acts were passed in this session which have authorised the Government to take over concerns. In sub-clause (5) there is the provision as to when and how to release that concern from the control of Government. If the Government feel so much nervous, then they can at the most say "either to take charge of the management of the whole concern . . . etc." The clause does not mean expropriation because sub-clause (5) clearly provides for the release of the whole thing.

Mr. Deputy-Speaker: Recently we passed the Railways Act.

Shri A. C. Guha: The Companies Act also.

Shri Mahtab: I have compared it with those Acts. There is no provision like this in any Act.

Pandit Thakur Das Bhargava: If the Railways are mismanaged, what is the provision? What is the provision in the Companies Act also?

Shri Mahtab: I will find about the first matter. There is the Companies Act with me but there is no provision like that here. I will read the provision in the Companies Act.

Shri A. C. Guha: Legal difficulties will be overcome by taking over the management of the company or the concern.

Mr. Deputy-Speaker: That is another matter.

Shri Mahtab: Here the Companies Act provides: "The termination of any agreement howsoever arrived between a company and its manager, managing agency, managing director or any of its other directors. . ." It does not provide anywhere to take over the thing.

✓ **Shri Syamnandan Sahaya:** The difficulty which is being felt by the Government on this clause is real and the moment you take over possession, then so far as the present interpretations of the Constitution are concerned, the difficulty will certainly

be created. With regard to even the use of the word 'management' perhaps some of you may be aware that in the State of Bihar a State Management Act was passed but even there as the possession was being taken over completely without compensation that Act was declared *ultra vires* by the High court of that State...

Mr. Deputy-Speaker: What happened in the Supreme Court?

✓ **Shri Syamannandan Sahaya:** It has not been heard yet before the Supreme Court but it was held *ultra vires* by the High Court at Patna. Whatever legal opinion be available the hon. Minister may consult—he must certainly consult and it is desirable that this clause may be held over till he has consulted legal opinion—the fact remains that if these words "either to take charge of the whole or any part of the undertaking in supersession of any other person or body of persons in charge thereof" are retained, then I do not think he will be able to get over the difficulty of the Constitution. I therefore think that the words "or to exercise with respect to the whole or any part of such undertaking such functions of control as may be provided by that order" may save them a little. Even here when they actually take possession they will not be beyond the pale of offending the Article of the Constitution but still there may be some saving in this if they do not retain the words "take charge of the whole or any part of the undertaking in supersession of any other person." It will definitely offend the article if these words are retained, particularly as interpreted so far by the different High Courts and also in some cases by the Supreme Court. Therefore, the right course for the hon. Minister will be to drop these words as they have been mentioned in the amendment and only to retain the words "or to exercise with respect to the whole or any part of such undertaking".

Mr. Deputy-Speaker: That is the amendment of the hon. Member.

✓ **Shri Syamannandan Sahaya:** I think that later on they will have time and they may consult legal opinion and they may word their orders in such a way as to get over this Constitutional difficulty.

Shri Mahtab: Another alternative may be, there is no legal objection to take over the management provided we make some provision for compensation. For this some draft

has been made. If we make that addition to the clause it will be all right.

Mr. Deputy-Speaker: What is the compensation for management?

Shri A. C. Guha: There is no question of compensation for the Sholapur Mills.

Shri Mahtab: Where any profit yielding undertaking is taken over, the Government shall also provide for the disbursement of such profits to those entitled thereto.

Shri Khandubhai Desai (Bombay): The idea is to control for some time that particular undertaking if it is mismanaged or if the particular undertaking refuses to carry out the directions which are sent by the Government from time to time. In defiance of that the Government may take over the management for some time. So the question of compensation in my opinion does not arise. Of course the profits will go to the company. The Government will only be managing as trustees of shareholders or the proprietor.

Mr. Deputy-Speaker: Even if they are managing agents that may be taken.

Pandit Thakur Das Bhargava: If you say that the profits will go to these persons, and supposing there is any damage or some loss occurs, what would happen. I would therefore submit that in case the management is taken over, it is not taken subject to this possibility. The Government takes it over for the purpose of seeing that the defects that are found there are remedied; only to remedy that the Government takes it over. Hence there is no question of acquisition, there is no question of compensation and profit or loss etc. Of course if profit is made it shall go to shareholders.

Mr. Deputy-Speaker: What he says is that if there is a loss, you have not said about it. You only refer to profits and therefore those people on the other side may be entitled to claim damages. Why not we say 'take over the management' just as under the District Municipalities Act, if a man takes over of the property he does not do so? The municipality can step in and get the work done and get the charges from the person who is responsible for that. In the same manner the management will be taken over and the entire profit and loss will go to the company.

[Mr. Deputy-Speaker]

Taking 'charge of the management of the whole or any part' will do and even in spite of the best efforts something may be said by the Courts. At every stage, you cannot be afraid. I suggest that the words "either to take charge of the management of the whole or in part of the undertaking" will suffice. Then we can make a corresponding change in clause (2).

✓ Shri Syamnandan Sahaya: The words according to the amendment proposed also contain the expression 'to exercise'.

Mr. Deputy-Speaker: That has already been discussed. The hon. Minister himself said so. I did not refer to it and the hon. Member also said these words are enough. But now it is thought that the words are not enough.

Shri Karmarkar: I beg to move:

(i) In page 7, line 18, for "charge" substitute "over the management".

(ii) In page 7, line 22, for "charge" substitute "over the management".

Mr. Deputy-Speaker: Amendment moved:

(i) In page 7, line 18, for "charge" substitute "over the management".

(ii) In page 7, line 22 for "charge" substitute "over the management".

Shri Naziruddin Ahmad: There is no difference so far as I can see to take over charge of an industrial undertaking and to take over the management of an industrial undertaking. To take over the management of an undertaking, to my mind, apart from nice possible distinctions is substantially the same thing. We do not improve the matters at all. If it is to save the Constitution in this way, I think, it would be futile. The matter should be carefully considered in view of the amended Article of the Constitution.

Mr. Deputy-Speaker: So far as I am able to see there is no objection in substance. The House is agreed that the management may be taken over but it has doubts as to whether this will offend any of the provisions of the Constitution as it stands at present. It is also felt that management does not mean possession of ownership. There will be no more discussion on this matter. I will put the

amendment to the House. The question is:

(i) In page 7, line 18, for "charge" substitute "over the management".

(ii) In page 7, line 22, for "charge" substitute "over the management".

The motions were adopted.

Mr. Deputy-Speaker: Any other amendments?

✓ Shri Syamnandan Sahaya: I beg to move:

In page 7, line 16, after "authorise" insert "for a stated period not exceeding five years."

My purpose in moving this amendment is quite patent. The provision for the taking over of management as now amended lays down that. . . .

Mr. Deputy-Speaker: It is only taking over of management.

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✓ Shri Syamnandan Sahaya: Yes; but management must also be for a stated period. It should not be indefinite. After all, five years is a long enough period to show good results. If you will kindly read the underlined portion of clause 17(1), the position will be quite clear.

Mr. Deputy-Speaker: Is not sub-clause (5) sufficient? Provision is made in sub-clause (5) to the following effect:

"If at any time it appears to the Central Government on the application of the owner of the industrial undertaking or otherwise, that the purpose of the order made under this section has been fulfilled or that for any other reason. . . . the Central Government may by notified order cancel such order. . . ."

✓ Shri Syamnandan Sahaya: That is nothing. It all depends on the Central Government. They can go on for 10, 15 or 20 years and say this is required. That does not meet the point.

May I explain further, Sir? The real purpose of taking over management is that within a certain time the management of the concern should be improved, every thing should be set right and it should be returned as provided in clause 5. The share-holders may be asked to elect new managing agents, etc. As it is, it gives an indefinite time. Therefore, I submit this amendment which lays down that the Government should take over for a period of not more than five years.

Five years is a long enough period for any industry to be improved. That is all I have to say. I have nothing more to add. I hope the hon. Minister will kindly accept the amendment.

Mr. Deputy-Speaker: Amendment moved:

In page 7, line 16, after "authorise" insert "for a period not exceeding five years."

Pandit Thakur Das Bhargava: The words sought to be added are "for a stated period not exceeding five years." I would submit, that it will be most difficult to find out from the beginning what period will be required to set right the whole thing. Therefore, I object to the word 'stated'. The words 'for a period not exceeding five years' are sufficient. There is force in the contention of my hon. friend. After all, five years is not a small period and Government may be able to set right things if at all during this period. I would therefore suggest, if the hon. Member agrees that the word 'stated' may be dropped and I submit that it is a very good amendment.

Shri Syamnandan Sahaya: I entirely agree to drop the word 'stated'.

Shri Mahtab: I accept that amendment.

Mr. Deputy-Speaker: The hon. Minister is very reasonable. The question is:

In page 7, line 16, after "authorise" insert "for a period not exceeding five years."

The motion was adopted.

Shri Karmarkar: There is a small consequential amendment in sub-clause (5). I beg to move:

In page 7, line for "control" substitute "management or the control, as the case may be".

Mr. Deputy-Speaker: Amendment moved:

In page 7, line 46, for "control" substitute "management or the control, as the case may be".

Shri Syamnandan Sahaya: I want to draw the attention of the House to a provision in sub-clause (2). It is stated here, "as from the date of the notified order". The effect of this provision will be as follows. There may be a time lag between the date of the notified order and the actual taking over of the management. Therefore, I think you ought to safeguard yourself in this respect.

Whether you like it or not, I want to draw the attention of the House. The Government are taking over a serious responsibility from the date of the notified order. Between the date of the notified order and the date of actual taking over, many things may happen. You will have to safeguard yourself. It is for you to decide whether you will like to do it or not.

Shall I explain further? If you refer to sub-clause (2) of clause 17, you will find that all the property and effects of the industrial undertaking shall be deemed to be in the custody of the authorised person as from the date of the notified order. The moment you take custody, you assume responsibility. There may be a time lag between the date of the notified order and the date of actual taking over of management. Even in this period, many things may happen. Government are supposed to be in custody and they will be responsible.

Mr. Deputy-Speaker: If a Receiver is appointed, what happens? From that time, no other person can enter upon that property. All the consequences are supposed to follow.

The question is:

In page 7, line 46, 'or "control" substitute "management or the control, as the case may be".

The motion was adopted.

Shri Mahtab: Amendment No. 39 is a consequential amendment.

Shri Naziruddin Ahmad: I wish to speak on clause 17. I think this clause is the crux of the whole Bill. Government is trying to take a very serious responsibility. In trying to find fault with some going concern and take charge or assume management of the concern, in effect, it may be mismanaging the whole affair. Management of an industrial concern is a highly technical job. The question is whether Government will have enough technical personnel to take care of a going concern, in the midst of its running and run it effectively. It may be that in trying to do so, it may incur losses. It would be a loss not only to the share-holders, but to the public at large. The Government is really undertaking a very serious responsibility in interfering with business and the result may be disastrous not only to the undertaking, but also to the Government. As the House has accepted the principle. . . .

Mr. Deputy-Speaker: Why does the hon. Member assume that it will end in a loss, as if it a private party manages it, it would not have ended in a loss?

Shri Naziruddin Ahmad: The difficulty is that, a going concern involves some technical knowledge.

Mr. Deputy-Speaker: It is assumed that it is a failing company.

Shri Naziruddin Ahmad: That is a matter of opinion on the part of Government. A Government officer—it does not mean the Minister—on some pretext makes some enquiry and finds or thinks that he finds that production is falling or quality is falling. It may be that his opinion was wrong or the fall in quality, or specification may be due to reasons beyond control of the concern. In those circumstances, interference may be absolutely unjustified though it may be *bona fide*. In trying to improve matters, things might go worse. I submit that Government is taking a very serious responsibility. They should have enough technical personnel who understand the peculiarities of each business or industry or class of business in order to enable them to take charge of the administration and run it. If there is a loss, the shareholders and the country cannot be compensated, because it is an act of Government. Then, there is the usual indemnity clause, clause 29. The meddlers would be absolutely irresponsible. It may be that the remedy is worse than the disease itself. This aspect of the matter should be carefully considered by the Government before taking the responsibility of interfering with business. We are, after all, trying to make the business run more smoothly. Our industries have had enough of troubles. There is constant interference from the Government and these are proving very irksome and troublesome and so the industries suffer losses. This law if not properly worked would result in difficulties being created in the way of industries growing and developing. We have laid down so many conditions that they may well nigh make it difficult, if not impossible for the industries to grow and improve and these conditions would be adding to the difficulties standing in the way of the successful running of business concerns. But as the House has accepted the principle of the Bill and so I submit that Government should be careful before assuming responsibility for managing these concerns.

An Hon. Member: What is your suggestion then?

Shri Naziruddin Ahmad: The suggestion is that the Government should have competent men to manage these concerns properly, sufficiently qualified technical personnel who can. . . .

Mr. Deputy-Speaker: The hon. Member's point is that in working this Act great care should be taken to put the proper men in charge of the work.

Shri Naziruddin Ahmad: But such proper men are not made to order. Government cannot produce the men to run these business concerns which require men of technical ability, not ordinary lawyers or civilians and men of that sort. Therefore I say they should employ in their offices a large number of qualified technical qualified men and technical personnel who can tackle any kind of business before they undertake this work. Whom would they select to manage these technical undertakings? An ordinary civilian may be quite intelligent and capable in their own fields, but he may not be able to undertake the work of managing the technical undertaking, as it requires highly technical qualifications. This is the fear lurking in my mind and so I submit that this section should be worked very cautiously.

Mr. Deputy-Speaker: This is a point which has already been discussed during the general discussion. Is there any other point to be discussed?

Shri Jhunjhunwala: I just want to stress one point. What Mr. Naziruddin Ahmad has just said is right. Government is undertaking a very heavy responsibility upon itself in undertaking to carry on the work of which large industrial concerns are carrying on. Unless Government makes adequate and efficient arrangements for discharging this work, they will not be able to manage it properly. And if they cannot discharge the work properly, there is no point in undertaking this responsibility. Sub-clause (4) says:

"The authorised person shall in all cases exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give to any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as may be specifically provided by the order."

Now, wherever it has been found that the work of the Government is inefficient, it will be seen that this is because the order which the man put in charge has to carry out is not quite suited to the time or the circumstances of the case concerned. It may be that the person put in charge of a concern is authorised to carry on the business and given certain orders to do so. He is given certain instructions, but those instructions do not suit that concern or are not suitable at that particular time. Now, I do not know if I have understood this section properly, but you seem to bind the man to certain orders, notifications or instructions. But this is not the principle or manner in which industrial concerns can be carried on. And it is because of this that Government concerns suffer. I would like to learn from the hon. Minister as to what he means. Is the man put in charge not to have the power to exercise any discretion? Even in small matters should he not be able to exercise his own discretion? Or are you restricting this only to big principles? Even in the case of big principles you have to see whether the big principles will not interfere with the day to day management of the affairs of the concern.

Mr. Deputy-Speaker: 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 was added to the Bill.

Clause 19.—(*Powers of Inspection*)

✓ **Shri Syamnandan Sahaya:** I beg to move:

In page 8, line 19, after "right" insert:

"after giving due notice to the owner of the industrial undertaking".

If you read clause 19, you will find that it refers to the power of inspection of the premises. Clause 19(1) reads as follows:

"For the purpose of ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right—

(a) to enter and inspect any premises;

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(b) to order the production of any document, book etc. etc."

My submission is that these powers are certainly necessary and they should be properly exercised. But my suggestion is that the inspection should be done after giving due notice to the owner of the industrial undertaking. I say this because, as we all know, sometimes such powers are liable to gross misuse and abuse. Even in the case of orders served by Civil Courts which are executed on certain buildings or certain lands or persons, prior notice is necessary. I therefore submit that this amendment which is a very simple one should find acceptance at the hands of the hon. Minister.

Under clause 19 power has been taken to enter and inspect premises or to ask for the production of documents and examination of persons. I say that this power is necessary, but in my amendment I say that this power must be exercised or rather these things should be done after giving due notice to the owner of the industrial undertaking. If the person authorised to do so, wants to enter the premises, he must give due notice. Even in criminal or civil courts due notice is given before a house is broken open or an order is executed. I am not laying down any period for this notice, one day or ten days or anything like that. Make it even 24 hours, but the notice must be given.

Shri Mahtab: I do not think I am in a position to accept this amendment. This provision is not meant for respectable industrialists but only for those who are grossly mismanaging the undertaking and if the amendment is accepted, the very purpose of such examination and inspection would be frustrated. If previous notice is given that is what will happen. As we know, ordinarily, whenever any premises are to be entered into, some notice must be given. It is not as if suddenly people go there and break open the doors. That kind of thing will not take place. But if there is a provision in the law that notice should be given, giving this thing and that thing, then probably it will end in the court declaring that such and such unlawful thing has been done and instead of the party guilty of the mismanagement going to the court, the Government officers will have to go to the court as accused persons for having committed some unlawful act. I would therefore leave the clause as it is. I do not think any intelligent officer will go and do a thing in such a clumsy fashion, and

not give any information and suddenly enter the premises and do something wrong there. Let us leave it at that.

✓ **Shri Syamnandan Sahaya:** But this also should be kept in view.

✓ **The Minister of Home Affairs (Shri Rajagopalachari):** Clause 30(1) gives the power to make rules in respect of that.

✓ **Shri Syamnandan Sahaya:** I appreciate the point of view of the Government. But can we not say "shall have the right during working hours to enter. . . ." They can then enter the premises and take hold of the accounts, etc. when they are actually working. The Government's point of view has one aspect but there is this other aspect of grave abuse. However, I have ventilated my views in the matter and I have done my duty.

Shri Karmarkar: I regret very much that we are not able to accept it.

Shri Syamnandan Sahaya: I do not press the amendment.

Mr. Deputy-Speaker: The question is:

"That clause 19 stand part of the Bill."

The motion was adopted.

Clause 19 was added to the Bill.

Clause 20.—(General publications)

Dr. M. M. Das: I beg to move:

In page 8, line 32, after "undertaking" insert "except":

This clause is a very important one as it takes away the right of the State Government or the local authority to take over the management of an industrial undertaking in pursuance of any contract entered into beforehand. I shall give a concrete example to clarify it. The Calcutta Electric Supply Corporation enters into a contract with the Corporation at the time of the establishment of the company that on such and such condition the electric supply corporation should be taken over by the Calcutta Corporation. If this section is passed that contract will be annulled and the Calcutta Corporation will henceforth not have the authority to take over the Electric Supply Corporation if it fails to execute the conditions entered into between them. My amendment proposes that this section will apply to all cases except those where such a contract exists between the industrial concern on the one

hand and the State Government or the local authority on the other. Does this clause mean the annulment of the contract executed long before this Bill comes into force?

Shri Mahtab: It has nothing to do with the contracts entered into by the various State Governments. Today there exist some State laws according to which the State Governments are entitled to take over the management of a concern if something went wrong in it. Under this law we are providing for one authority to look to the working of various industries and to take action whenever necessary. If there are too many authorities to deal with the same matter things will go wrong.

Mr. Deputy-Speaker: He is under the impression that this clause prohibits State Governments starting industrial undertakings.

Shri Mahtab: There is power to delegate authority to state governments. Whenever any question arises of taking over the management of a concern in a particular State necessarily the State Government will have to do it, as in the case of the Sholapur Mills, where the Bombay Government had been entrusted with the work. Under the Essential Supplies Act also there is some control over the management and if any firm misbehaves the State Government has to exercise authority on behalf of the Central Government. Here the intention is not to create too many authorities to do the same work.

Dr. M. M. Das: Whatever the intention of Government, the point is whether any contract executed long before this Bill comes into existence is nullified by the provisions or not.

Shri Mahtab: If he refers to the particular case I know it. There is an agreement between the Bengal Government and the electricity company and the State Government will take over the management under the terms of the agreement. Here it is provided that if there is any law at present under which the State Government is entitled to take over the management of an undertaking they shall not do it. This particular case will not come under this.

Dr. M. M. Das: Am I to understand that this will not annul that agreement?

Shri A. C. Guha: It will certainly. Just now the Bengal Government have entered into an agreement with the Tramways Company. The wording is

"any industrial undertaking under any law for the time being in force". Recently the West Bengal Assembly passed a law according to which after so many years the Government will be entitled to take over the Tramways Company.

Shri Mahtab: This Bill relates to scheduled industries. By this law the Parliament decides that these scheduled industries will be the concern of the Central Government.

Mr. Deputy-Speaker: The hon. Member may read the definition of the words "industrial undertaking".

Shri A. C. Guha: Section 11 provides that the State Government can start fresh industrial undertakings with the permission of the Central Government. Then why this blanket ban on existing concerns being taken over? If there is some contract between an existing concern and the State Government, the State Government may take over the undertaking under the terms of the contract. I would like to make a provision that with the sanction of the Central Government that State Government should have the authority. Why could not such a provision be made?

Shri Mahtab: There is the power of delegation.

Shri A. C. Guha: Clause 17 provides for the taking over.

Shri Mahtab: Under sub-clause (1) of clause 17 the State Government cannot issue the order for taking over. But under sub-section 2 and others the State Governments can be delegated authority.

Mr. Deputy-Speaker: The authorised person referred to in sub-clause (2) can be the State Government. The State Government can act as the agent of the Central Government. They want a central authority instead of various authorities issuing directions. The Central Government alone can issue directions.

Shri A. C. Guha: That is only delegation of powers. But suppose there is some contract between the State Government and an industrial concern that after some years the concern will be taken over by the State Government.

Mr. Deputy-Speaker: It is not a scheduled industry and does not come under the purview of the Act.

Shri Mahtab: If you see the schedule you will find that that conflict will never arise.

Shri Khandubhai Desai: Even if management of a scheduled undertaking is to be taken over by the State Government, the only power that is not given to the State Government is the power *ab initio* to take it over. If the State Government comes to the conclusion that a particular undertaking is to be taken over, then the only thing the State Government has to do is to approach the Central Government to take it over and then hand over the management to the State. It is entirely permissible under this law.

Shri Syamnandan Sahaya: I am faced with another difficulty so far as this clause is concerned and therefore I gave notice of an amendment. I feel that this is a general prohibition, as the heading of the clause itself shows, of taking over management or control of industrial undertakings under any law for the time being in force. Now there may be a factory which may say it is manufacturing one thing but actually it may be manufacturing some dangerous material, say, explosives. There may be a serious riot or trouble in the factory or near it and temporarily at least the local Government may have to take over control of that factory, and then they may write to the Central Government. Of course, here the idea is to take over control for purpose of improvement of management, but I am only suggesting whether it may not be liable to mis-interpretation that under no circumstances and under no law, not even under Section 144, can the State Government interfere with any industrial undertaking as defined here. That is the point to which I want to draw your attention. If you think it does not interfere with that right, then it is all right.

Mr. Deputy-Speaker: The hon. Member evidently wants to alter it to say "for the purposes of this Act", to provide for taking charge of industrial undertakings for reasons of safety or security.

Shri Mahtab: The words "for the purposes of this Act" may be added.

Shri Venkataraman: I think the words as they stand will be quite proper because only scheduled undertakings can come under the control of this law, and in the case of a scheduled undertaking it is the object that it should not be taken over by the State Government. If it is a scheduled undertaking, then even if the State Government wants to take over control it has to apply to the Central Government. The schedule has been so framed as to include industries of national importance.

Shri Syamnandan Sahaya: You have not followed my point—my point is taking over control in an emergency.

Shri Venkataraman: My point is that even if it were an emergency the State Governments ought not to take control of scheduled industrial undertakings without the permission of the Central Government.

Shri Syamnandan Sahaya: Supposing there is a case of a serious riot within the factory itself, the State Government may have to take over control temporarily. Such a contingency may not arise, but after all when you are legislating you have to keep in view all the contingencies that may occur.

Pandit Thakur Das Bhargava: Then they are not taking over management—they are taking possession. The central idea of this Act is to take over management.

Shri Syamnandan Sahaya: For purposes of management this wording may be good enough, but there may be occasions when temporarily they may have to take over control.

Shri Venkataraman: If it is a question of law and order then it will be governed by the penal laws and then it will not be a question of taking over management. Therefore, the State Government should have the power suggested by my hon. friend.

Mr. Deputy-Speaker: The question is how far this will conflict in general terms with the provisions of clause 25 which relate to the power to delegate powers to the State Governments. There management also is included, and therefore by virtue of delegation the State Government can manage an undertaking. The words used here are:

“under any law for the time being in force”.

These words might conflict with the provisions of section 25.

Shri Mahtab: Here the point is any law passed by a State legislature.

Mr. Deputy-Speaker: But it is not said so. Then it should be said, “subject to the provisions of section 25”.

Shri Mahtab: Yes.

Mr. Deputy-Speaker: We shall put it in clause 25. We shall say, “notwithstanding the provisions of section 20, it shall be competent” etc. etc.

Shri Naziruddin Ahmad: With regard to clause 20 I have some linguistic difficulties, namely that we have used the words “State Government or a local authority”. Here we make a distinction between a State Government and a local authority but while we were considering clause 11, sub-clause (1), and the proviso attached to it where the expression “a Government other than the Central Government” occurs, I suggested that it should be “a State Government”. Then I was told that the word “Government” means a district board or a municipality, or, rather, the local authorities. If “Government” includes local authorities, then according to that interpretation I think the distinction here between “State Government” and “local authority” will be meaningless. I think here the phraseology is correct. There is a distinction between “a Government” and a “local authority”. “Local authority” can never be “a Government”. Therefore, the phraseology is correct here but the phraseology in sub-clause (1) of clause 11 is wrong. “Government” can never include a “local authority”. Therefore we have here made provision for a local authority without making sufficient provision for it in clause 11.

That, however, is of a drafting nature. There is another difficulty. This clause, from the commencement of this Act, prohibits the management and control of any property by the State Government or the local authorities. Let us confine ourselves to the State Government. It may be that in moments of grave danger. . . .

Mr. Deputy-Speaker: What is the point of the hon. Member?

Shri Naziruddin Ahmad: The point is that the State Government may have to take over control of the property under section 144.

Mr. Deputy-Speaker: Under section 144 is it open to any Government to take charge of any property?

Shri Naziruddin Ahmad: To take under control. The power of control may be necessary for emergent reasons.

Mr. Deputy-Speaker: Are we here to include new provisions in the penal law?

Shri Naziruddin Ahmad: Under this clause, the State Government would be prohibited with effect from this date from taking control of any industrial undertaking which may be within its jurisdiction.

Mr. Deputy-Speaker: Government propose to say "State law".

Shri Naziruddin Ahmad: But State law is rather vague. Does it mean a law made by the States or a law made by the Centre for the States? For emergency reasons the State Government may have to take control in order to prevent riot, or breach of peace. Supposing a scheduled industry is making bombs for overthrowing the Government, under this clause the State Government cannot take control. It will have to stand still with its arms folded.

Mr. Deputy-Speaker: What is the section in the Criminal Procedure Code under which the Government can take charge of an industrial undertaking for any reason whatever? I would like to know the section.

Shri Naziruddin Ahmad: The provision runs through the Criminal Procedure Code. Supposing there is a private army in order to fight the Government. Under this clause, the State Government would be entirely powerless; the magistrates will be entirely powerless to issue warrants to control any property at all.

Shri R. K. Chaudhuri (Assam): May I ask the hon. Member to let us know if under the present circumstances anything is done in any factory, is the Government to take charge of it or the Police has to take the necessary action?

Shri Naziruddin Ahmad: It is impossible to explain obvious things.

Mr. Deputy-Speaker: No amendments are accepted. I take it that the hon. Members do not press their amendments.

Shri Syammandan Sahaya: What about "notwithstanding the provisions of section 25" and "State law"?

Mr. Deputy-Speaker: They are not incorporated. It will be taken up when we come to clause 25. The question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

Clauses, 21 to 23 were added to the Bill.

Clause 24.—(Penalties)

Shri Syammandan Sahaya: I have several amendments. I shall move

them one by one. First, I move No. 28. I beg to move:

In page 9, lines 7 and 8, omit "with imprisonment which may extend to six months, or".

If this is accepted, then No. 29 will be consequential:

In page 9, line 9, omit "or with both".

When imprisonment goes, there is no question of "or with both". Then, I beg to move:

In page 9, lines 20, 21 and 22, for "if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence" substitute "if it is proved that the offence was committed without his connivance."

I am shifting the burden of proof. It is an established principle of law and I have no doubt that it will have the support of Government.

Pandit Thakur Das Bhargava: If this is accepted here, then all the Control Acts will have to be amended in this manner.

Shri Syammandan Sahaya: I have one other amendment, No. 77 to say "conscious neglect" but I am advised by an eminent lawyer friend not to move it. So, I do not move it. I shall move No. 78. I beg to move:

In page 9, line 33, for "partner in the firm" substitute "person, elected or nominated to act as the director of a firm".

Mr. Deputy-Speaker: I do not think there is any such thing as the Director of a firm. There is the Director of a company or the partnership of a firm. Firm is applied to partnership and company is applied to a private or public company with Directors.

Shri Syammandan Sahaya: It is used in the explanation in this Bill where it is said: "Director in relation to a firm means a partner in the firm".

Mr. Deputy-Speaker: They only explain that when it applies to a firm it refers to a partner in the firm. There is no such nomenclature as Director of a firm. I do not think this is necessary.

Shri Syammandan Sahaya: My actual purpose is that every partner should not be made responsible. There are partners who for the sake of financial arrangements become partners, but they do not occupy any important position in the day to day working of the firm.

Mr. Deputy-Speaker: He can get out. He has only to prove that he had nothing to do with it.

Shri Syamnandan Sahaya: At present the responsibility is in the man to prove, whereas it should be the responsibility of the man who is prosecuting and making the allegation to prove.

Mr. Deputy-Speaker: So, the hon. Member has moved Nos. 28 and 30. The amendments are before the House. He does not press 28 and 78. Next—
Dr. M. M. Das.

Dr. M. M. Das: I beg to move:

In page 9, line 22, for "all due diligence" substitute "his influence and made all possible efforts".

Shri Karmarkar: Actually "all due diligence" is better.

Dr. M. M. Das: Then I do not press it. You need not place it.

Shri Mahtab: In regard to Shri Syamnandan Sahaya's amendment to omit imprisonment, I may point out to him that in a similar British Act they have provided for imprisonment. For these people imprisonment has come to be regarded as a salutary punishment everywhere.

Shri Syamnandan Sahaya: I thought the British had left long ago.

Pandit Thakur Das Bhargava: So far as clause 24 is concerned, as in the case of almost all the Control Acts, Government wants to put a deterrent penalty. I can very well understand that. But at the same time they have put the burden of proof on the accused. In this, I think they are not doing the right thing.

What are the offences for which penalties are prescribed in this clause? The first offence is in regard to clause 10—Registration; the next one is in regard to clause 11 which is licensing; the third one is in regard to clause 13 relating to extensions; then comes the omnibus provision under any other rule or law. These are the various offences for which penalties are provided for in clause 24.

My humble submission is that all these are of a technical nature. Suppose there is no registration. What is there to attract punishment or imprisonment. I do not know what is the relevant corresponding provision in the British Act, but in this matter we need not follow the British Act.

My main purpose in standing up and speaking is in regard to provision regarding the burden of proof. Under sub-clause (3):

"where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be prosecuted against and punished accordingly."

My humble submission is this. If a duty is cast by law upon any particular person which he has failed to perform, I can understand that some liability must be put on him. But what is the neglect. There is no *mens rea*. His attention has not been called to the fact that he has to perform a particular act. So long as you have not provided that all the Directors and managers, etc. are enjoined upon to behave in a particular way, it is absolutely unjust to make them guilty of any offence. This is my general objection to this provision.

In regard to sub-clause (2) the company is liable, as well as the principal officer. The burden of proof is placed upon the principal officer. I want to ask the hon. Minister, what is the difference as man to man between a labourer and a responsible officer of the company? The hon. Minister of Labour will recollect that when he came up before us with a similar provision in the Factories Act, we made every effort to change that law. But he did win the day. May I ask him—he is a champion of democracy—why he wants to make a distinction between a manager and a labourer. If he is a rich man, if he is a man in charge of a company, there is absolutely no reason why a different principle of punishment should be applied to him. So far as penalties and offences are concerned we should not distinguish between one man and another. This is a principle which we have adopted in our Constitution and any discrimination would be a violation of it.

Again the responsibility here is of a vicarious nature and I would submit that in a matter of this kind which concerns the liberty of an individual we ought not to make distinctions. An argument very often adduced against this is that managements can very easily find "plead-

guilty" managers. But in a case of this nature this plea is untenable.

So far as the ordinary principles of jurisprudence are concerned these two clauses cannot stand.

बाबू रामनारायण सिंह : उपाध्यक्ष महोदय, मैं सुबह से बड़े धीरज के साथ चुपचाप बैठा हुआ हूँ। जो जो धारा पास हो रही है, स्वीकृत हो रही है, हर बार उस पर बोलने का मन होता है, लेकिन फिर कहता हूँ कि जाने दो। अब जो धारा अभी बहस के अन्दर है यह तो बहुत ही तकलीफ़ देती है और बहुत गुस्ता होता है। ज्यूरिसप्रुडेंस (Jurisprudence) पढ़ने के वक़्त हम लोगों ने सुना था कि शायद फ्रांस में ऐसा कोई क़ानून है कि जिस किसी पर दोष लगाया जाता है तो दोषी को साबित करना पड़ता है कि वह निर्दोष है, और जो दोष लाने वाला है उस पर इस का भार नहीं रहता है। लेकिन हमारे देश में जो अब तक प्रथा चली है और जब से इस तरह की बातें दुनियाँ में चल रही हैं, न्याय यही कहता है, न्याय पद्धति यही कहती है, कि जब किसी पर कोई दोष आता है तो दोष लाने वाले को सबूत देना चाहिये। लेकिन इस धारा में यह कैसे पागलपन की बात है। और सभापति महोदय, सब से बड़ी बात तो यह है कि मैं आप से अपने दिल की बात कह दूँ यह जो नियम पेश हो रहे हैं और पास हो रहे हैं इन से मालूम होता है कि सरकार मानो बिल्कुल दूध की घोंघी हुई है और कोई कसूर करने वाली नहीं है, बल्कि सर्वगुण सम्पन्न, न्याय मूर्ति, सब कुछ है। लेकिन मैं कहता हूँ, सभापति महोदय, कि आज हमारे देश में कोई ऐसा अधिकार होता, मेरे पास कोई अधिकार होता, तो मैं कहता कि क़ानून तो बनना चाहिये कि सरकार का कैसे सुधार हो। सब कसूर करने वाली और देश में हर तरह

का अनर्थ करने वाली तो सरकार है। और इस तरह की सरकार अब कहने चली है कि जितने बिज़िनेसमैन (Businessmen) हैं, उन को पकड़ो, इस को सुधारो, उस को कंट्रोल करो। सब को तो कंट्रोल करो, लेकिन इन को कंट्रोल करने वाला भी तो कोई होना चाहिये। और, उपाध्यक्ष महोदय, मैं यह बात सारे देश से कहता हूँ, जितने संसद् के सदस्य हैं उन से कहता हूँ।

Mr. Deputy-Speaker: There must be a different Bill, not this Bill.

बाबू रामनारायण सिंह : बहुत से बिल तो मैं देख रहा हूँ कि सब बिल अनर्थ के ही पास हो रहे हैं। लेकिन ऐसा नहीं था कि जिस पर दोष लगाया जाय उस को साबित करना पड़ेगा कि वह निर्दोष है। यह कैसी बात है। तो मैं कहता हूँ कि इस धारा को तो पास नहीं होना चाहिये, किसी हालत में नहीं पास होना चाहिये। मैं तो कहूँगा कि मेरे पास इतना अधिकार नहीं, इतनी ताक़त नहीं कि इन लोगों को कंट्रोल किया जा सके। यह क़ानून बनाने चले हैं कि हमारे देश में जो प्रिंस वाले हैं वह ऐसा न बोलें, बिज़िनेस वाले ऐसा करें, ऐसा न करें। अभी जब बहस हो रही थी तो इनायतउल्ला साहब ने कहा था कि ४ महीने के अन्दर लायसेन्स का हुक़म मिलना चाहिये नहीं तो कोई पाबन्दी नहीं होनी चाहिये। खैर पाबन्दी लाद दी गयी। लेकिन सरकार जब चाहे और जो चाहे कर सकती है, इस के माने तो यह हुए कि सरकार के जितने नौकर हैं वह सब ठीक काम करते हैं। मैं तो कहता हूँ कि अभी जो कुछ क़ानून हो रहे हैं इन को तो रद्दी की टोकरी में फेंकिये। अभी तो आप वह नहीं कर सकेंगे, अगर कोई दूसरा अवसर आवे, कोई और शक्ति आवे तो ऐसा नियम पास हो सके कि

[बाबू रामनारायण सिंह]

इन लोगों को कैसे कंट्रोल किया जाय ।
सभी देश में कल्याण होगा । नहीं तो यह
तो सभी जगह अनर्थ कर रहे हैं ।

श्रीर, मैं अब अधिक नहीं कहता हूँ ।
उपाध्यक्ष महोदय, मैं इस का धोर विरोध
करता हूँ और सब भाइयों से कहता हूँ
कि इस बारा का चकर विरोध कीजिये ।

(English translation of the above
speech)

Babu Ramnarayan Singh: Sir, I have been silent since morning. Every time a clause is taken up and adopted, I feel an urge to speak but then I let it melt down. But the clause that is now under discussion is causing me a lot of despair and annoyance. As students of jurisprudence we had read that there probably existed some law in France that it was the accused who had to prove himself not guilty and that it did not lie with the prosecution to prove him guilty. But in our country the practice, that has so far obtained, as well as our code of justice requires that the prosecution should prove the guilt. But the present clause is totally misconceived. And, Sir, to be frank, from the clauses that are being taken up and got through, it looks as though the Government are entirely stainless, are infallible and all perfect and are an embodiment of justice. But, Sir, I tell you, had I got the power, I would have got through legislation reforming the Government itself for it is the Government that are responsible for doing all wrongs and for all the mischief prevalent in the country. Such is the type of Government that now wants to suppress and reform and control the businessmen. But somebody is needed to control them too. Sir, I say this to the whole country, to all the Members of this Parliament.

Mr. Deputy-Speaker: There must be a different Bill, not this Bill.

Babu Ramnarayan Singh: I find so many Bills that are absolutely ill-conceived but are being passed here. But so far as this Bill is concerned, the clause in question must not pass under any circumstances. I have not that authority or power to control these people. They are imposing various checks in the country by legislation. They put a restraint on the

Press and now they are trying to regulate the conduct of businessmen. During the discussion Shri Inait Ullah contended that either there should be a four-month limit on the disposal of applications for licences or no other conditions should be imposed. However, the conditions were imposed. The Government can any time do anything, which means that all the Government employees are perfect in their work. All this legislation that is being dealt with now merits to be thrown into a waste-paper basket, for the Government would not be able to implement all that. The country's good can be achieved only if some power were to come in and regulate their conduct. Otherwise, they are doing many wrongs to the country.

However, I do not want to speak any more. I oppose this clause tooth and nail and appeal to all my colleagues to oppose it.

6 P.M.

Dr. Deshmukh: I would like to support the demand for the deletion of 'imprisonment' which has been provided in this clause. I think it will be very wrong to leave this provision here simply because it obtains in the British Act. After all what is the intention? Are we trying to judge those persons who are going to establish industries as criminals to start with, so that whatever little contravention or transgression they may be guilty of should be visited upon by imprisonment? I do not think so. After all we want to reform people and do not want to make more criminals in the land. In this matter the Bill is, in my opinion at least, not at all well drafted. There can be many differences of opinion and legitimately different interpretations as to what constitutes capital. It has not been defined anywhere. It might very well be that certain orders have been placed by a company to obtain certain goods. Whether till the time it comes and is taken possession of it forms part of the capital or not is a question capable of different interpretations. There are many conceivable difficulties that will be there and there can be legitimate differences of opinion as to whether the limit of one lakh which has been settled has been exceeded or not. Under such circumstances, to have a provision in the first instance of imprisonment and so on would, I think, be highly wrong. The intention would then be not to encourage industries but to stop anybody undertaking any industrialisation.

The remarks made by my hon. friend Pandit Thakur Das Bhargava

with regard to sub-clause (3) are also very pertinent, and I think merely neglect ought not to be punished. Moreover, when we have this five thousand rupees fine and five hundred rupees per day during the period the contravention continues, that is more than sufficient safeguard against any mischief-monger or anybody who really breaks the law. I therefore think that this provision should be quite enough and that we should not go to the extent of providing for imprisonment for such, more or less technical offences like offences against registration, licensing and so on.

Shri R. K. Chaudhuri: We—I mean myself and some of my friends here—have been admiring silently the hon. Minister for the very sincere effort which he is making through this Bill to improve the development of the industries of this country. But if he insists on this clause 24 we shall have to withdraw our appreciation of him. I consider it is criminal on the part of the Government to have introduced a provision like this which entails imprisonment on any individual for mere negligence. In criminal law negligence is punishable only under certain circumstances. For instance rash and negligent driving which endangers the life of a man—that is one. A rash and negligent act which endangers the life of a man is punishable under section 304A when death is caused. It is only in such circumstances that negligence is punished. To make a man liable to punishment with imprisonment for an offence of not registering a certain undertaking or not doing certain acts which have been provided in this clause is, I think, sheer folly. I would ask my hon. friend with all humility that he should give up this clause 24 altogether. I submit that this legislation will not suffer in any way in its operation if clause 24 is dropped altogether. If he should insist on clause 24 on the ground that there should be the safeguard of the previous sanction of the Central Government, he must not have this sentence of imprisonment. And a fine of about five thousand rupees is, I think, rather monstrous. In a case like this I submit that the person should not be dragged to the criminal court. It could merely be met by the imposition of this penalty, namely by an order depriving the undertaking of the advantages which could be given by the Government if they do not do such and such things. They should not be dragged to the criminal court at all. It will act as a great set-back to industries if we make people liable for prosecution in the criminal court and punishment for

merely not following certain technical rules. I think this whole clause ought to be withdrawn and a provision made for the imposition of a penalty. That penalty may be any amount, but it should be imposed by the executive government, and if that penalty is not paid then it should merely result in the loss of certain privileges which have been mentioned in this Bill. Those privileges should be withdrawn from that undertaking. That should be quite sufficient to make the law effective.

Thakur Krishna Singh: I would like to make one suggestion regarding this clause 24(1). I do not know whether the hon. Minister will accept it or not. But I will give the reasons why my suggestion should be accepted. My suggestion is that in sub-clause (1) of clause 24 a reference to clause 16 should also be included. I will give my reasons for the same. In my opinion the clause should read:

“Whoever contravenes or attempts to contravene, or abets the contravention of, the provisions of sub-section (1) of section 10 or of sub-section (1) of section 11, or of sub-section (1) of section 11 read with section 13, or any directions issued under section 16, or of sub-section (3) of section 17. . . etc.”

That seems to be necessary for one reason and that is whatever words you may use in clause 17,—you may use ‘management’, you may use ‘control’, you may use ‘charge’—if you want to take over the management you have to take possession of the property and in my opinion, it will be declared that it contravenes the provisions of the Constitution and if any court declares that it contravenes the provisions of the particular sections of the constitution and therefore under it you cannot take the management of the property or you cannot take charge of the property then in that case you will be helpless. I would suggest that instead of that if you put clause 16 in this, it will help you.

Shri Karmarkar: We accept the suggestion.

Mr. Deputy-Speaker: But any direction issued under clause 16 will be valid.

Thakur Krishna Singh: Now, I come to the punishment of 6 months. That seems to be too much. I entirely agree with Pandit Thakur Das Bhargava that this particular penalty or imprisonment or punishment seems to be too much for offences for contravening sections 10, 11, 16 and 17. I

[Thakur Krishna Singh]

think that fines up to Rs. 5,000 and of Rs. 500 for every day that he commits the offence will be enough.

Shri Naziruddin Ahmad: I also join with the previous speakers to delete the sentence of imprisonment. The reason is that we are creating offences out of mere difference of opinion. It may be that an industry is going on all right, sound and safe, but some Government official may take it into his head that the production is slightly less, that the quality of the goods is lower than the standard specification and the like, but these may be due to labour trouble or other troubles over which the owner may have no control.

Pandit Thakur Das Bhargava: With your permission, may I put a question to the hon. Member. What is the fine in England? I am informed that it is only £5 per day.

Shri Naziruddin Ahmad: This strengthens the position of those who are against imprisonment. The fault of the undertaking may be due to reasons over which they have no control or it may be that there is no fault but some Government official thinks that they are at fault. So the interference with business is unduly drastic. Fine is enough punishment but we are adding serious punishments for merely technical offences, offences which are of a very trivial nature of failure to do this, that and the other; it will be adding not only insult to injury but injury to injury. Therefore this drastic punishment should be softened. If it is pretended that the intervention of the Government is for *bona fide* purposes or for patriotic reasons, the sentence of imprisonment would be out of all proportion with that objective.

Then with regard to proviso to sub-clause (2), namely, the burden is laid upon the accused to prove his innocence, as already pointed by Pandit Thakur Das Bhargava and also by Babu Ramnarayan Singh, who evinced his sturdy and strong common sense. Hitherto we had to punish an accused on evidence which is to be proved by the prosecution. But we are going to introduce a departure. I submit that although my friend is not a lawyer his strong sense agrees with the sense of law and even though he spoke like a layman, he has a legal backing.

Then with regard to sub-clause 1 and 2, it is said: "Whoever contravenes or attempts to contravene....." This is the language of the trial

orders. It was held before in India that no mercy was necessary. A recent case has gone over to the Privy Council from Patna. In that case one man went up against his conviction. There was no mental element present and it was held by the Privy Council that unless the law makes it quite clear that no mercy was necessary mercy must be regarded as a part of the offence. So in clauses (1) and (2) according to normal interpretations whoever contravenes lawfully, negligently or knowingly there is the moral responsibility which is the basis of all criminal responsibility but that is quite contrary to what is laid down in Proviso to sub-clause (2), namely that the accused has to prove certain things. I believe Amendment No. 30 which has been moved by Mr. Syamnandan Sahaya should be accepted. So far as Pandit Thakur Das Bhargava's argument that unless a duty is cast upon any one of the Directors, etc. he cannot be held guilty, is concerned, I believe that he must be deemed to be guilty. These words 'are guilty' is of the grossest exaggeration. This presupposes that the man is not really guilty but he must be deemed to be guilty. Although you are innocent, I think that you should be held guilty. This I believe is to be found in the backward tracts of Africa and in jungle areas and not in India which has a civilized form of Government, which has accepted a Constitution after the attainment of Independence and therefore, I think that these obnoxious features should be got rid of. Somehow or other after having passed the Press Incitement to Crimes Bill, we have acquired a knack of finding guilt everywhere even though there is no moral guilt. I think we have gone enough in that Bill.

Shri Venkataraman: Law in any country is enacted for the purpose of enforcing. If the law is going to be merely enacted and the penalties for enforcement are not sufficiently deterrent, it is an invitation to the people of the country to violate the law. I wonder whether in the temper of this House even Lord Macaulay could carry the Indian Penal Code through. We have been watching in this House always an opposition and an objection to punishment sections. If the punishment sections are removed then the other sections automatically go . . .

✓ **Shri Syamnandan Sahaya:** Only the imprisonment portion of the punishments and not the whole of the punishments.

Shri Venkataraman: I know I am on the unpopular side but I shall certainly answer the objection. I ask you, Sir, that if you provide these clauses and say that the industrialists must first register the undertaking, carry out instructions or must obey the instructions given and if these things are not done, there is no punishment whatsoever, I wonder what is the use of this Bill? (*Interruption*). Rs. 500 to an industrialist who invests crores and crores of rupees on an industrial undertaking is nothing but a flea bite and he is flinging it on your face. The other day (*Interruption*). I am not yielding.

I will give you an instance. In Madras a prosecution was laid against a cotton millowner and the moment the notice of the prosecution went to him, he signed a cheque in favour of the Commissioner of Labour stating "the fine for the prosecution under the Industrial Disputes Act is Rs. 200 and the amount is sent herewith". While this is the attitude of industrialists in this country, unless deterrent punishments are given, you cannot enforce it. (*Interruption*). It is to prevent the swallows multiplying in millions that these deterrent sentences are provided. None wants that an industry should be controlled and none wants that certain directions and certain laws should be observed by the people. Why should the House show any sympathy whatsoever for the recalcitrant industrialists who refuse to obey the law.

An Hon. Member: Then kill them.

Shri Venkataraman: What does this section say? The provision is, whoever contravenes the provisions of these sections shall be punished with imprisonment. Does it say that every industrialist will be punished with imprisonment? Does the Government say so? No. Whoever contravenes the provisions of these sections is liable.

Dr. Deshmukh: Better make that suggestion.

Shri Venkataraman: Further I make bold to say, unless there is a deterrent punishment, we will never be able to enforce this Act. The efforts of all of us to show some kindness or sympathy to the persons who violate the provisions of the law is only to make a breach of the law more common than the observance of it. Therefore, I submit that there is no point in saying that punishment by way of imprisonment should not be provided for.

Most of us are lawyers. We all know in how many cases in which both fine and imprisonment have been

provided in the Indian Penal Code, the courts have awarded imprisonment and not imposed the fine. If you have statistics, I am quite sure that where an alternate punishment is prescribed, the courts have always awarded the lesser punishment, consistently with the offence. If the offence was grave, they would certainly have given imprisonment. If the offence was not grave and it is technical, they have always given the lesser punishment. That is the reason why the statute provides . .

Pandit Thakur Das Bhargava: Is it not a fact that so far as legislative enactments are concerned, in regard to technical offences, only fine is prescribed?

Shri Venkataraman: This is not technical in the first instance. It may be technical it may be wanton. Suppose an industrialist wants to flout the authority of this Government, would you say that because he violates sections 11 and 16, it is a technical offence?

Dr. Deshmukh: Why do you not say so?

Pandit Thakur Das Bhargava: What about section 10?

Shri Venkataraman: How do you say that it is a technical offence? Why do you prevent the court from finding whether the offence is sufficiently grave to warrant the imposition of the higher penalty?

Pandit Thakur Das Bhargava: Put forfeiture.

Shri Venkataraman: The Parliament is not awarding the penalty; the Government is not imposing the penalty. On the contrary, the matter will go to court and the court will decide whether or not the higher or the lower punishment should be given. Therefore, left to myself, I would have omitted fine and not imprisonment.

Now, I come to the next point. It is said that the burden of proof has been shifted. We have passed similar enactments. We have passed the Industrial Disputes Amendment Act in which we have provided that all the directors and other officers will be liable if they contravene the Act. We only passed it recently. It is wrong to say that this House is doing something totally different from the previous enactments. On the contrary, if you compare the provisions of that enactment, you will find that these provisions differ from the provisions in the Industrial Disputes Act. In that

[Shri Venkataraman]

Act, it is provided that the accused has to prove that the act was done without his connivance or concurrence or without his knowledge.

My hon. friend Pandit Thakur Das Bhargava made a great point about neglect. Neglect is a judicial term ever since the famous case of *Lickbarrows vs Mason*. We have not forgotten our Smiths leading cases. Neglect is only an offence where there is a duty to perform and that duty is not performed. Would you say that where a person has a duty to perform and he has not performed it, he should still be excused? Certainly not.

Pandit Thakur Das Bhargava: That is not my argument. Under sections 10 and 11 no duty is imposed on these persons. That is the gravamen of my charge.

Shri Venkataraman: Under sections 10 and 11 a duty is enjoined. You have to register. If you do not register, the question is, what is the gravity of the offence. Why do you say it is not an offence?

Dr. Deshmukh: Hang the fellow.

Shri Venkataraman: To decide the gravity of the offence and say whether it is of such a nature as to warrant only a fine, is the function of the magistrate. It is not for Parliament to decide. In interpreting the word 'neglect', the courts will always go by the fact whether there has been a duty cast upon the person and that duty has not been performed.

Pandit Thakur Das Bhargava: My view is also the same. I submitted that there should be a duty imposed. Where do you impose the duty? Duty is not imposed.

Shri Venkataraman: It is imposed. Section 10 imposes a duty. Sub-section (1) of section 11 imposes a duty. Section 16 imposes a duty. If you contravene that, then, it is neglect.

Shri Syamnandan Sahaya: Of each person? Of particular Directors?

Shri Venkataraman: Yes, there is a duty. I therefore submit that there is nothing new in this law.

Shri Syamnandan Sahaya: Also the labour employed. They are a part of the factory.

Shri Venkataraman: Yes. Labour has always struggled to come up. It has not yet come to the stage when it tries to escape the real obligations which it has to perform.

Shri Sondhi: What about labour leaders?

Shri Venkataraman: The labour leaders will be punished by the Prevention of Strikes Act, which is coming up tomorrow. You will all be up in flames and not in arms.

Pandit Thakur Das Bhargava: We have introduced the word 'knowingly' in the Industrial Disputes Act.

Shri Venkataraman: I therefore submit that the clause as it stands is very just, very proper and therefore, it should not be changed.

Shri Mahtab: So much discussion has taken place about the punishment. But, I wonder if hon. Members have taken into consideration the nature of the offence for which this punishment is provided for. The nature of the offence is such that it does not require much of proof. Section 10, and section 11, these are all palpable things. A company has been asked to be registered. If it does not register, it does not require much proof to prove that the firm has not registered itself as prescribed in the rules. Similarly take sub-section (1) of section 11. It provides for taking out a licence. It is not very difficult to prove that a licence has not been taken out. It is not a question about which there can be possibly reasonable doubts. I have stretched my imagination to find out how any reasonable doubt can be cast upon the nonfulfilment of these obligations which are enjoined upon the firms under section 10, sub-section (1) of section 11, or like sections. The onus will be on the other side to show why he could not do a certain thing. Here, the obligation is imposed on him.

Dr. Deshmukh: Is this the only Act of that nature where an obligation is imposed?

Shri Mahtab: Please refer to the sections which have been mentioned in this section 24.

Dr. Deshmukh: There are many such provisions elsewhere also.

Shri Mahtab: Section 24 takes cognizance of non-fulfilment of certain obligations imposed under certain definite clauses. It is not a wide clause as the hon. Member imagines. It has mentioned the several clauses. If the hon. Member will glance through these clauses, he will find that the duty cast upon the industrial undertakings is evident. It is just like the case of an officer doing something wrong or disobeying a definite order.

He is called upon to explain. He gives his explanation. A similar provision is made here. The defaulting firm will be called upon to explain to the court as to why he has not done a certain thing. He will then explain. If the duty is cast upon the Government to prove certain things, then, the purpose of this law will be fulfilled. That is my submission. I have nothing more to say.

As regards this kind of provision, Mr. Venkataraman was right when he said that this kind of provision has been made in many laws. How many prosecutions of that type have been launched? How many have been successfully prosecuted? If we take statistics, I am sure the charge will be that all these provisions have not been fully given effect to. That charge will probably be correct.

Pandit Thakur Das Bhargava: This is also wrong. Recently we had a case in Meerut in which several Directors were convicted. They were acquitted on appeal.

Shri Mahtab: If we cite individual cases, we can quote a number of technical offences. I can cite a number of instances to show how offences are committed and the persons cannot be brought to book. The law always helps the offenders; of course I cannot say that on the floor of the House. The hon. Member Pandit Thakur Das Bhargava moves about all over the country and he knows now the law helps those who are intended to be brought to book. Let us not frame this law in such a way that those persons will be helped. Let us help the administration of the law. With these words, I would suggest that hon. Members may withdraw their objections.

Dr. Deshmukh: Imprisonment should be taken out.

Shri Syamnandan Sahaya: According to the hon. Minister's own remarks the offence is a technical one. Would you prescribe the punishment of imprisonment for that?

Pandit Thakur Das Bhargava: May I know whether in England the punishment is only a fine of £5?

Shri Mahtab: Of course, those who know criminal psychology may understand the thing, but even in a country like England imprisonment has been accepted as a salutary provision for this kind of offence. There you have such developed and organised industries and even there for the defaulting in respect of producing accounts penalty is imposed. If I knew

more of criminal psychology, I might have suggested something else. But I will only say that in the words of the Home Minister, this provision is only a scare-crow. It will only scare away many people from committing this offence. This will work more as a scare-crow than as a sort of regular punishment.

Amendment made:

In page 9, line 6, after "section 17" insert "or of any direction issued under section 16".

—[Thakur Krishna Singh]

Mr. Deputy-Speaker: The question is:

In page 9, lines 7 and 8 omit "with imprisonment which may extend to six months, or".

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 29 is only consequential. The question is:

In page 9, lines 20, 21 and 22 for "if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence" substitute "if it is proved that the offence was committed without his connivance".

The motion was negatived.

Shri Syamnandan Sahaya: I do not press amendment No. 78.

It is past 6.30. How long do we propose to sit, Sir?

Mr. Deputy-Speaker: We sit until the Bill is finished. That will not take long. The question is:

"That clause 24, as amended, stand part of the Bill."

The motion was adopted.

Clause 24, as amended, was added to the Bill.

Clauses 25 to 28 were added to the Bill.

Clause 29.—(Action taken in good faith)

Shri Syamnandan Sahaya: I have an amendment to this clause, and that is for the omission of the clause.

Mr. Deputy-Speaker: That is not an amendment then.

✓ **Shri Syamnandan Sahaya:** I am opposing the clause, Sir. The trouble is, that this clause seeks to protect people who have done something in good faith, but everything done will be considered as action done in good faith and there will be no liability on any one.

Mr. Deputy-Speaker: Whether a thing is done in good faith or not will be determined by the court.

Pandit Thakur Das Bhargava: But we have seen that even for neglect a person can be sent to jail. And here everything can be taken as done in good faith and no one is charged with the liability.

Mr. Deputy-Speaker: What about due care and caution?

Pandit Thakur Das Bhargava: Due care and caution is there. But under clause 24 we have said that even if a person behaves in such a manner that he is guilty of neglect, he can be sent to jail. In every other law there is the general provision that anything done in good faith is not an offence. But in this.....

Mr. Deputy-Speaker: In these industrial undertakings lakhs and lakhs are involved. And without this clause, will any government servant be able to work and manage the undertaking?

Pandit Thakur Das Bhargava: There is power given to you to take up the whole undertaking. If the person is negligent you can do that: Why should he be punished further? Why should then be this provision for extra safeguard to those men who take charge of the undertaking and work it? He should take good care and behave in such a manner as the country expects of him. We should not give him any extra safeguard.

Shri Venkataraman: Is this not the common indemnity clause that we find in every Act? This is a well known provision that anything done in good faith should not be punished.

Dr. Deshmukh: My fear is this will be a direct incitement for petty officers to do considerable damage to the interests of the nation. They will feel that they have sufficient safeguard here. So I oppose this provision. Public servants doing anything in good faith will have sufficient protection under the ordinary law of the land.

Shri Mahtab: I am sure the hon. Member must have used the words "petty officers" inadvertently, for surely officers who are put in charge of such undertakings as are contemplated in this measure cannot be described as petty officers. They will be sufficiently high officers of Government. Otherwise they cannot undertake this work.

Dr. Deshmukh: The Government is taking upon itself such heavy responsibility that it will be necessary to delegate its powers and authority to many officials who can be described as no more than petty officers.

Shri Mahtab: If this provision is not there what will be the result? The result will be that all those deputed to work the undertakings will be involved in litigations and the only function of the measure will be the creation of litigation.

✓ **Shri Syamnandan Sahaya:** What is the use of this extra provision? You have it in the ordinary law of the land.

Mr. Deputy-Speaker: Can we allow this kind of cross-arguments to go on? After all it depends on the vote of the House. If it is there, there is no harm, it will be only having something by way of abundant caution.

The question is:

"That clause 29 stand part of the Bill."

The motion was adopted.

Clause 29, was added to the Bill.

Clauses 30 to 32 were added to the Bill.

First Schedule

Khwaja Inait Ullah: I beg to move:

In page 12 after line 40, add "(38) Cinema industry".

Dr. M. M. Das: I beg to move:

In page 12 after line 40, add—

"(38) Rayon and Artificial Site.

(39) Glass and Ceramics

(40) Fertilizers

(41) Soap and Glycerine

(42) Matches".

Dr. Deshmukh: I beg to move:

(i) In page 11 omit line 44.

(ii) In page 12 omit lines 1 to 40.

It means that I want to the omission of all industries except: three, air-craft, arms and ammunition, and iron-and steel. My amendment is that the rest of the industries should be omitted.

Shri Venkataraman: I beg to move:

In page 12 after line 40, add "(38) Tea, coffee and rubber".

Shri Mahtab: As regards the amendment that tea, coffee and rubber should be included in the Schedule, I have already stated and I repeat it here that there are separate laws for the development of these industries. As for instance, for tea, there are at present two Acts, the Tea Control Act and the Central Tea Board Act. The first Act was passed in 1938 and the second in 1949. Similarly for coffee, there is the Coffee Marketing Expansion Act of 1942 and for rubber there is the Rubber Production and Marketing Act of 1947. The Government are considering the amendment of these Acts to bring them into line with the law that we are passing now. If we include these items here, it might conflict with the other laws, unless those other laws are amended and brought into line with this. As I have promised, these Acts will be amended and the amendments moved in Parliament as early as possible.

As for industries like rayon, glass and ceramics, fertilizers, etc. they have not been considered as of national importance. We have taken up here only those industries which are considered as of national importance.

Dr. M. M. Das: You do not consider glass and ceramics, etc., as of national importance!

خواجہ عذائت اللہ : میں اپنا
 ایملڈ سیلٹ موو (move) کرنے سے
 پہلے چند ملٹ میں اپنے آنریبل منسٹر
 اور خاص طور سے ممبران کو فلم انڈسٹری
 کے متعلق کچھ بتلانا چاہتا ہوں۔ دنیا
 میں چٹائی فلم انڈسٹریز ہیں ہندوستان
 ان میں دوسرے نمبر پر ہے اور اتفاق
 کی بات ہے کہ آج ہی وہ انکوائری
 کمیٹی (Film Enquiry رپورٹ Committee Report)
 بھی شائع

ہوئی ہے جس میں فلم انڈسٹری کے
 متعلق اس نے زور دیا ہے۔ ہندوستان
 میں تین ہزار سے زیادہ سیلٹس ہاؤسز
 ہیں اور اس انڈسٹری پر ۳۲ کروڑ روپیہ
 فیکسڈ ایسٹس (Fixed assets) سے
 ختم ہو چکا ہے اور ۹ کروڑ روپیہ سالانہ
 خرچ ہوتا ہے۔ جیسا ابھی آنریبل
 منسٹر نے فرمایا ہے کہ فلم انڈسٹری
 نیشنل ایمپورٹس (National impor-
 tance) کی نہیں ہے۔ میں کہنا چاہتا
 ہوں کہ نیشنل ایمپورٹس کا جہاں تک
 سوال ہے میں سمجھتا ہوں کہ فلم
 انڈسٹری سب سے زیادہ نیشنل ایمپورٹس
 کی ہے۔ کیونکہ اس وقت ہر سال ۶۰
 کروڑ انسان فلم دیکھتے ہیں اور ابھی جو
 ہماری فلم انکوائری کمیٹی نے رپورٹ دی
 ہے ان کے الفاظ پر اگر غور کریں گے تو
 دیکھیں گے کہ نہیں نے کہا ہے۔

"The percentage of flops has now reached an alarming figure; the standard of production has considerably declined."

اس کے بعد کہتے ہیں —

"The uncertainties of the trade have increased to the point of making it a gamble."

جب یہاں تک سوال پہنچ چکا ہے
 اور تھوڑی سی رقم کا نہیں بلکہ ۳۲ کروڑ
 روپیہ کا اور ۹ کروڑ روپیہ سالانہ کا خرچ
 ہونے کا سوال ہے۔ اور اس کے علاوہ
 دوسری بات یہ بھی ہے کہ ہندوستانی
 فلم پاکستان جاتی ہیں۔ ملایا جاتی
 ہیں۔ انڈیا چین۔ سہام۔ برسا۔
 ایسٹ افریقہ۔ ساوتھ افریقہ۔ سلہون۔

[خواجہ عداثت لئے]

اور اسی طرح اور بہت سی فارین
اسٹیٹس (foreign States) کو بھی
جاتی ہیں اور اس کے ساتھ ہماری
فلم جو باہر جاتی ہیں تو ہماری فلمس
میں ہمارا کیریئٹر اور ہمارے کلچر
(Culture) کا پورا پورا نقشہ نظر آتا ہے
تو اگر ہم ایسے قانون لاتے ہیں جن
قانونوں کے ماتحت ہم جو نیشنل
امپرائڈس کی انڈسٹریز کو دے رہے
ہیں - تو اس وقت انریبل ممبر اس
کو ویسی انڈسٹری نہیں سمجھتے ہیں
اور سمجھتے ہیں کی یہ کھیل کی چیز
ہے تو بھی میں سمجھتا ہوں کہ ایسے
کھیل بند کرنا چاہیئے جو ہندوستان
کی ایکنامک، اخلاق اور کلچر کو برباد
کو رہے ہیں - میں تو انہوں گا کہ کلچر
کو برباد کر رہے ہیں - ہائڈ ہمارے
ممبر صاحب سہلیما دیکھنے کے
شوقین نہیں - شاید ان کو اس لئے
موقع نہیں ملتا ہے -

श्री प्रियम नन्दन साहस : खूब दखते हैं ।

श्री कामत : आप को कैसे मालूम ।

خواجہ عداثت اللہ : مجھے اس

لئے معلوم ہے کہ میں کہہ رہی دیکھ
لہتا ہوں اس خیال سے کہ ہمارا ملک
جہاں دوسری لائن پر ترقی کر رہا ہے
وہاں اس لائن پر کر رہا ہے یا نہیں - تو
میں یہ عرض کر رہا تھا کہ فلم انڈسٹری
جس میں بہت سی چیزیں ہیں -
پلاٹ (Plot) ہے - آرٹ (Art) ہے -

جس کو اگر آپ دیکھیں تو جتنی فلم
ہوں ان میں ۹۵ فیصدی ایک ہی
طرح کی ہوتی ہیں -

Mr. Deputy-Speaker: Everybody is well aware of the cinema industry and its ramifications. Should we go on expatiating on things which we know? The only question is what ought to be included and what not.

خواجہ عداثت اللہ : وقت تھوڑا ہے

اس لئے میں زیادہ نہیں کہنا چاہتا -
تو مہرے کہنے کا مطلب یہ ہے کہ آپ
جہاں ۳۲ یا ۳۶ انڈسٹریز کو اپنے کنٹرول
میں کر رہے ہیں تو کہا وجہ ہے کہ اس
کو چھوڑ دیا جائے - آپ کہیں لے کہ اس
کے لئے ہم الگ قانون لارہے ہیں - ایک
کہتی بنائی ہے - اس کی انکوائری
(Enquiry) ہوگی - اور پھر ہم اس
کے لئے الگ قانون لائیں گے - تو میں
کہتا ہوں کہ اس قانون کے بلے تک یہ
انڈسٹری ہندوستان کی چلتا کا بہت
نقصان کر دیکھی جلتا کے کیریئٹر کا
نقصان کر دیکھی - ہندوستان کی چلتا
کے رویہ کا نقصان کر دیکھی - اس لئے
جب تک آپ دوسرا قانون بنائیں اس
وقت تک کے لئے اس کو بھی اس میں
شامل کر لہجئے - ہمارے پاس ایڈوائزی
کونسل (Advisory Council) ہے -
امر کے لئے بھی ایک ایڈوائزی کونسل
بنا دیجئے تاکہ اس پر ہمارا تھوڑا بہت
کنٹرول ہو - اگر آپ آئندہ ایک قانون
لانے والے ہیں تو کوئی وجہ نہیں کہ
جب تک اس کو اس میں نہیں کہوں نہ
شامل کر دیا جائے - جو قانون آپ

کمپنی کی رپورٹ کے بعد بلانا چاہتے ہیں اس میں آپ کو بہت وقت لگھنا میں چاہتا ہوں کہ اس کو بھی اس میں شامل کر لیا جائے۔ اس میں گورنمنٹ کا کچھ زیادہ خرچہ بھی نہیں ہوگا۔ اگر ہم انڈسٹری کو اس سے پورا فائدہ نہیں پہنچا سکیں گے تو کچھ فائدہ تو ضرور پہنچا سکیں گے۔ اور کونسل کے ذریعہ کچھ مدد بھی کر سکیں گے اور سبس (Cess) بھی زیادہ وصول کر سکیں گے۔ اس لئے میری درخواست ہے کہ پورا ہاؤس ملکر مینسٹر صاحب پر زور دے کہ فلم انڈسٹری کو بھی اس میں شامل کر لیں۔ اس سے ہم چاہے نہ خواب ہوں۔ پر ہمارے بچے تو خراب ہو رہے ہیں۔ کہونکہ ۶۰ کروڑ آدمی ہر سال اس کو دیکھتے ہیں۔

(English translation of the above speech)

Khawaja Inait Ullah: Before moving my amendment I would like to tell something about the film industry to the hon. Minister and particularly the hon. members, India's film industry occupies the second place among the film industries of the world. It is a coincidence that the report of the Enquiry Committee about the film industry has also been published today. There are more than 3000 cinema houses in India. In this industry Rs. 32 crores are the fixed assets and Rs. 9 crores is the annual recurring expenditure. The hon. Minister just stated that the film industry was not an industry of national importance. I would submit that the film industry is of the foremost national importance, because 60 crores of people see films every year at present. The recommendations of our Film Enquiry Committee, just submitted, should be considered. It says: 'The percentage of flops has now reached an alarming figure; the standard of production has considerably declined'. Later on it says: 'The uncertainties of the trade have 375 PSD.

increased to the point of making it a gamble'. The matter has reached this stage and the question involved is not of a small sum but of Rs. 32 crores and of Rs. 9 crores of annual recurring expenditure. Besides, there is another fact that Indian films are sent to Pakistan, Malaya, Indo-China, Siam, Burma, East Africa, South Africa, Ceylon and other foreign States. The films exported present a complete and full picture of our character and culture. While we have already introduced Bills relating to industries of national importance the hon. Minister does not regard this to be an industry in that sense and believes that it is a light affair. In that case I would like this force, which is spoiling the economic condition, moral character and culture of India, to be stopped. I would even say that it is destroying our culture. Perhaps the hon. Minister is not fond of going to pictures and perhaps he does not get an opportunity to do so.

✓ **Shri Syamnandan Sahaya:** He goes to pictures frequently.

Shri Kamath: How do you know?

Khawaja Inait Ullah: I know this because I sometimes go to pictures with a view to see whether or not our country is progressing in this direction as it is doing in others. In a film there are many things. There is a plot and there is art. But you will find that 95 per cent. of the films are alike.

Mr. Deputy-Speaker: Every body is well aware of the Cinema Industry and its ramifications. Should we go on expatiating on things which we know? The only question is what ought to be included and what not.

Khawaja Inait Ullah: As the time is short, I do not wish to dilate much upon it. I would ask why this industry should be left out, when 34 or 36 other industries are being brought under control. It would be argued that a Committee has been formed and that after enquiry a separate Bill would be introduced for this industry, but till this law comes into force, this industry would have badly affected the Indian people, their character and caused them financial loss. Until a separate law is enacted, this industry should be included among them for the intervening period. We have Advisory Councils. For this industry also an Advisory Council should be set up, so that we might

[Khawaja Inait Ullah]

exercise some control over it. If it is intended to introduce a Bill in near future, there is no reason why this industry should not be included in the list. The law that is to be enacted after the Report of the Committee has been considered would take a long time. By the inclusion of this industry, Government would not incur much expenditure. We may not be able to give full benefit to the industry, at least some benefit we would be able to give. Through the Council, we would be able to give some help and also to realize more cess. I, therefore, submit that the whole House should ask the hon. Minister to include the film industry among the controlled ones. We may not be spoiled by the films, but our children are being spoiled, as 60 crores of people see them every year.

Shri Mahtab: We are prepared to accept the amendment regarding glass and ceramics. With regard to the film industry, in my opinion it is not a productive industry and though it has tremendous educational value and it may be taken from that point of view, it is not such a productive industry of national importance that it should be included here. Besides that, there will be one practical difficulty and that is dealing with the raw materials which will be required in the cinemas.

Shri Khandubhai Desai: I wish to say something in regard to the amendment moved by Mr. Venkataraman. I am glad that the Minister has stated that in the Tea Board Act all the necessary provisions will be made by an amendment. I would have preferred that tea, rubber and coffee should have been included in this list. But he says it will interfere with some of the legislations which are already on the Statute. But there is one matter to which I should like to draw his attention. The Development Council as envisaged under this law has got certain obligations and powers, and the composition of the Development Council had been very properly considered and the representatives of different interests in the country have been given place there. Now the Central Tea Board Act has got 14 planters, 2 consumers and 3 labourers. So I should like to know from the hon. Minister whether when he brings the amendment to that Act, the composition also will be brought in line with the Development Council. If it is not so, then I believe that whatever amendment he will bring in would have absolutely no value because the Tea Board is very much dominated by the planters themselves and particularly in the matter of mismanagement. If the

Development Council sends any directives to them, naturally they will use their weight and influence by their majority and the whole purpose you have in view will be put an end to or frustrated. So I would like to know from the hon. Minister categorically whether the composition of the Tea Board also would be changed.

Shri Mahtab: I have already explained this morning that Section 4 dealing with the composition of the Board and Section 10 dealing with the functions will be brought in line with the present Bill.

Mr. Deputy-Speaker: So Dr. Das confines his amendment No. 10 to glass and ceramics and does not press the other ones.

The question is:

In page 12, after line 40, add:

“(38) Glass and ceramics”.

The motion was adopted.

Shri Karmarkar: I have to only state that Government propose to take measures for legislation on salt separately and it has its own peculiar problems. Therefore at this stage we omit salt from the purview of this Act.

Amendment made:

In page 12 omit line 4.

—[Shri Karmarkar]

Mr. Deputy-Speaker: I take it that Amendments 18, 36, 80, 81 and 82 are not pressed. The question is:

“That the First Schedule, as amended, stand part of the Bill.”

The motion was adopted.

The First Schedule, as amended, was added to the Bill.

Second Schedule

✓ **Shri Syamandan Sahaya:** The functions noted in item 10 are:

“Promoting or undertaking scientific and industrial research, into matters affecting industrial psychology and research into matters relating to the consumption or use of goods in services supplied by the industry”.

I am submitting that it should be 'relating to production and to consumption'.

Amendment made:

In page 13, line 32, after "relating to" insert "production and to".

—[*Shri Syamnandan Sahaya*]

Mr. Deputy-Speaker: The question is:

"That the Second Schedule, as amended, stand part of the Bill".

The motion was adopted.

The Second Schedule, as amended, was added to the Bill.

Clause 1 was added to the Bill.

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

Dr. M. M. Das: I beg to draw your attention to one terminological wrong that has crept into the amendment. Regarding the amendment of Mr. Sahaya the hon. Minister has accepted the words 'Managing Director'. I have laboured to find out whether that word occurs here. I drew your attention when the amendment was moved that such a term does not exist in the Companies Act.

Mr. Deputy Speaker: We have accepted it. We need not discuss it.

Shri Mahtab: I beg to move:

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

I have nothing more to say at this stage. With regard to the point just now raised, when we accepted the amendment we knew that that expression was not in the Companies' Act and in order to make the meaning clear we accepted the expression which is used within brackets also.

There is a small mistake which is consequential in clause 23. In clause 23 it is said "If for the purpose of section 4 or sub-section (3) of section 11 any question arises, etc." We have accepted *Shri Syamnandan Sahaya's* amendment that sub-section (3) of section 11 be deleted. Therefore the reference to that will be omitted in section 23.

I trust that when this Bill is made into law it will be worked in the spirit in which it has been introduced after so much labour having been put in and that the great hopes we entertain will be realised in the working of the law. The development councils are a new feature which have been introduced in the industrial field and I hope it will prove a success. I would assure the House that the provisions will be worked in the high spirit with

which the Bill was introduced and as best as possible.

[*PANDIT THAKUR DAS BHARGAVA in the Chair.*]

Mr. Chairman: Motion moved:

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

Dr. Deshmukh: The scope of the Bill has now been widened, in view specially of the fact that the Minister has accepted the deletion of sub-clause 3 of clause 11, where the limit of 5 lakhs for licensing has been altogether taken away and in view of the fact that the second select committee has added as many as 15 new items such as hurricane lanterns, internal combustion engines, paper board, bicycles, etc.

I feel considerable apprehension about the further industrialisation of this country. I do not want that any abuses where they exist should be tolerated nor any light punishment to be visited upon those who are recalcitrant and who persistently offend against society and the law. But I still urge what I had said about punishment of those who are guilty of ordinary contraventions and who have merely failed according to their own light to perform certain things. Secondly the industrialisation of our country has not so advanced as to make us copy the enactment of the British Parliament. Therefore I think we have taken a somewhat precipitous step in bringing under the purview of this Bill every kind of industry we can conceive of. I was not sure what view the industry as such held but I have a copy of a telegram which I received today which shows that the manufacturers in the country are extremely apprehensive and I would beg of you to listen to the telegram, which I shall read:

"Working Committee All India manufacturers organisation regret that Select Committee report on industries Bill renders it more retrograde and objectionable. Firstly absence of provision for quasi judicial statutory Board for licensing, investigating and regulating industries. Secondly the assumption of wide executive powers by Government including licensing investigating stipulated conditions for taking over and inspecting industrial undertakings without judicial procedure. Thirdly adoption of principle of vicarious liabilities and assuming of responsibility persons guilty unless proved innocent and fourthly proposing to invest development councils composed mainly of, Honorary Members meeting only occasionally with

[Dr. Deshmukh]

powers and functions which they will never be able to satisfactorily discharge make this Bill in its amended form highly objectionable.

"Working Committee strongly protest against enactment of such legislation and would urge postponement until after general election."

I do not agree that the Bill should have been postponed, but I would have certainly liked that fewer industries should have been taken. Such industries as paper board, hurricane lanterns, and batteries (dry cells and storage) are not of such great importance that we should have taken them up in the very first instance. This is the first Industries control Bill that we are passing and I would have liked that we had acted in stages because we have yet to encourage industries and to make a good deal of headway. I therefore think that the least that the Ministry or the Government could do would be to act cautiously in view of the opinion of the manufacturers themselves. I am glad that the hon. Minister has promised that the Bill would be enforced in the spirit in which he had brought it forward, but I do not know whether he will be there to maintain the spirit or not, and that was the reason why we commented upon the provisions of the Bill. It is not a personal matter—the hon. Minister who is in charge at the present moment may be actuated with the best of motives but the actual administration may be of such character as to defeat the very object and may put the clock of progress of the country in the wrong direction. I do share those apprehensions. The whole burden that is going to be taken up by the Government is so large that there are bound to be many misuses and abuses of the power, and it is therefore that I feel that if the Government does not proceed cautiously there may be more harm done than good.

Shri A. C. Guha: I welcome the passing of this Bill which I think is rather overdue. It was in 1948 that the Government declared their industrial policy. To implement that policy is the obligation of the Government, but Government has for so long been neglecting it and it is but proper that at least before this House is dissolved Government should have taken steps to pass this Bill after modifying it in a manner which at least to me appears to be quite progressive. The hon. Member who preceded me has quoted a telegram from the Manufacturers' Association stating that the Select Committee has made the Bill more retrograde. That is a voice from the

dead past. If we are to adopt planned economy we must have State control, we must take the risk that is involved in it. It has been the accepted policy today that there must be some Central control over the entire industrial and economic life of the nation. We cannot escape from an accepted policy of the entire world. It is no use saying that U.K. is more advanced than we are, that we should not imitate U.K. legislation. It is not a question of the stage of advancement—it is a question of pressure of time, it is a question of what this age demands of us, it is a question of what the international economic set-up demands of this country. And from that point of view, I think, the Government must take the responsibility in dealing with this question.

As I have previously stated there is the apprehension that the Government, or the permanent services, or the Government machinery may misuse the powers, but at some stage we must accept that risk and unless that risk is taken the country and the State cannot launch upon a new experiment. There will always be an element of risk, and if we are to have planned economy, if we want the State to enter more and more into the field of industrial and economic life of the country such a step has to be taken.

With these few words, I wholeheartedly support this Bill.

Shri R. Velayudhan (Travancore-Cochin): I want to make a few observations on this Bill which will very shortly be on the statute book. This Bill which is called the Industries (Development and Control) Bill has had its own developments for the last two years. It has gone to two Select Committees. The industrialists of this country have opposed it from their own points of view, but from my point of view, from the point of view of a socialist economy, this Bill is not at all satisfactory. It will only create confusion and chaos in the industrial development of the country. Government may be very happy because they think that they have secured a stronghold over the capitalists, but the policy they have adopted will not achieve the object which they have in view, if they have any object at all.

Yesterday, the Minister of Planning, who is an expert in planning, said that he believed in a middle of the road economy or a mixed economy and that this Bill will achieve that. Only two years ago the Prime Minister stated on the floor of this House that he did not know what mixed economy was and it will not suit India. Now, a Minister

of the same Government has told us that they have accepted mixed economy and their whole policy of industrial planning and development is based on it. We are at a loss to understand what is this mixed economy which Government have in view. My view is that there is no middle of the road way for achievement of freedom from want for the people. There is no other way except a socialist economy. Capitalism is on a trial today. Socialist economy must come. Whatever methods Government may adopt to save the industrialists and capitalists, they are only creating confusion and difficulties for the progress of industrial development. If they had come forward straightaway and accepted a socialist economy, I can understand that, because the whole background of India, the whole political and economic situation of India is suited to that. This is the hypocritical way of doing things by Government. Why should they not come forward and say what they want to do for the country? They say they have a co-operative commonwealth plan for the country. Even the Congress manifesto says that they stand for democratic socialism, but they do not want to accept socialist economy for the reconstruction of the country.

India is an infant State, not only from the point of Government but from the industrial point of view also. All these Development and Advisory Councils are only obstacles in the way of development of industries. Even in a socialist economy or a socialist State these controls will not be there. We will nationalise those industries which can be nationalised and we will leave the others to private enterprise. In India we have enough chances for private enterprise. What is the control that Government propose to have today? All the industries that are coming forward will be stopped. The lower middle and middle classes and the young educated people are coming forward to do business and you are now going to stop them by this kind of control and legislation. This is not my impression alone, but the impression of the whole of the middle classes. In this way you are wasting the energy of the country. The Government has got a tendency to waste the energy of the country. They say they have not got enough personnel, technical personnel

or administrative personnel in the country. But they have not investigated the possibility of putting the proper personnel in their proper places. This Bill, I am afraid will not have the desired effect; on the other hand it will have the opposite effect and it will adversely affect the industrial development of the country.

Shri Mahtab: Sir, since we have reached the last stage, I would like to say something as to how this Bill will be worked. Since the telegram from the All-India Manufacturers Association has been read out here, I must say that.....

Dr. Deshmukh: A copy of it has been sent to Government.

Shri Mahtab: It is Associations of that type which will be called upon to work the Bill. I would request the All-India Manufacturers' Association to lend the services of a few of their patriotic members either as members of Development Councils or as members of the Central Advisory Councils. I am going to invite prominent industrialists like Shri Syamnandan Sabaya and others to come forward and help the Government in making the working of this measure a success. Leaders of labour, leaders of industry and the representatives of consumers will combine together to make the working of this law successful, which I am sure will end in proper industrial development of this country. It is not by Government's own or its officers' efforts alone that tangible results could be achieved. It is the combined efforts of all these interests that I have mentioned which will result in the achievement of tangible results. And if there is the proper spirit—I am sure there is—I am sure within one year this measure which we are passing now will show tangible results.

With these words I commend this Bill.

Mr. Chairman: The question is:

“That the Bill, as amended, be passed.”

The motion was adopted.

The House then adjourned till Nine of the Clock on Monday, the 15th October, 1951.