

organise our business generally speaking in a manner not embarrassing to members. The whole House will agree with it. But a peculiar situation arose this time which was taken notice of by the Business Advisory Committee. We had to have a number of holidays which we did not anticipate. Then a number of members from all sections of the House were anxious that certain discussions should take place and we were hard pressed for time. The original idea was that we should make up by sitting on Saturday. Also on the 24th various important non-official motions are slated for discussion. Then there will be a resolution coming on 23rd at 4 P.M. With the result that very little time is left for government business. On the 23rd as I said we are having the Resolution concerning the income-tax matter of Shri Jagjiwan Ram. Therefore, the Business Advisory Committee unanimously agreed to dispense with the lunch hour. I hope he would accept it.

SHRI SEZHIAN (Kumbakonam): His suggestion is for the future.

MR. SPEAKER: I may tell Shri Kalita that I will discuss his suggestion with the Minister and will try to find some time for it.

The question is:

"That this House do agree with the Forty-third Report of the Business Advisory Committee presented to the House on the 17th December, 1969."

The motion was adopted.

13.20 hrs.

[**MR. DEPUTY SPEAKER** in the Chair.]

MONOPOLIES AND RESTRICTIVE TRADE PRACTICES BILL—contd.
Clause 3—contd.

MR. DEPUTY-SPEAKER: Yesterday we were discussing amendments to Clause 3. One hour and 45 minutes remain for the rest of the clauses.

SHRI R. K. AMIN (Dhandhuka): Speaking on this Clause. Shri Nahata observed that there are certain investments in which Government

monopoly is a necessity, and that is why it has been excluded from the operation of this Bill.

In the economy there are certain natural monopolies or technical monopolies which require only one firm to handle a particular thing. For example, there cannot be seven or eight telephone companies in one city, and that is why it should be under the control of one firm, but it does not necessarily follow that it should be in the public sector. If monopoly is at all necessary, it should be in private hands. That is preferable because if a public monopoly misbehaves there is no one to control it. If a private monopoly misbehaves, people can go to the Government and Government can put a control over it, and there could be even a rate-fixing authority, measures like this could be taken, but on a public monopoly there can be no such check.

Secondly, if any evil enters a private monopoly, it can be detected and remedied quickly. In a public monopoly, there is no remedy at all. The evil is noticed after a very long time, and even when it is noticed, it is difficult to deal with it. That is why I say that if there is necessity of keeping a monopoly for natural or technical reasons, it should be first tried in the private section, having tried in the private sector, an autonomous body may be created, but there should be no public or Government monopoly.

MR. DEPUTY-SPEAKER: Shri Beni Shanker Sharma, You could not move your amendment yesterday when you were called. You can speak on the clause without reference to your amendment.

SHRI BENI SHANKER SHARMA (Banka): My only object in speaking on this Clause is that I do not want the Government undertakings to be excluded from the operation of this Bill.

Monopoly is bad in the hands of private business, but it is worse in the hands of Government as Government has so many powers in different spheres. Take the case of

[Shri Beni Shanker Sharma]

Durgapur, Bhilai and Rourkela steel plants, which are manufacturing steel. The Indian Iron and Tatas are also manufacturing steel. On account of inefficient management, Durgapur and other public concerns are not able to sell their steel economically. They make request from time to time to increase the price, and I understand the prices are again going to be increased. When the prices are increased, Indian Iron and Tatas also benefit. It indirectly helps the private sector giving to it these benefits which we want to do away with by this Bill.

Yesterday the hon. Minister waxed eloquent on the discussions in the Joint Committee and also the Monopolies Commission. I would remind him that the Monopolies Commission itself had suggested that the regulatory provisions should apply equally to both private and public sectors. I therefore feel that public undertakings should not be taken out of the purview of this Bill.

SHRI S. S. KOTHARI (Mandsaur): I should like to emphasize that the Government must take power into its own hands to exclude any industry which, in the opinion of Government, deserves to be excluded in certain circumstances. I particularly refer to export and priority industries and to industries adversely affected by recession. If in these industries, it is necessary that production should increase so that the community does not suffer, export does not suffer, inflation does not take place, prices of those goods do not rise, it should be within the power of Government to provide by notification that the provisions of this Act shall not apply to such industries. While it is necessary to control monopoly in the hands of a few individuals, this is also an important matter in the interests of the public at large, and I would commend Mr. Masani's amendment on this point. I had also given an amendment, but it was shut out as this clause was taken up yesterday.

State monopoly is as pernicious as private monopoly. For instance, the STC has been charging for certain commodities what the traffic will

bear, which means that the prices may go up to any extent as it has the monopoly. But it should see the public interest and should not charge exorbitant prices or make unconscionable profits. The report of the Committee on Public Undertakings is there. I was the convener of one of its sub-committees and we found that they have charged exorbitantly in the case of certain commodities.

Similarly, in regard to the LIC, there is public demand and probably most members of the Consultative Committee attached to the Finance Ministry agree, that the premium rates which are very high should be brought down. In spite of that, Government is not taking a decision, and the LIC, because of its monopolistic position, is charging premium rates which are not justified actuarially, taking into consideration the mortality rate and other factors.

These two examples prove that State monopolies do not function to the benefit of the community. It is necessary that State monopolies should be covered by this Bill so that such cases may not arise, and they may be subject to the review of the Commission.

Of course, Government has taken power not to be bound by the recommendations of the Commission, and thus reduced it to the status of an advisory body. Actually, the Government should be bound by its recommendations. However, since the Government has taken this power, it should have no objection to all monopolies, whether of the State or of the private sector being brought within the purview of this Act and the Commission. That is of the utmost importance and I hope Government will take action on it.

SHRI HIMATSINGKA (Godda): I have moved my amendment No. 346. Mr. Masani's amendment wants all the industries of the Government to be included, and I support that.

If that is not agreed to, I have suggested that in any event, chapters IV and V which authorise the Government to examine the restrictive trade practices and monopolistic trade practices should at least be

made applicable to all undertakings, whether of Government or they are private or anybody else's. There is no reason why these two chapters should also be excluded from being applicable to the Government industries. After all, if the Government do not want to be prevented from putting up big industries, in the nature of monopolies, certainly it should be the look-out of the Commission to see that the Government monopolies also are prevented from indulging in monopolistic trade practices or restrictive trade practices. That is why I am suggesting that clause 3 should read: "Unless the Central Government by notification in the official gazette otherwise directs this Act, except Chapters IV and V, shall not apply" etc.

THE MINISTER OF INDUSTRIAL DEVELOPMENT, INTERNAL

TRADE AND COMPANY AFFAIRS

(SHRI F. A. AHMED): Mr. Deputy-Speaker, Sir, I shall be very brief in replying to the amendments moved by hon. Members. In fact, all the amendments which have been moved have only one purpose, and that is, to bring the public undertakings and such undertakings which are under the control of the Government also within the purview of this Bill. I do not know how it is possible for us to treat such undertakings as a monopoly. The hon. Members have tried to argue that because the consumer is affected, and therefore, in order to help the consumer it is necessary that not only monopolies run by the private enterprises but also by the public undertakings should be brought under control. Unfortunately, we do not agree so far as this is concerned. We consider that public undertakings are run for the benefit of the people at large.

So far as any undertaking which is run by the public is under the control of the Government, there is the control of the parliament, and if anything goes wrong, it can be set right and improved. So, I do not see any reason why we should try to bring Government monopoly so far as this Bill is concerned. Therefore, we have, as a policy, purposely excluded Government monopoly from the pur-

view of this Bill and I do not accept this amendment.

But before I conclude my argument so far as this amendment is concerned, I would like Mr. Masani to consider once again what I had said in connection with some observations made by Prof. Galbraith. If Mr. Masani remembers, what I was referring to was in reference to monopoly being a Government monopoly, and in that connection, Mr. Masani had quoted Prof. Galbraith. I pointed out that Prof. Galbraith was not concerned with that subject matter, and he has only made certain observations regarding the autonomy to be given to these public undertakings. May I just remind him of, what I said. This is what I said about it.

SHRI M. R. MASANI (Rajkot): You accused me of misquoting Prof. Galbraith. Now, are you prepared to withdraw your charge after I have read out the quotation in full?

SHRI F. A. AHMED: Let me proceed. What I was saying was:

"Against the criticism that the public sector is functioning as a monopoly, my reply is this, that criticism, if any, should be that has given too good a deal for the private sector."

And then I went on to say:

"He quoted Prof. Galbraith to support his own argument. I am not sure that he has read Prof. Galbraith correctly because he had not passed any judgment on the public sector as such."

SHRI M. R. MASANI: He has. I read yesterday to show that he considers the Ceylonese and Indian public sector to be wasteful and ruinous to the country and incurring losses, irresponsible and not autonomous.

SHRI F. A. AHMED: Then I said:

"Nor was it his intention to run down planned economic development of our country. He was in fact referring only to the inadequacy of delegation of power to the public sector undertakings not only in India but in other places

[Shri F. A. Ahmed]

also, and had pleaded for greater autonomy to achieve efficiency. His basic theme was that social objectives must be achieved through the process of granting greater autonomy to these enterprises and not subjecting them to rigorous controls in day-to-day administration."

I stand by it. I would against read from his own book. This is what Prof. Galbraith has said:

"The effect of this denial of autonomy and the ability of the technostucture to accommodate itself to changing tasks has been visibly deficient operations. Delay occasioned by checking decisions has added its special dimensions of cost. In business operations, a wrong decision can often be reversed at little cost when the error becomes evident. But the cost of a delayed decision—and the men and capital that stand idle awaiting the decision—cannot be retrieved."

Then, towards the concluding portion, he says:

"The experience with public enterprises, where autonomy is denied, thus accords fully—and tragically—with expectation."

So, he was specifically dealing with this question of autonomy so far as the public sector is concerned.

SHRI M. R. MASANI: In India and Ceylon.

SHRI F. A. AHMED: He also said that these public undertakings in India and Ceylon are running at a loss, but he forgets or he purposely did not read what he had also included in his book. May I just read it?

"The exceptions in India in recent years have been Air India and the Hindustan Machine Tool Company....."

SHRI S. S. KOTHARI: It is now running at a loss. (*Interruption*).

SHRI F. A. AHMED: May I just be allowed to read?

".....both of which have a substantial measure of autonomy and

thus affirm the point and the rail roads which have an ancient tradition of substantial independence."

This is the point. Actually he was laying emphasis on the question of autonomy.

"And then it is interesting that Government which are reluctant to grant autonomy to other enterprises regularly accord it to their airlines with often very good results. It seems possible that public officials who are among the important patrons sense a unique danger of genuine autonomy in this industry."

That is what I had emphasised. He was more concerned with the question of giving autonomy to the undertakings, and he has not condemned lock, stock and barrel so far as the public undertakings are concerned. This is what I have to say.

Therefore, I oppose these amendments.

MR. DEPUTY-SPEAKER: May I put all the amendments to the vote?

SHRI M. R. MASANI: We want amendment No. 34 to be put separately.

SHRI S. S. KOTHARI: About the power given to exclude certain industries, has the Government considered it? He has not replied to it.

MR. DEPUTY-SPEAKER: He has answered that question.

SHRI S. S. KOTHARI: The Minister was going to reply, Sir.

SHRI F. A. AHMED: I do not want to exclude the public undertakings from the operation of this Bill.

SHRI S. S. KOTHARI: I was asking about the other point: Your taking power to exclude any other industry if you deem it expedient.

SHRI F. A. AHMED: You have not moved any amendment.

SHRI S. S. KOTHARI: Mr. Masani's amendment is there.

MR. DEPUTY-SPEAKER: I shall now put amendment No. 34 to the vote of the House. The question is:

Page 7.—

for clause 3, substitute—

"3. (1) Unless the Central Government, by notification in the Official Gazette, otherwise directs, this Act shall not apply to—

- (a) any trade union or other association of workmen or employees formed for their own reasonable protection as such workmen or employees, or
- (b) any company which transacts the business of banking in India and is covered by the Banking Regulation Act, 1949 (10 of 1949).

(2) The Central Government shall whenever it thinks expedient, with the consent of the Commission, review from time to time the industries to be exempted from all or any of the provisions of this Act, in particular to such of the—

- (a) priority industries;
- (b) depression-hit industries; and
- (c) price-controlled industries as need exemption from the Act, in order to increase their production, supply, demand or employment potential in the interest of the national economy." (34).

The Lok Sabha divided:

Division No. 16] **AYES** [13.43 hrs.

Amin, Shri R. K.
 Amin, Shri Ramchandra J.
 Dandeker, Shri N.
 Deb, Shri D. N.
 Deo, Shri P. K.
 Deo, Shri R. R. Singh.
 Gowder, Shri Nanja.
 Himatsingka, Shri
 Kothari, Shri S. S.
 Lobo Prabhu, Shri
 Masani, Shri M. R.
 Meena, Shri Meetha Lal
 Mody, Shri Piloo
 Murti, Shri M. S.
 Muthusami, Shri C.
 Naik, Shri G. C.

Farmar, Shri Bhaljibhai
 Patodia, Shri D. N.
 Pramanik, Shri J. N.
 Ramamoorthy, Shri S. P.
 Gen, Shri P. G.
 Sharma, Shri Beni Shanker.
 Shivappa, Shri N.
 Suraj Bhan, Shri
 Vidyarthi, Shri Ram Swarup
 Xavier, Shri S.

NOES

Asgar Husain, Shri
 Badrudduja, Shri
 Basu, Dr. Maitreyee
 Baswant, Shri
 Bhanu Prakash Singh, Shri
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandra Shekhar Singh, Shri
 Chaudhury, Shri Nitiraj Singh
 Dange, Shri S. A.
 Dasappa, Shri Tulsidas
 Dhuleshwar Meena, Shri
 Dinesh Singh, Shri
 Gandhi, Shrimati Indira
 Haldar, Shri K.
 Jadhav, Shri V. N.
 Jha, Shri Bhogendra
 Jha, Shri Shiva Chandra
 Joshi, Shri S. M.
 Kalita, Shri Dhireswar
 Kandappan, Shri S.
 Kavade, Shri B. R.
 Kotoki, Shri Liladhar
 Kurdu, Shri S.
 Kureel, Shri B. N.
 Mahadeva Prasad, Dr.
 Mahajan, Shri Vikram Chand
 Mahida, Shri Narendra Singh
 Meghachandra, Shri M.
 Mishra, Shri G. S.
 Nahata, Shri Amrit
 Nihal Singh, Shri
 Parthasarathy, Shri
 Raghuramaiah, Shri
 Ram, Shri T.
 Ram Swarup, Shri

Raut, Shri Bhola
 Roy, Shri Bishwanath
 Roy, Shrimati Uma
 Saha, Dr. S.K.
 Saigal, Shri A. S.
 Sambhali, Shri Ishaq
 Sankata Prasad, Dr.
 Sen, Shri Deven
 Sethi, Shri P. C.
 Shambhu Nath, Shri
 Sharma, Shri Madhoram
 Shastri, Shri Ramavatar
 Shukla, Shri S. N.
 Sinha, Shri Mudrika
 Sinha, Shri R. K.
 Sursingh, Shri
 Tarodekar, Shri V. B.
 Tula Ram, Shri
 Viswanathan, Shri G.

MR. DEPUTY-SPEAKER: The result* of the division is: Ayes: 26; Noes: 55.

The motion was negatived.

MR. DEPUTY-SPEAKER: Now I shall put all the other amendments to the vote of the House.

Amendments Nos. 325, 346 and 479 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

Clause 5—(Establishment and Constitution of the Commission).

श्री रामावतार शास्त्री (पटना) : मैं प्रस्ताव करता हूँ कि :-

पृष्ठ 10, अध्याय 2, उपधारा 2 में-

"होने के लिये अहित है" शब्दों का लोप किया जाये। (166)

पृष्ठ 10, अध्याय 2, धारा 5 की उपधारा 1 में
 "8" की जगह "12" अंक रखा जाय।
 (167)

पृष्ठ 10 की धारा 5 की उपधारा 2 में अंत में जोड़ा जाय-

"तथा कम से कम 5 संसद सदस्य जिनका एकाधिकारी वित्तीय संस्थानों से किसी किस्म का सम्बन्ध न हो और जो आयोग पर किसी तरह के प्रतिकूल प्रभाव डालने के हित न रखते हों।"
 (168)

SHRI N. DANDEKER (Jamnagar):
 I beg to move:

Page 8.—

for lines 9 to 15, substitute—

"(2) The Chairman of the Commission shall be a person who is, or has been, a judge of the Supreme Court or of a High Court and the members thereof shall be persons of ability, integrity and standing who have adequate knowledge and experience of law, commerce, accountancy, industry or administration".
 (203).

Page 8.—

for lines 16 to 19, substitute—

"(3) Before appointing any person as a member of the Commission, the Central Government shall satisfy itself that the person does not have any such financial, political or other interest as is likely to affect prejudicially his functioning as such member." (204).

SHRI N. K. SOMANI (Nagaur): I beg to move:

Page 8, after line 8, insert—

"Provided that not less than one member shall be appointed to represent the interest of the consumer." (234).

SHRI LOBO PRABHU (Udipi): I beg to move:

*The following Members also re-corded their votes:

Ayes: Shri Gurcharan Singh;

Noes: Saryashri F. A. Ahmed and Vidya Dhar Bajpai.

Page 8, lines 9 and 10,—

omit, "or has been or is qualified to be." (235).

SHRI BENI SHANKAR SHARMA: I beg to move:

Page 8, lines 7 and 8,—

for "to be appointed by the Central Government" substitute—

"not more than half of which to be nominated by the Central Government and the balance to be appointed by the Central Government in consultation with the Chambers of Commerce or their representatives". (396).

SHRI S. KUNDU (Balasore): I beg to move:

Page 8, line 6,—

for "two" substitute—
"three" (417).

Page 8, line 7,—

for "eight" substitute—
"five" (418).

Page 8, lines 10 and 11,—

omit "or of a High Court" (420).

Page 8,—

after line 19, insert—

"(4) The appointment of the Chairman of the Commission shall be made by the Central Government in consultation with the Chief Justice of the Supreme Court and of other members of the Commission, by a Committee of five Members of Parliament, duly elected for the purpose of which three shall be Members of Parliament sitting on the opposition benches." (421).

SHRI N. K. SOMANI: I beg to move:

Page 8, lines 10 and 11,—

omit "or of a High Court" (480).

SHRI N. DANDEKER: Sir, I have moved two simple amendments, Nos. 203 and 204, to this clause. Amendment No. 203 is to recast sub-clause (2) of clause 5 in three respects. In the first place, I do not think persons who are qualified to

be appointed as Judges of the Supreme Court or of a High Court, ought to be qualified to be appointed as Chairman of the Commission. The Chairman of the Commission sought to be a person who is or has been a Judge either of the Supreme Court or of a High Court and not one who is qualified to be but has not in fact ever been, a Judge of the Supreme Court or of a High Court.

Secondly, as regards competence of the members, the sub-clause as it stands speaks of having adequate knowledge or experience. I have suggested in my amendment that it should be "knowledge and experience". Thirdly, from among the alternative qualifications required of these persons I am deleting two, namely, economics and public affairs. The sub-clause as redrafted by me would read as follows:—

"The Chairman of the Commission shall be a person who is, or has been, a judge of the Supreme Court or of a High Court and the members thereof shall be persons of ability, integrity and standing who have adequate knowledge and experience of law, commerce, accountancy, industry or administration."

If you want to make this Commission competent and not just packed with people who have either political qualifications only or who are yes-men, we have to have the narrowing down of the qualifications required for being appointed as members.

Then, I am seeking to amend sub-clause (3) of this clause, through amendment No. 204, and to recast it as follows:—

"Before appointing any person as a member of the Commission, the Central Government shall satisfy itself that the person does not have any such financial, political or other interest"—

in the sub-clause as it stands now it says, "financial or other interest" and I am introducing the word, "political"—

"as is likely to affect prejudicially his functioning as such member."

[Shri N. Dandekar]

The sub-clause at present says, "affect prejudicially his functions as such member." Functions cannot be affected. They are laid down in the Act. What can be affected prejudicially is his functioning as a member of the Commission.

I press these two amendments which are in the nature of re-drafting sub-clauses (2) and (3) of clause 5 of the Bill.

SHRI N. K. SOMANI: When this Commission is set up in the country for the first time, we would like to make both in terms of the Chairman's office as well as other members of the Commission, that they would not only have the qualifications and experience as mentioned by Mr. Dandekar just now, but the public, by and large, must be satisfied that the people would be appointed to these posts who would be completely qualified and nobody should be able to point a finger against the functioning or the judgment of these people. Any person who is sought to be appointed may be qualified to be a Judge of the High Court. That would certainly make it possible for this Government to appoint from such a vast number of people that this Commission's Chairmanship will certainly become a farce and we can certainly depend upon this thing to happen in view of our experience. Therefore, my amendment 480 seeks to amend this particular provision.

There is another amendment No. 234 that I have moved which I think is also extremely important and it seeks to insert 2 more lines at page 8 after line 8 which says:

"Provided that not less than one member shall be appointed to represent the interest of the consumer."

Now this thing is absolutely clear that while on one side we are seeking that monopolies and restrictive trade practices should not prevail in this country but, at the same time, we are also taking upon the responsibility to see that the consumer is protected. I would like to quote briefly the Federal Trade Commission

in the United States of America which was created in 1914: which says:

"One of the primary objectives was to stop misleading advertising, false labelling and defective sales practices, precisely the abuses that are most infuriating to the consumers for all times to come."

Therefore, if the Member believes in this Monopoly Board, we should certainly have a representative of the consumer on it and that is why I have moved my amendment and I hope that the Government will have no objection to accept this particular amendment.

श्री रामावतार शास्त्री : मेरा पहला संशोधन 166 नं० का है। मेरे पास हिन्दी का बिल है मैं उसी के अनुसार बोल रहा हूँ। इस संशोधन में मैंने कहा है कि पृष्ठ संख्या 10, अध्याय 2, उपधारा 2 में "होने के लिये अर्हित है" शब्दों का लोप किया जाय। मैं भी समझता हूँ कि इसकी कोई आवश्यकता नहीं है। जो जज हों या रहे हों इतना ही काफी है।

दूसरा अमेंडमेंट नं० 167 है जो कि संख्या बढ़ाने के सम्बन्ध में है। इसमें मैं पृष्ठ संख्या 10, अध्याय 2, धारा 5 की उपधारा 1 में मैं 8 की जगह 12 करना चाहता हूँ क्योंकि इसके बढ़ाने से लाभ होगा। विचार-विनिमय करने के लिये 8 की संख्या कम है।

जो मेरा सबसे महत्वपूर्ण संशोधन है इस खण्ड के लिये वह 168 है। अर्थात् पृष्ठ 10 की धारा 5 की उपधारा 2 के अंत में यह जोड़ा जाय, जिसमें यह बात कही गई है कि कौन कौन लोग इस आयोग के मेम्बर हो सकते ह। मेरा यह विचार है कि जितना महत्वपूर्ण यह बिल है और जितना महत्वपूर्ण काम इसके मेम्बर या अध्यक्ष करेंगे उससे संसद् के लोगों को भी सम्बद्ध रहना चाहिये। कारण यह है कि अगर संसद् सदस्य नहीं रहेंगे तो इसमें जो चेक रहना चाहिये, उसमें जो रोकथाम हम कर सकते हैं सही दिशा में, उसमें कमी हो सकती है। इस लिए मेरी प्रार्थना है कि इस उपधारा 2 के अंत में यह जोड़ दिया जाय :

“तथा कम से कम 5 संसद सदस्य जिनका एकाधिकारी वित्तीय संस्थानों से किसी किस्म का सम्बन्ध न हो और जो आयोग पर किसी तरह के प्रतिकूल प्रभाव डालने के हित न रखते हों।”

क्वालिफाइड संसद सदस्य से मेरा मतलब स्वतंत्र पार्टी के संसद सदस्य से नहीं है, जनसंघ के संसद सदस्य से नहीं है, कांग्रेस पार्टी के संसद सदस्य से नहीं है.....

एक माननीय सदस्य : सिर्फ कम्प्युनिस्ट ।

दूसरे माननीय सदस्य : रूस और चाइना समर्थक ।

श्री रामावतार शास्त्री : नहीं, वह लोग जो एकाधिकारी पूंजिपतियों को मिटाना चाहते हैं, उनका अन्त करना चाहते हैं, उन पर हमला करके उन को तरीके से रखना चाहते हैं। इसका यह सही मतलब है। क्योंकि अगर हम ऐसा नहीं करेंगे तो बिल तो अभी अपनी जगह पास हो जायेगा लेकिन अगर इसमें गलत लोग चले गये तो इस बिल की जो मंशा है, उसको हम पूरा नहीं कर सकेंगे। साथ ही हमारे देश में जो एकाधिकारी पूंजीवाद विकसित हो रहा है, जिसके लिये आज की सरकार जबाब देह है जो इतने दिनों से चल रही है, हम उसको रोकना चाहते हैं। इसलिये इसमें ऐसे संसद-सदस्य रखे जायें जो सचमुच इस बिल की रूह की रक्षा कर सकें और ऐसे लोगों पर हमला कर सकें।

SHRI N. DANDEKER: Is the hon. Member entitled to make reflections on other Members?

SHRI RAMAVATAR SHASTRI: I have not said like this.

वह खुले आम एकाधिकारियों का समर्थन करते हैं। आपने अभी वोटिंग करवाई। चाहे स्वतंत्र पार्टी हो, चाहे जनसंघ हो, चाहे सिडीकेट हो या कांग्रेस हो, ऐसे तमाम लोगों के लिये मैं कह रहा हूँ।

SHRI D. N. PATODIA (Jalcre): He is speaking like an ignorant person. He does not know the ABC of trade.

SHRI RAMAVATAR SHASTRI: If that is also not a crime, this also is not a crime. I never intervened when you spoke. Why are you intervening when I speak?

इसलिये मेरा निवेदन है कि मेरे इस संशोधन को सरकार को स्वीकार करना चाहिये ताकि इस तरह के संसद सदस्य जायें और इस बिल के कार्यान्वित करने में मददगार हो सकें।

इन शब्दों के साथ मैं अपने संशोधन पेश करता हूँ।

SHRI KANWAR LAL GUPTA: (Delhi Sadar): Will you kindly permit me to move my amendment? I have just come

MR. DEPUTY-SPEAKER: We have passed that stage. We have very little time left. We cannot go back.

SHRI KANWAR LAL GUPTA: I want to speak.

MR. DEPUTY-SPEAKER: You might make your observations later on, Mr. Kundu.

SHRI S. KUNDU (Balasore): Mr. Deputy Speaker, Sir, this clause is one of the most important clauses because what has been sought by this Bill should be executed through this Commission. Therefore, I have suggested certain points through my amendment. I do not know what the Minister will be saying, I want to make two things very clear.

I do not know how far we will be able to check the growing menace of capitalism in this country through such a half-hearted measure. Whatever it may be, I would like, if anything is going to be done, it should be done without favour or fear. Therefore, I have suggested certain radical changes for the appointment to this Commission.

My first suggestion through my amendment is that the appointment of this Commission should not be done completely by the Government because the State has so much of power and the State can also use its coercive power to misuse the authority they acquire through this Bill. Therefore, I have said that the appointment should be restricted first only to the Supreme Court Judge, not even the High Court Judge or any of

[Shri S. Kundu]

the former Judge who was in the High Court or Supreme Court. I said a Judge of the Supreme Court must head this body. Therefore, I have deleted irrelevant portions from this clause and if this is accepted, then what remains is that the Chairman of the Commission should be a Judge of the Supreme Court.

Then, after having said that, I have restricted the number to five. The members should not be appointed by the Government. They should be appointed by a Committee of Parliament and out of the five members, 3 must be from the Opposition. It is very important that the members and Chairman of the Commission who will transact the most important business and at no stage there should be any feeling that they are appointed by the ruling party, but that they are appointed by a sovereign Parliament of which the Opposition members are in majority. Therefore, when they take up their appointment, they can act freely and fairly without doing any favour to anybody. The membership should not be 2, 8, etc. By a majority of vote they are supposed to decide matters. If you put it as 2 members, how can they decide? Therefore, either you may make it 3 or you may make it 5. You cannot make it 2 or 8. It does not strike me as making sense. I hope he will accept this amendment.

SHRI BENI SHANKER SHARMA: I have moved my amendment No. 396. I would like to make a little observation. As Mr. Kundu has said, this is the most important clause of the Bill dealing with the structure of the Monopoly Commission. It has to act as a watch-dog over the trades which are to be controlled by this Commission. Now, what I have suggested is this. Government should not monopolise the monopoly commission. That is what I would say. We have got a democratic set-up and we want to introduce the same in the management of factories as also in the management of companies controlling and running those factories. My hon. friends on my left want labour to have a share in the management. Here is going to be a commission which will be controlling

business and deprives businessmen or consumers being associated with it. When it is said, not more than 3 Members should be appointed by the Central Government, my suggestion is that not more than half of them should be nominated by the Central Government and the balance should be appointed by the Central Government in consultation with the Chambers of Commerce or their representatives. This is a very simple request. I don't say they should be appointed by the Chamber of Commerce, but I only say that Government should appoint them in consultation with the Chambers and the representatives of business because they are going to be affected the most. The interest of the business and the consumers have got to be safeguarded. It can be done only if we can have representatives from their side as well. I hope my hon. friend Mr. Shastri and others who were clamouring for the share of labour in management would also support my amendment and they will vote with me.

SHRI LOBO PRABHU (Udipi): Sir, my first amendment is amendment No. 235. It has been anticipated by Members both on this side and on the other side of the House. My amendment is to the effect that the appointment of Chairman should be confined only to a supreme court judge. The appointment of the Chairman should be confined only to the supreme court judge and not one who is qualified to be a supreme court judge or who has been a supreme court judge. I am glad that Mr. Kundu has agreed with me that there should be a bar on those who have been judges of the supreme court. The reason is obvious. Such a person is under an obligation to Government for the appointment he receives. We have instances of judges waiting in the corridors of the Secretariat for appointments. It is not good for the judges; it is not good for a body like this. The other amendment that no one should be appointed who is qualified to be a judge, has been supported by nearly every Member, including I am glad to say, Members of the communist party. I hope the hon. Minister will

accept this simple amendment as it is.

My other amendment seeks substitution of the word 'leadership' for the word 'capacity'. Everybody has capacity in some measure or in some manner and it is a matter of degree but what is wanted is leadership and leadership is something different. When you appoint persons, let them be leaders, people who have some distinction, who cannot be mistaken as political selections. Therefore, I would like to press both these amendments. These are very simple which will make for perfection of this clause. I have some confidence the hon. Minister will be able to accept them.

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRIAL DEVELOPMENT, INTERNAL TRADE AND COMPANY AFFAIRS (SHRI RAGHUNATHA REDDY):

Shri Dandekar and others have raised the question about the persons who are to be appointed as Members of the Commission. A reading of the clause would indicate that it is normally Supreme Court judge or High Court judge but where the persons are eminent enough to be appointed, they can be appointed. For instance, as the hon. Member knows, an eminent jurist can straight away be appointed as judge of the Supreme Court. And in the case of High Court, it is also the same. There may be Advocate-Generals, there may be eminent lawyers who may refuse to become High Court judges. Suppose an eminent lawyer like Mr. Kundu is available, certainly, it would be a fit case for consideration.

SHRI S. KUNDU: I will refuse.

SHRI RAGHUNATHA REDDY: We do not want to restrict the scope for appointment of persons who are otherwise qualified. The person should be eminent enough for appointment and that is the only reason why it is put. I oppose the amendment moved by Shri Dandekar.

MR. DEPUTY SPEAKER: May I put the amendments together to the vote of the House?

SHRI LOBO PRABHU: No, Sir. Why is he not prepared to accept such a simple amendment? We are going to demand Division on our amendment.

SHRI RAGHUNATHA REDDY: Regarding Snastriji's amendment, if Members of Parliament are to be appointed they would become disqualified to be Members of Parliament under Art. 102 of the Constitution. Therefore this question does not arise. I oppose this amendment.

Regarding Shri Kundu's amendment, he has made a point. There is some force and I wish to say that the Act itself provides sufficiently for eminent people to be appointed. He need not have fears of any type which he has got in his mind.

SHRI N. K. SOMANI: About amendment No. 234 he has to answer.

MR. DEPUTY SPEAKER: He has given the answer. He has opposed all the amendments—that includes yours also.

May I put all of them together?

SHRI LOBO PRABHU: I want my amendment to be put separately.

MR. DEPUTY SPEAKER: I would request you to cooperate with the Chair.

SHRI LOBO PRABHU: There should be some meaning in the procedure for amendments. Otherwise there is no need to have these amendments at all. You have an amendment supported by all sections of the opposition that you must delete this particular clause, that those who are qualified to be high court judges should not be included in it. I again beg of you please to accept this and spare us the necessity of calling for division.

MR. DEPUTY SPEAKER: May I put them together?

SHRI LOBO PRABHU: I want mine to be put separately.

MR. DEPUTY SPEAKER: Kindly cooperate with the Chair. We have to conclude this at 3-45 P.M. The time is running out and if you keep on pressing for division or a vote on each and every amendment, it will not be possible to finish it within

[Shri Lobo Prabhu]

the time. This is my only appeal to you.

SHRI N. K. SOMANI: Not on every one. Amendment No. 234 may be put separately.

MR. DEPUTY-SPEAKER: I shall now put amendment No. 234 moved by Shri N. K. Somani to vote.

Let the Lobby be cleared.

SHRI N. SREEKANTAN NAIR (Quilon): You must read out the amendment.

MR. DEPUTY-SPEAKER: It has been printed and circulated already.

SHRI N. SREEKANTAN NAIR: If you ring the division bell, then you must read out the amendment, so that we may also understand what it is about.

MR. DEPUTY-SPEAKER: I would submit that we have very little time left.....

SHRI N. SREEKANTAN NAIR: But the procedure cannot be skipped over. The usual procedure has to be followed. Otherwise, how shall I know what I am voting for?

MR. DEPUTY-SPEAKER: The amendments have been printed and circulated to hon. Members, and it is presumed that the Members have read them and have the copies with them.

SHRI N. SREEKANTAN NAIR: You should follow the usual procedure in regard to division.

MR. DEPUTY-SPEAKER: The hon. Member may kindly co-operate with the Chair.

SHRI N. SREEKANTAN NAIR: I protest against the attitude of the Chair in denying the Member the established right of the House. We should not be asked to go and read or bring back from our house the copies of the amendments. It is not to use saying that the amendments have been printed and circulated. We must be told what the amendment is before division is ordered. Or else you should not ring the division bell.

MR. DEPUTY-SPEAKER: This is the procedure normally followed.

SHRI K. LAKKAPPA (Tumkur): What Shri N. Sreekantan Nair says is correct.

SHRI N. SREEKANTAN NAIR: Since you are occupying the Chair only, now, I have got to raise this point. You have to follow the proper procedure. Otherwise, I shall have no respect for you. If you respect my right, then I would respect you, otherwise I would not respect you. The procedure should be followed and you must conduct the proceedings properly.

MR. DEPUTY-SPEAKER: I would take it as suggestion for action to be considered.

I shall now put amendment No. 234 to the vote of the House.

The question is:

Page 8, after line, 8 insert—

“Provided that not less than one member shall be appointed to represent the interest of the consumer”. (234).

The Lok Sabha divided:

Division No. 17 AYES 14.16 hrs.

Amin, Shri R. K.

Dandeker, Shri N.

Gowda, Shri M. H.

Gowder, Shri Nanja

Gupta, Shri Kanwar Lal

Kushwah, Shri Yashwant Singh

Lobo Prabhu, Shri

Mody, Shri Piloo.

Muthusami, Shri C.

Naik, Shri R. V.

Patodia, Shri D. N.

Ramamoorthy, Shri S. P.

Sezhiyan, Shri

Sharma, Shri Beni Shanker

Somani, Shri N. K.

Tapuriah, Shri S. K.

Vishwanathan, Shri G.

NOES

Aga, Shri Ahmad

Ahmed, Shri F. A.

Asghar Husain, Shri

Babunath Singh, Shri

Bajpai, Shri Vidya Dhar

Barua, Shri R.
 Barupal, Shri P. L.
 Basu, Dr. Maitreyee
 Baswant, Shri
 Bhanu Prakash Singh, Shri
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandrika Prasad, Shri
 Dasappa, Shri Tulsidas
 Deoghare, Shri N. R.
 Deshmukh, Shri K. G.
 Dixit, Shri G. C.
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Gautam, Shri C. D.
 Gavit, Shri Tukaram
 Jadhav, Shri V. N.
 Kavade, Shri B. R.
 Kureel, Shri B. N.
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Mahadeva Prasad, Dr.
 Mahida, Shri Narendra Singh
 Mishra, Shri G. S.
 Mulla, Shri A. N.
 Nahata, Shri Amrit
 Nihal Singh, Shri
 Palchoudhuri, Shrimati Ila
 Parthasarathy, Shri
 Patil, Shri Deorao
 Patil, Shri S. D.
 Raghu Ramaiah, Shri
 Ram, Shri T.
 Rana, Shri M. B.
 Rao, Shri J. Ramapathi
 Rao, Dr. V. K. R. V.
 Raut, Shri Bhola
 Roy, Shri Bishwanath
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sankata Prasad, Dr.
 Savitri Shyam, Shrimati
 Sen, Shri Deven

Sen, Shri Dwaipayana
 Sethi, Shri P. C.
 Shambhu Nath, Shri
 Shashi Bhushan, Shri
 Shastri, Shri Sheopujan
 Shiv Chandika Prasad, Shri
 Shukla, Shri S. N.
 Siddayya, Shri
 Sinha, Shri Mudrika
 Snatak, Shri Nar Deo
 Sonar, Dr. A. G.
 Sursingh, Shri
 Tiwary, Shri D. N.
 Tula Ram, Shri
 Uikey, Shri M. G.
 Virbhadra Singh, Shri

MR. DEPUTY-SPEAKER: The result of the division is Ayes: 17. Noes 67.

The motion was negatived.

SHRI S. K. TAPURIAH (Pali): Anti-consumer government!

SHRI PILOO MODY (Godhra): Anti-people Government; Shame, shame: Who cares for the consumer? I am the representative of the consumer.

SHRI S. KANDAPPAN (Mettur): He is the biggest consumer.

SHRI KANWAR LAL GUPTA: He is weighty consumer.

MR. DEPUTY-SPEAKER: Now, I shall put amendment No. 235 in the name of Shri Lobo Prabhu to vote.

Amendment No. 235 was put and negatived.

MR. DEPUTY SPEAKER: I shall now put Shri S. Kundu's amendment to vote.

SHRI S. KUNDU: I shall just read out my amendment.

MR. DEPUTY-SPEAKER: It is not necessary. Hon. Members have got copies of the amendments. Moreover, the Hon. Member had drawn pointed attention to his amendment when he had spoken.

I shall now put amendment No. 421 to the vote of the House. Those in favour may say 'Aye'.

SOME HON. MEMBERS: 'Ayes'.

MR. DEPUTY-SPEAKER: Those against may say 'No'.

SEVERAL HON. MEMBERS: No.

MR. DEPUTY-SPEAKER: The 'Noes' have it.....

SHRI K. LAKKAPPA: 'Ayes' have it.

MR. DEPUTY-SPEAKER: Shri S Kundu is not challenging it.

SHRI K. LAKKAPPA: Anybody on behalf of Shri S. Kundu can challenge it, and I am challenging it on his behalf.

SHRI KANWAR LAL GUPTA: He has a right to challenge it. Any Member can challenge it. I support Shri K Lakkappa.

MR. DEPUTY-SPEAKER: Does Shri K. Lakkappa really want to challenge it? If he really wants, then I shall have to order division. I would only appeal to him not to press for division, because the time is very very short.

SHRI K. LAKKAPPA: All right. I am not pressing for division.

SHRI KANWAR LAL GUPTA: This is the first time that Shri K Lakkappa has agreed with the Chair.

Amendment No. 421 was put and negatived.

MR. DEPUTY SPEAKER: I thank him very much.

I shall now put the rest of the amendments to this clause to vote.
Amendments Nos. 166 to 168, 203, 204, 396, 417, 418, 420 and 480 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 5 stand part of the Bill".

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6—(*Terms of Office, Conditions of Service etc., of members.*)

MR. DEPUTY-SPEAKER: Hon. Members who want to move amendments to clause 6 may do so now.

श्री रामावतार शास्त्री (पटना) : मैं अपने निम्नलिखित संशोधन प्रस्तुत करता हूँ :

पृष्ठ 10, धारा 6, उपधारा 1 में "पांच वर्ष की जगह" "तीन वर्ष" रखा जाय। (169)

उसी उपधारा के दूसरे पैरा में "दस वर्ष" की जगह 6 वर्ष या "दो कालावधि" शब्द जोड़ा जाय। (170)

पृष्ठ 11 में (ख) में "हटाया जा सकता है" की जगह "हटाया भी जा सकता है" जोड़ा जाय। (171)

पृष्ठ 11, उपधारा 5 में आखिर में यह जोड़ा जाय "लेकिन आयोग में समाविष्ट संसद सदस्यों को दो सत्रों के बीच में हुई आयोग की बैठक में भाग लेने पर उनके दिए जाने वाले पारिश्रमिक एवं भत्ते के सामान्य नियम ही लागू होंगे।" (172)

पृष्ठ 11, उपधारा 6 के आखिर में जोड़ा जाय "लेकिन अल्पमत को अपनी विगति टिप्पणी देने का अधिकार होगा।" (173)

SHRI DEVEN SEN (Asansol: I beg to move:

Page 8, lines 22 and 23--

Omit "but shall be eligible for re-appointment" (47)

SHRI SHIVA CHANDRA JHA: (Madhubani): I beg to move:

Page 8, line 22.—

after "shall" insert "not" (77)

Page 9, line 12.—

for "five" substitute "ten" (78)

SHRI S. KUNDU: I beg to move:

Page 8, line 21.—

for "five" substitute "three" (422)

Page 8, line 25.—

for "ten" substitute "six" (423)

Page 9, lines 11 and 12—

Omit "for a period of five years" (427)

SHRI N. K. SOMANI: I beg to move:

Page 8, line 25—

for "ten" substitute "five" (482)

Page 8, lines 25 and 26—

for "sixty-five" substitute "fifty-eight" (483)

श्री देवन सेन : मेरा संशोधन यह है कि :
"but shall be eligible for reappointment"

मैं इसको मिटा देना चाहता हूँ इसके लिये मेरा तर्क है कि वह कमेटी का पोस्ट कइत महत्व

पूर्ण पोस्ट है और इसमें बहुत रुपये का मामला हमारे सामने आया विचार करने के लिये जैसे कि मैं यह उदाहरण देना चाहता हूँ। एक कारखाना है बिन्नी का उसके एसैट्स हैं 20 करोड़ 45 लाख। 20 करोड़ तक हमारी सीमा है। वह जा कर बोलेगा कमीशन के सामने कि हमारा 45 लाख माफ कर दो और हमको इसके दायरे से बाहर कर दो। उसके लिए रुपया देगा, रिश्वत देगा। इसी लिए मैं कहता हूँ कि पांच वर्ष के बाद फिर पांच वर्ष उसकी तैकरी न हो क्योंकि उससे वेस्टेड इन्टरेस्ट कायम हो जायगा और इसीलिए मेरी यह तरकीब है।

श्री शिवचन्द्र झा : मेरे भी दो संशोधन हैं। 177 में तो वही है जो देवन सेन ने कहा है कि जहां पर यह कहते हैं कि शैल बी एलिजिबल फार री-अप्वाइंटमेंट वहां मेरा कहना यह है कि शैल नाट बी कर दिया जाये। क्योंकि इसमें बड़ी धांधलियां चलेंगी। एक मेम्बर एक के बाद दूसरे कमीशन का सदस्य रहेगा जब तक आप अप्वाइंट करेंगे तो इससे बहुत धांधली होगी और यह बीमारी चली हुई है देश में। इसलिए इसको दूर करने की कोशिश हर वक्त होनी चाहिए। इसीलिए दोबारा उसको अप्वाइंट करते हैं तो एक वेस्टेड इन्टरेस्ट उसमें हो जायेगा और यह बड़ी खराब बात हो जायेगी।

दूसरा मेरा संशोधन है 178 नम्बर पर। उसमें इस क्लॉज के सब-सेक्शन 8 में आप यह कहते हैं कि कोई भी कमीशन का मेम्बर जो होगा वह मेम्बरी खत्म होने पर पांच साल तक उससे सम्बन्धित किसी उद्योग में अप्वाइंटमेंट नहीं लेगा। मेरा यह कहना है कि यह पांच साल का पीरियड बहुत कम है, पांच साल की जगह पर मैं चाहूंगा कि दस साल किया जाये। क्योंकि उसमें मान लीजिये किसी की उम्र पचास साल उस वक्त है तो पांच साल के बाद 55 साल की उम्र में आ कर के फिर उसमें अप्वाइंटमेंट ले लेगा। दस साल कर दें तो 60 साल की उम्र हो जायेगी तब तक वह काम करने योग्य नहीं रह जायेगा और अप्वाइंटमेंट नहीं ले सकेगा।

इसलिए इसमें फाइव ईयर्स की जगह पर टेन ईयर्स कर दिया जाये, यह मेरा संशोधन है।

श्री रामावतार शास्त्री : उपाध्यक्ष महोदय, मेरा संशोधन नं० 163 जो है उसके संबंध में एक शब्द में निवेदन करना चाहता हूँ। हिन्दी के पृष्ठ 11 पर उपधारा (6) के आखिर में निम्नलिखित जोड़ा जाये : "लेकिन अल्पमत को अपनी विमति टिप्पणी देने का अधिकार होगा" यह मेरा संशोधन है। धारा 6 इस प्रकार है।

"आयोग के सदस्यों की राय में मतभेद होने की दशा में बहुत की राय अभिभावी होगी और आयोग की राय या आदेश को बहुमत के दृष्टिकोणों के अनुसार अभिव्यक्त किया जायेगा।" यह तो ठीक है। लेकिन आखिर मैं हम यह जोड़ना चाहते हैं "लेकिन अल्पमत को अपनी विमति टिप्पणी देने का अधिकार होगा।" जनतंत्र में सब कमेटियों में ऐसा होता है कि बहुमत की राय तो हमें माननी पड़ेगी, इस में कोई दो राय नहीं हो सकती। लेकिन अगर कोई आयोग के सदस्य या कुछ लोग उस बहुमत से सहमत नहीं हुए तो उन्हें यह अधिकार होना चाहिए कि वह अपना नोट आफ डिसेंट दे दें। इस अधिकार से आप उनको वंचित न करिए। अगर इस तरह के अधिकार से वंचित रखेंगे तो मेरा ब्याल है कि यह जनतंत्र की स्पिरिट, उसकी भावना के अनुकूल नहीं होगा। इसलिए यही मेरा संशोधन है कि इसको इसमें जोड़ा जाये।

SHRI N. K. SOMANI : My amendments, namely amendments Nos. 481, 482, and 483 are very simple and they arise because we do not want that any member of the Monopolies Commission should stay at that particular position for such a long time that any kind of vested interest can be created in him. I do not know what the intention of Government is in posting a person to such an important position for such a long period of time as ten years. Therefore, my first amendment seeks to disallow any person from serving for a period exceeding five years. I have, therefore, said that nobody shall be

[Shri N. K. Somani]

eligible for reappointment to a second term. Therefore, the second amendment follows that no members shall hold office as such for a total period exceeding five years because I think that ten years is too long a time and I have already stated the reasons.

The third amendment is in respect of the age of the member. Government are providing that up to the time that a particular person has attained the age of 65 years he would be eligible to serve on the board. Just as we have monopolies of all kinds, I always maintain that there is a monopoly of old people in this country in all spheres, and there is a tendency for old people by and large to have fixed ideas and not allow the younger people to get any chance at all. They not only lose sight of the situation but also of the realities and the development of new demands. Therefore my third amendment is that for 65 we should substitute the age limit of 58 which is the normal limit at which people retire from Government service. I do not know whether they want to see it as a favour for those people who have got out of Government service or for retired Ministers. But the age-limit of 65 is a bit too much for such an active job, and, therefore, I have moved these three amendments to make the modifications that I have suggested.

SHRI S. KUNDU: At page 9, in sub-clause (8) I have sought to delete the words 'for a period of five years'. There is a prohibition that any particular gentleman who ceases to hold office cannot take any appointment with any public management or any factory or any managerial post for a period of five years. I have said that the period of five years should be deleted. This will give a picture that once he becomes a member and then retires from this commission, he cannot take any position in a private firm or undertaking. I have, therefore, said that the period of five years should be deleted. It will mean that a person who serves here will have to serve there and then retire. I would suggest that a suitable pen-

sion could be provided for him; if you leave the chance to him that after five years he can take appointment in any firm, then the people who want to bribe him would just wait for a period of five years. Therefore, this is not going to solve the problem. Therefore, I would request the Hon. Minister to accept my amendment and delete the phrase 'for a period of five years'. That will mean that any person who has served in this commission cannot take any appointment in any private firm or undertaking.

I have two other minor amendments to the same clause. The tenure of the Member has been put at 5 years and 10 years respectively. I have suggested 3 and 5 years respectively.

SHRI RAGHUNATHA REDDY: Two questions have been raised about the period during which the members should hold their office and the age limit. There are two opinions expressed, one by Shri Somani and the other by Shri Jha relating to five and ten years. We have provided for both in the sense that it is five years in the first instance and if there is nothing against the Member he may be allowed to continue for ten years. There will not be any difficulty. It is only as a matter of abundant caution that we have put it.

As far the other point of Shri Somani that younger persons should be attracted, there is nothing to prevent them from becoming members of the Commission.

SHRI N. K. SOMANI: We want to prevent older ones.

SHRI RAGHUNATHA REDDY: Regarding Shri Kundu's argument, reading the clause, he will see that a person is not prevented from doing any job he wants except those indicated in sub-clause (8). If after working in the Monopolies Commission, he wants to join an industry, covered by the said sub-clause it will not be proper. For that also, we have fixed only a five year period, not more than that. I do not think there is any hardship caused.

MR. DEPUTY-SPEAKER: The question is.

"Page 8, lines 22 and 23,—omit "but shall be eligible for reappointment" (47).

The Lok Sabha divided:

Division No. 18] AYES [14.35 hrs.

Ahmed, Shri J.
 Amin, Shri R. K.
 Chandra Shekhar Singh, Shri
 Esthose, Shri P. P.
 Gowda, Shri M. H.
 Jha, Shri Shiva Chandra
 Joshi, Shri S. M.
 Kunte, Shri Dattatraya
 Manoharan, Shri
 Meena, Shri Meetha Lal
 Molahu Prasad, Shri
 Muthusami, Shri C.
 Naik, Shri R. V.
 Patil, Shri N. R.
 Satya Narain Singh, Shri
 Sen, Shri Deven
 Shalwale, Shri Ram Gopal
 Sharma, Shri Beni Shanker
 Shastri, Shri Ramavatar
 Somani, Shri N. K.
 Umanath, Shri
 Viswanathan, Shri G.

NOES

Aga, Shri Ahmad
 Ahmed, Shri F. A.
 Babunath Singh, Shri
 Bajpai, Shri Vidya Dhar
 Barua, Shri Bedabrata
 Barupal, Shri P. L.
 Basu, Dr. Maitreyee
 Bhandare, Shri R. D.
 Bhanu Prakash Singh, Shri
 Buta Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandrika Prasad, Shri
 Chaudhary, Shri Nitiraj Singh
 Deshmukh, Shri K. G.
 Dixit, Shri G. C.
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.

Gautam, Shri C. D.
 Gavit, Shri Tukaram
 Iqbal Singh, Shri
 Jadhav, Shri V. N.
 Kamala Kumari, Kumari
 Kavade, Shri B. R.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kureel, Shri B. N.
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Mahadeva Prasad, Dr.
 Marandi, Shri
 Mishra, Shri G. S.
 Nahata, Shri Amrit
 Pahadia, Shri Jagannath
 Palchoudhuri, Shrimati Ila
 Parthasarathy, Shri
 Patil, Shri Deorao
 Prasad, Shri Y. A.
 Raghu Ramaiah, Shri
 Ram, Shri T.
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Randhir Singh, Shri
 Rao, Shri J. Ramapathi
 Rao, Dr. V. K. R. V.
 Raut, Shri Bhola
 Reddy, Shri Surendar
 Roy, Shri Bishwanath
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sankata Prasad, Dr.
 Savitri Shyam, Shrimati
 Sethi, Shri P. C.
 Shambhu Nath, Shri
 Shashi Ranjan, Shri
 Shastri, Shri Sheopujan
 Shukla, Shri S. N.
 Siddayya, Shri
 Sinha, Shri Mudrika
 Sonavane, Shri
 Sursingh, Shri
 Tiwary, Shri D. N.

Tula Ram, Shri
Uikey, Shri M. G.
Verma, Shri Prem Chand
Virbhadra Singh, Shri

MR. DEPUTY-SPEAKER: The result*of the division is: Ayes: 22; Nos. 70.

The motion was negatived.

MR. DEPUTY-SPEAKER: The question is:

"Page 9, line 12,—for "five" substitute "ten" (78)

The Lok Sabha divided:

Division No. 19] AYES [14.37 hrs.

Jha, Shri Shiva Chandra
Joshi, Shri S. M.
Kunte, Shri Datratraya
Molahu Prasad, Shri
Patil, Shri N. R.
Sen, Shri Devan
Shastri, Shri Ramavatar

NOES

Aga, Shri Ahmad
Ahmed, Shri F. A.
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Barua, Shri Bedabrata
Barupal, Shri P. L.
Basu, Dr. Maitreyee
Bhandare, Shri R. D.
Bhanu Prakash Singh, Shri
Buta Singh, Shri
Chanda, Shrimati Jyotsna
Chandrika Prasad, Shri
Chaudhary, Shri Nitiraj Singh
Dandekar, Shri N.
Deshmukh, Shri K. G.
Dixit, Shri G. C.
Dwivedy, Shri Nageshwar
Gandhi, Shrimati Indira
Ganesh, Shri K. R.
Gautam, Shri C. D.
Gavit, Shri Tukaram

Iqbal Singh, Shri
Jadhav, Shri V. N.
Kamala Kumari, Kumari
Kavade, Shri B. R.
Kinder Lal, Shri
Kisku, Shri A. K.
Kotoki, Shri Liladhar
Kureel, Shri B. N.
Kushok Bakula, Shri
Lalit Sen, Shri
Laskar, Shri N. R.
Laxmi Bai, Shrimati
Mahadeva Prasad, Dr.
Mahida, Shri Narendra Singh
Marandi, Shri
Meena, Shri Meetha Lal
Mishra, Shri G. S.
Nahata, Shri Amrit
Naik, Shri R. V.
Pahadia, Shri Jagannath
Palchoudhuri, Shrimati Ila
Parthasarathy, Shri
Patil, Shri Deorao
Prasad, Shri Y. A.
Raghu Ramaiah, Shri
Ram, Shri T.
Ramshekhar Prasad Singh, Shri
Rana, Shri M. B.
Randhir Singh, Shri
Rao, Shri J. Ramapathi
Rao, Dr. V. K. R. V.
Raut, Shri Bhola
Reddy, Shri Surendar
Roy, Shri Bishwānath
Roy, Shrimati Uma
Sadhu Ram, Shri
Saha, Dr. S. K.
Saigal, Shri A. S.
Sankata Prasad, Dr.
Savitri Shyam, Shrimati
Sen, Shri Dwaipayan
Sethi, Shri P. C.
Shambhu Nath, Shri

*The following Members also recorded their votes:

AYES: Shri S. Kundu:

NOES: Sarwashri Dwaipayen Sen, Kushok Bakula, and Narendra Singh Mabida.

Shastri, Shri Sheopujan
Shukla, Shri S. N.
Siddayya, Shri
Sinha, Shri Mudrika
Sonavane, Shri
Sursingh, Shri
Tula Ram, Shri
Uikey, Shri M. G.
Virbhadra Singh, Shri

MR. DEPUTY-SPEAKER: The result of the division is: Ayes: 7; Noes: 73.

The motion was negatived.

MR. DEPUTY-SPEAKER: I shall now put all the other amendments to vote.

Amendments Nos. 77, 169 to 173, 422, 423, 427, 482 and 483 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 6 stand part of the Bill".

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7— (*Removal of members from office in certain circumstances*).

श्री रामावतार शास्त्री : मैं प्रस्ताव करता हूँ कि पृष्ठ 11 लाइन 30 में (ड) के बाद (च) के रूप में एक और वाक्य जोड़ा जाये—

"तथा जो समाजवाद के लक्ष्य में आत्मिक रूप से विश्वास न हो तथा जो समाजवादी लक्ष्य की पूर्ति को भीतरघात करने की मंशा रखते हों," पद से हटा सकती है। (175)

SHRI S. KUNDU: I beg to move: Page 9,—

after line 24, insert—

"(1A) In case of removal of Chairman, the allegations, if any, shall be forwarded to the Chief Justice of the Supreme Court who on enquiry, may withdraw the Judge from the Commission and take such action against the Judge as he deems fit under the law and rules available to determine the conduct and misbehaviour of Judges of the Supreme Court." (428).

श्री रामावतार शास्त्री : उपाध्यक्ष महोदय, मेरा संशोधन बिल की हिन्दी प्रति के अनुसार है। बिल का क्लॉज 7 अयोग के लिये जो सदस्य अयोग्य माने जायेंगे उनको हटाने के लिये केन्द्रीय सरकार के अधिकार के बारे में है। इसमें क्लॉज 7 (1) में क से लेकर ड तक कौसी कौसी परिस्थिति में हम किसी सदस्य को हटा सकते हैं, इसके लिये मापदण्ड रखा है, मेरा संशोधन ड के बाद च के रूप में जोड़ा जाये, जो इस प्रकार है —

पृष्ठ 11 लाइन 30 में (ड) के बाद (च) के रूप में एक और वाक्य जोड़ा जाये—

"तथा जो समाजवाद के लक्ष्य में आत्मिक रूप से विश्वास न हो तथा जो समाजवादी लक्ष्य की पूर्ति को भीतरघात करने की मंशा रखते हों," "पद से हटा सकती है।"

यही मेरा संशोधन है।.....(व्यवधान)...

एक माननीय सदस्य : मालूम कैसे करेंगे ?

श्री रामावतार शास्त्री : वह तो अनुभव से मालूम हो जायेगा।

जैसे क, ख, ग, घ, ङ, में मालूम करेंगे उसी तरह से "च" में मालूम कर सकते हैं। कौन समाजवाद का भीतरघात कर सकता है, कौन समाजवाद की नीति को अमल में लाना नहीं चाहता है, कौन मोनोपोलिस्ट का दोस्त है, कौन समर्थक है, अगर इस बात की नोटिस हमारे मित्रों को नहीं है तो यह बड़े आश्चर्य की बात है।..(व्यवधान)...

इसलिए मेरा संशोधन बहुत ही महत्वपूर्ण है और मैं चाहूंगा कि सरकार इस संशोधन को बूकल कर ले, जैसा कि मैंने प्रारम्भ में कहा कि अगर वह समाजवाद में विश्वास रखती है, अगर नहीं तो मैं ज़रूर इसमें सदन की राय लूंगा, डिबीजन कराने की कोशिश करूंगा। यही मेरा आपके द्वारा निवेदन है क्योंकि समाजवाद खाली कहने से ही नहीं हो जायेगा बल्कि उसको व्यवहार में लाने के लिए आपको व्यावहारिक कानून बनाने पड़ेंगे और व्यावहारिक कदम उठाने पड़ेंगे। कुछ इजारेदार और पूर्जापतियों

[श्री रामावतार शास्त्री]

के समर्थकों को छोड़कर तमाम समाजवादियों के लिए यह परीक्षा की बात है। अगर आप इस संशोधन को स्वीकार नहीं करते हैं तो ऐसा माना जायेगा कि आप केवल समाजवाद का नाम लेते ह, उसको अमल में नहीं लाना चाहते हैं, समाजवाद को अपनाकर देश को आगे नहीं बढ़ाना चाहते हैं और इस देश से गरीबी और बेकारी को दूर नहीं करना चाहते हैं।

इन शब्दों के साथ मैं अपने संशोधन को पेश करता हूँ जोरदार तरीके से और मंत्री महोदय से निवेदन करता हूँ कि वे इसे स्वीकार करें। यदि वे इसको स्वीकार न करें तो हाउस से मेरा निवेदन है कि वोट के जरिए इसको पास करे।

SHRI RAGHUNATHA REDDY: Though the hon. Member has put forward his case in all seriousness and with forcefull logic, I do not think it is possible to put in the form of a law. Therefore, I am opposing this amendment.

MR. DEPUTY-SPEAKER: The question is:

पृष्ठ 11, लाइन 30 में (ङ) के बाद (च) के रूप में एक और वाक्य जोड़ा जाये—

“तथा जो समाजवाद के लक्ष्य में आत्मिक रूप से विश्वास न हो तथा जो समाजवादी लक्ष्य की पूर्ति को भीतरघात करने की मंशा रखते हों,” पद से हटा सकती है। (175)

The Lok Sabha divided.

Division No. 20] AYES [14.47 hrs

Chandra Shekhar Singh, Shri
Esthose, Shri P. P.
Jha, Shri Shiva Chandra
Malahu Prasad, Shri
Satya Narain Singh, Shri
Shastri, Shri Ramavatar

NOES

Aga, Shri Ahmad
Ahmed, Shri F. A.
Ankineedu, Shri
Arumugam, Shri R. S.
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar

Barupal, Shri P. L.
Basu, Dr. Maitreyee
Bhandare, Shri R. D.
Bhanu Prakash Singh, Shri
Bohra, Shri Onkarlal
Buta Singh, Shri
Chanda, Shrimati Jyotsna
Chandrika Prasad, Shri
Chaudhary, Shri Nitiraj Singh
Deshmukh, Shri K. G.
Dixit, Shri G. C.
Dwivedi, Shri Nageshwar
Gandhi, Shrimati Indira
Ganesh, Shri K. R.
Ganga Devi, Shrimati
Gautam, Shri C. D.
Gavit, Shri Tukaram
Iqbal Singh, Shri
Jadhav, Shri V. N.
Kahandole, Shri Z. M.
Kamala Kumari, Kumari
Kavade, Shri B. R.
Kesri, Shri Sitaram
Kinder Lal, Shri
Kisku, Shri A. K.
Kotoki, Shri Liladhar
Kureel, Shri B. N.
Kushok Bakula, Shri
Lalit Sen, Shri
Laskar, Shri N. R.
Laxmi Bai, Shrimati
Mahadeva Prasad, Dr.
Mahida, Shri Narendra Singh
Malhotra, Shri Inder J.
Marandi, Shri
Masani, Shri M. R.
Mishra, Shri G. S.
Mulla, Shri A. N.
Nahata, Shri Amrit
Pahadia, Shri Jagannath
Palchoudhuri, Shrimati Ila
Parthasarathy, Shri
Patil, Shri Deorao
Patodia, Shri D. N.
Raghu Ramaiah, Shri
Ram, Shri T.
Ramshekhar Prasad Singh, Shri

Rana, Shri M. B.
Randhir Singh, Shri
Rao, Shri J. Ramapathi
Rao, Dr. V. K. R. V.
Raut, Shri Bhola
Reddi, Shri G. S.
Reddy, Shri Surendar
Roy, Shrimati Uma
Sadhu Ram, Shri
Saha, Dr. S. K.
Saigal, Shri A. S.
Sankata Prasad, Dr.
Savitri Shyam, Shrimati
Sen, Shri Dwaipayan
Sethi, Shri P. C.
Shambhu Nath, Shri
Sharma, Shri Madhoram
Sharma, Shri Naval Kishore
Shastri, Shri Biswanarayan
Shastri, Shri Sheopujan
Sher Singh, Shri
Shukla, Shri S. N.
Siddayya, Shri
Sinha, Shri Mudrika
Sonar, Dr. A. G.
Tiwary, Shri D. N.
Tula Ram, Shri
Uikey, Shri M. G.
Verma, Shri Prem Chand
Virbhadra Singh, Shri

MR. DEPUTY-SPEAKER: The result* of the division is: Ayes: 6; Noes: 83.

The motion was negatived.

MR. DEPUTY-SPEAKER: I put amendment No. 428 to the House. Amendment No. 428 was put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

MR. DEPUTY-SPEAKER: The question is:

"That clauses 8 and 9 stand part of the Bill".

The motion was adopted.

Clauses 8 and 9 were added to the Bill.

Clause 10—(*Inquiry into monopolistic or restrictive trade practices by Commission*).

SHRI SHIVA CHANDRA JHA: I beg to move:

Page 10, line 7, add at the end—

"any social worker of national reputation, or" (79)

SHRI KANWAR LAL GUPTA: I beg to move:

Page 10,—

for lines 4 to 7, substitute—

"(i) upon receiving a complaint of facts which constitute such practice, or" (329)

SHRI SEZHIYAN (Kumbakonam): I beg to move:

Page 10, line 14,—

after "Government" insert—

"or a State Government" (459)

श्री शिव चन्द्र झा : मेरा अमेन्डमेन्ट है कि जो क्लॉज 10 (ए) (†) है :

"upon receiving a complaint of facts which, constitute such practice from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers,"

उसके बाद मैं ये मन्ड जोड़ दिये जायं :

'any social worker of national reputation, or'

मानोमोहिस्टिक प्रैक्टिसेज या रेस्ट्रिक्टिव ट्रेड के मुताल्लिक जो शिकायतें एसोसिएशन्स के द्वारा कमीशन के पास आयेंगी वह तो ठीक है। लेकिन इसके साथ साथ राष्ट्रीय स्तर पर कई ऐसे व्यक्ति हो सकते हैं जोकि इन सब में ही आते हैं लेकिन उनकी नज़र में ऐसी बात आये और वे उस बात को कमीशन के सामने ले जाना चाहें तो कमीशन का फर्ज हो जाता है कि

*The following Members also recorded their votes for NOES:

Sarvashri Shashi Bhushan and D. P. Mandal.

L/J(D)2LSS—13(a)

[Shri Sezhiyan]

उस बात की सुनवाई करे, उनकी कम्प्लेन्ट्स की भी कामिजैन्स ले और उनपर कार्यवाही करे। इसलिए मैं चाहता हूँ कि मेरा संशोधन स्वीकार कर लिया जाये ताकि ऐसे लोगों के कहने पर भी कमीशन उन बातों की इन्क्वायरी कर सके।

श्री कंवर लाल गुप्त : उपाध्यक्ष महोदय, मेरा जो संशोधन है क्लॉज 10 पर वह मैं आपके सामने रखना चाहता हूँ। जो ओरिजिनल क्लॉज है वह इस प्रकार है :

“The Commission may inquire into—

- (a) any restrictive trade practice (i) upon receiving a complaint of facts which constitute such practice from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers, or”

इसमें यह कहा गया है कि अगर 25 आदमियों की एसोसिएशन, चाहे वह कंज्यूमर हों या ट्रेड की हों, शिकायत करेगी तो कमिशन को उसकी नोटिस लेनी हीगी। उसके बजाय मैंने यह कहा है कि :

- “(i) upon receiving a complaint of facts which constitute such practice, or”

इसमें 25 आदमियों की कोई जरूरत नहीं होनी चाहिये, इसमें किसी एसोसिएशन की भी जरूरत नहीं होनी चाहिए, किसी नेशनल रेपुटेशन के आदमी या सोशल वर्कर की भी जरूरत नहीं होनी चाहिये। अगर कोई एक व्यक्ति कमिशन से कहे कि इस चीज के अन्दर रेस्ट्रिक्टिव ट्रेड प्रैक्टिस हो रही है तो उसको रोका जाना चाहिये। आखिर एक आदमी के कहने से आप क्यों ऐसा नहीं करेंगे? मैं समझता हूँ कि ऐसा होना चाहिये। जो भी प्रोविजन रखा गया है, उसका एक ही आइडिया हो सकता है कि शायद बहुत सी फिबोलस कम्प्लेन्ट्स आ जायें। उसको हटाने के लिए सरकार ने 25 आदमियों की शर्त लगाई है। लेकिन मैं आपके जरिए से मंत्री महोदय का ध्यान इसके अगले क्लॉज की ओर दिलाना चाहता हूँ। क्लॉज 11 में कहा गया है कि :

“In respect of any restrictive trade practice of which complaint is made under sub-clause (i) of clause (a) of section 10, the Commission shall, before issuing any process requiring the attendance of the person complained against, cause a preliminary investigation.....”

यानी जब कम्प्लेंट मिल जायेगी इसके बाद कमिशन एक प्रेलिमिनरी इन्क्वायरी करेगा, उसके बाद वह बतलायेगा कि आया यह ठीक है या नहीं। ऐसी हालत में 25 आदमियों के रहने की क्या जरूरत है? हो सकता है कि एक आदमी ठीक बात कहे, तब 25 आदमी के हस्ताक्षर उसपर करवाने की जरूरत क्यों पड़े? अगर कोई चीज गलत हो रही हो तो हर एक आदमी कमिशन से उसकी शिकायत कर सकता है और कमिशन प्रेलिमिनरी इन्क्वायरी करने के बाद शिकायत में कोई असलियत देखता है तो मामला चलेगा, नहीं तो वह खत्म हो जायेगा। जैसा आपने क्लॉज 11 में कहा है। लेकिन यह पाबन्दी लगाना कि कोई एसोसिएशन होनी चाहिये, उसमें 25 आदमी होने चाहिये, यह ठीक नहीं है। वैसे भी यह जस्टिस की स्पिरिट के खिलाफ होगा। एक आदमी सही कहता है या गलत कहता है यह संख्या के बल पर तय नहीं होना चाहिये। एक आदमी भी ठीक कह सकता है चाहे वह अकेला ही क्यों न हो, और 50 आदमी गलत भी कह सकते हैं।

मैं समझता हूँ कि मेरा जो संशोधन है उसको मंत्री महोदय स्वीकार करेंगे। हर एक व्यक्ति को यह अधिकार होना चाहिये कि अगर उसकी बात ठीक है तो वह कमिशन से शिकायत कर सके और कमिशन उसकी प्रेलिमिनरी इन्क्वायरी करे। मैं चाहूंगा कि मंत्री महोदय इस पर विचार करें।

SHRI SEZHIYAN: Sir, my amendment No. is No. 459, wherein I have asked for the insertion of the words “or a State Government” after the word “Government” in clause 10(b). As per clause 10, as it is, the Commission may enquire into four items which have been mentioned there. These are contained in sub-clause (a).

But in sub-clause (b), the Commission will have nothing to do with any monopolistic trade practice, unless the Central Government makes a reference to it. The Commission may enquire into any restrictive trade practice upon receiving a complaint from any trade or consumers' association or by a certain number of consumers. It may enquire into it upon a reference made to it by the Central Government or a State Government. It may enquire into it upon an application made to it by the Registrar, or upon its own knowledge of information. But in the case of a monopolistic trade practice, all these are barred. Only the Central Government is empowered to make a reference. This is very anomalous. Therefore, my amendment is to the effect that the State Government should also be associated in making a reference to the Commission, or it can still be enlarged by saying that any person can make a reference. Of course, it should not be an irresponsible reference; therefore, they have specified a certain number. What I submit is that whatever is applicable to restrictive trade practice, should also be made applicable to any monopolistic trade practice.

SHRI D. N. PATODIA: With regard to clause 10, I am not in agreement with what Shri Kanwar Lal Gupta has said. The clause reads as under:

"The Commission may enquire into—

(a) any restrictive trade practice—

- (i) upon receiving a complaint of facts which constitute such practice from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers, or..." and so on.

The whole idea is that unless a complaint is of a representative character, it would not be worth-while for the Commission to go into it, because in that case, we shall be opening the doors for all sorts of blackmail by individuals and there would be no end to it. I am of the opinion that even this number of 25 is on the lower side. We should amend it so that the association should be of a representative character and any association having a membership of less than 100

members should not be permitted to launch any complaint of this nature. Mr. Dandekar could not move his amendment, and I would request the hon. Minister to agree from his own side to make this change and to suggest that any association having a membership of less than 100 persons will not be qualified to make any such complaint to the Commission.

14.57 hrs.

[SHRI K. N. TIWARI *in the Chair*]

SHRI F. A. AHMED: There are two kinds of amendments moved by the hon. Members to this clause. One is that there should be no restriction of either 25 or 20 or 30 members if a complaint is made in a representative character. My submission is that this is to avoid a frivolous complaint and therefore this caution has been introduced in this provision.

But so far as the question of any information given before the Commission is concerned, the hon. Members will be pleased to see that that purpose is also served because there is a sub-clause saying "upon its own knowledge or information."

SHRI KANWAR LAL GUPTA: It is not obligatory on the Commission.

SHRI F. A. AHMED: It is not obligatory, and therefore, when any information is placed before the Commission, it will certainly exercise its discretion. So, any single person who is aggrieved or who has a legitimate cause for grievance can go and submit that information, and that information, if it is of a character that can be enquired into by the Commission, could be enquired into. For that, the provision is there.

SHRI KANWAR LAL GUPTA: Then why do you insist that some organisation having a membership of 25 only or more only can make a complaint? I think even one individual can be a responsible man. Why do you insist on that number? I do not understand.

SHRI F. A. AHMED: As I have pointed out, so far as clause 10(a) is concerned, it really provides for a representation to be made in a representative capacity. For that purpose, the matter has been thoroughly examined and actually, my hon. friend there wants to suggest that it must be

[Shri F. A. Ahmed]

an association having a membership of not less than 100 persons, while we have limited it to 25. There are other Members who would like it to be five and some who would like it to be more than 100 and so on.

In order to give opportunity for all such cases to be brought before the Commission we have fixed the number as 25.

15 hrs.

श्री कंवर लाल गुप्त : मेरी अग़र ज़ैनुएन कम्प्लेंट है और मैं रिप्रिजेंटेटिव कारेक्टर का आदमी नहीं, ट्रेड का मैं नहीं हूँ, कंज्यूमर बाडी का भी नहीं तो मुझे अपनी जगह क्यों अधिकार नहीं होना चाहिये ? क्यों न मैं कमीशन के पास रिपोर्ट कर सकूँ ? आपने कहा है कि कमिशन अपने तौर से ले सकता है। यह ठीक है। लेकिन मेरा जो अपना अधिकार है कि मैं कमिशन के सामने जाकर साबित करूँ कि मेरी कम्प्लेंट ज़ैनुइन है, इस पर आप पाबन्दी क्यों लगाना चाहते हैं ? मैं साबित करने के लिए तैयार हूँ तो क्यों मुझ पर पाबन्दी लगे ?

फ़िबोलेस कम्प्लेंट तो 11 में हट गई है क्योंकि प्रिलिमनरी इन्क्वारी के बाद ही नोटिस जारी हो सकेगा। किसी आदमी पर यह पाबन्दी लगाना कि रिप्रिजेंटेटिव कारेक्टर के वगैर नहीं रह सकता है, मैं समझता हूँ कि बैसिकली गलत है।

श्री फख़रुद्दीन अली अहमद : मैंने जबाब दिया है इसका। मैंने कहा है कि जो इनफ़र्मेशन भी कमीशन के पास जाए, उसके ऊपर भी वह इन्क्वारी कर सकता है।

That information may be by one person or by two persons. That is also provided.

SHRI KANWAR LAL GUPTA: It is not obligatory on the Commission.

SHRI F. A. AHMED: It is there in the same sub-clause. Under (iv) it says, "upon its own knowledge or information".

That is also provided here. So, what is his apprehension? It is embodied in sub-clause (a) (iv). Therefore I do not think that there is any necessity of accepting this amendment.

So far as the point covered by the amendment moved by Shri Jha is

concerned, we are not deterring any social worker from lodging a complaint. He can easily come under sub-clause (iv). Anyone can go and place information before the Commission, whether he is a social worker or an unsocial worker or anybody else. So, there is no need to accept this amendment also.

MR. CHAIRMAN: I shall put amendments Nos. 79, 329 and 459 to the vote of the House together.

Amendments Nos. 79, 329 and 459 were put and negatived.

MR. CHAIRMAN. The question is: "That clause 10 stand part of the Bill".

The motion was adopted.

Clause 10 was added to the Bill.

SHRI SEZHIYAN: Sir, may I suggest that because of shortage of time we can take clauses 11 to 19 together because the next important clause is clause 20.

SOME HON. MEMBERS: No, no.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND SHIPPING AND TRANSPORT (SHRI RAGHURAMAI AH): Sir, in view of the paucity of time I suggest that we should continue the clause-by-clause consideration till 5 o'clock and then whatever happens, guillotine them. The third reading will be of one hour and whatever happens we close it at 6 o'clock. I have contacted the various leader here. That is the general consensus.

MR. CHAIRMAN: Is there any objection?

SHRI KANWAR LAL GUPTA: Agreed.

SHRI M. R. MASANI (Rajkot): No, Sir.

Clause 11- (Investigation by Director before issue of process in certain cases.

SHRI S. KUNDU: Sir, I move.

Page 10, line 18,—

for "shall" substitute—
"may" (433)

It is a very small amendment and, I think, slightly ticklish. As the clause stands, the Commission, before it asks anybody to come for being examined by the Commission on charges or

allegation, has to make a preliminary investigation. It reads:—

"In respect of any restrictive trade practice of which complaint is made under sub-clause (i) of clause (a) of section 10, the Commission shall, before issuing any process requiring the attendance of the person complained against, cause a preliminary investigation to be made".

The word "shall" is binding. This will inhibit the real working of this Commission. So, in place of the word "shall", I have said, "may", in my amendment. If the Commission thinks proper, it can cause the enquiry to be made; if the commission does not think it proper, it might not cause it to be made. The word "may" would give latitude to the Commission. If you say, "shall", then in every case it is binding on the Commission to cause a preliminary investigation to be made. That will take a lot of time and no case will be decided. There will be writs pending in High Courts for four or five years and cases, therefore, will be pending. I hope Shri Fakhruddin Ali Ahmed will bear with me. The word "may" will serve the purpose and will give a lot of latitude to the Commission to decide whether on the merits of the case it is necessary to go in for a preliminary investigation or not and not to investigate each and every case. I would plead with him to accept his amendment which is very important.

SHRI F. A. AHMED: In view of the fact that the Commission has been vested with mandatory powers, it will not be desirable to accept this amendment. I hope, the hon. Member will understand the position that because of this mandatory provision in respect of restrictive trade practices we cannot allow any latitude but it has to be made mandatory.

SHRI S. KUNDU: If you keep the word, "may" you give them the power. If you make it "shall", you bind them down.

MR. CHAIRMAN: I shall now put amendment No. 433 to the vote of the house.

Amendment No. 433 was put and negatived.

MR. CHAIRMAN: The question is: "That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12 was added to the Bill.

Clause 13—(*Orders of Commission may be subject to conditions, etc.*)

SHRI S. KUNDU: Sir, I move:

Page 11, line 13,—

omit "not inconsistent with this Act" (434)

Page 11, line 19,—

for "at any time" substitute—
 "within a period of six months".
 (435)

I do not know how those people who drafted the Bill did so in a hotchpotch manner. I would draw the attention of the hon. Minister to this line in clause 13(1):—

"In making any order under this Act, the Commission may make such provisions not inconsistent with this Act".

If you say, "not inconsistent with this Act", it means that you draw forcible jurisdiction of courts. In every case people will go to the courts and say that there is a specific provision here, "not inconsistent with this Act"; they will go and file writs which will go on piling up. It goes without saying that nothing can be done which is not consistent with this Act; the Commission cannot do anything inconsistent with this Act. But if you put these words specifically, you give rise to litigation. I do not know what is the intention of this Government. Therefore I have suggested to delete the words, "not inconsistent with this Act". I do not think they should say this specifically.

SHRI F. A. AHMED: So far as an order regarding execution is concerned, the court may pass an order and provide for certain conditions but if those conditions are to be provided for by the court, they have to be conditioned which are consistent with the provisions of this Act. Therefore it has been found necessary to make this provision that it should be not inconsistent with this Act. I hope, the hon. Member will understand that here the court has been given the discretion to vary the order but that order has to be not inconsistent with the provisions of this Act.

MR. CHAIRMAN: I shall put amendments Nos. 434 and 435 to the vote of the House together.

Amendments Nos. 434 and 435 were put and negatived.

MR. CHAIRMAN: The question is: "That clause 13 stand part of the Bill".

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14—(Orders where party concerned does not carry on business in India.

SHRI N. DANDSKAR: Sir, I move:—

Page 11, line 24—

for "substantially falls within" substitutes.

"constitutes" (208)

I have been trying to understand what is meant by "substantially falls within monopolistic or restrictive trade practice".

Now the 'monopolistic and restrictive trade practice' has been defined in such an extra ordinarily wide terms some of which I endeavoured by my amendments to improve. Naturally they were not accepted. The 'monopolistic practices' as well as 'restrictive trade practices' have themselves been defined and if anybody says in reference to these terms that this is a monopolistic practice, then it would also fall within the 'restrictive' or 'monopolistic' trade practice in view of the extremely wide definition given to these terms in the Bill. This clause should read:

"Where any practice constitutes monopolistic or restrictive trade practice.....".

and not 'substantially falls within'. Otherwise, the objective is achieved by the wide definition of 'monopolistic' or 'restrictive' trade practice. If you maintain 'substantially falls within', then anything can come. Therefore, my amendment.

SHRI KANWAR LAL GUPTA: I beg to move:—

Page 11, line 24,—

omit "substantially" (330)

सभापति महोदय : मैं अपने संशोधन, संख्या

330 द्वारा यह चाहता हूँ कि इस क्लॉज में

'ब्येयर ऐनी प्रैक्टिस सबस्टेंशली फ़ाल्ज विदिन मानोपलिस्टिक आर रेस्ट्रिक्टिव ट्रेड प्रैक्टिस.....

शब्दों में से शब्द "सबस्टेंशली" को निकाल दिया जाये। मेरी समझ में नहीं आता कि

"सबस्टेंशली" का मतलब क्या है। इस बिल में

"मानोपलिस्टिक आर रेस्ट्रिक्टिव ट्रेड प्रैक्टिस"

की परिभाषा बहुत अच्छी तरह से की गई है।

'सबस्टेंशली' शब्द से दिमाग में यह रीएक्शन

होता है कि सरकार अपने पास यह डिसक्रीशन

या अधिकार रखना चाहती है कि किसी के बारे

में वह कह दे कि वह "सबस्टेंशली" है और किसी

के बारे में कह दे कि "सबस्टेंशली" नहीं है।

जो सरकारी दल को चन्दा दे देगा, वह तो

"सबस्टेंशली" के अन्तर्गत नहीं आयेगा और जो

चन्दा नहीं देगा, वह उसके अन्तर्गत आ जायेगा।

दूसरे शब्दों में सरकार अपने हाथ में यह पावर

रखना चाहती है कि वह किस का गला घोंटे और

किस का गला न घोंटे।

सभापति महोदय : इसका फैसला तो अफ़सर करेंगे।

श्री कंवर लाल गुप्त : सभापति महोदय,

आप सरकार की वकालत न करें। यह घंघा

तो हम रोज़ देखते हैं। आखिर इसमें यह "शब्द"

"सबस्टेंशली" क्यों रखा जा रहा है? इसकी

कोई जरूरत नहीं है। अगर किसी ने आफ़ेंस

किया है, तो उसको सजा दी जाये और अगर नहीं

किया है, तो उसको छोड़ दिया जाये। इसका

फैसला कमीशन पर छोड़ दिया जाये। यह नहीं

होना चाहिए कि किसी को "सबस्टेंशली" कह कर

सजा दे दी जाये और किसी को छोड़ दिया जाये।

SHRI F. A. AHMED: Here the

question is whether the phrase 'sub-

stantially falls within' should be

replaced by the word 'constitutes'.

Now, the hon. Member has himself

suggested that so far as the two

terms are concerned, the word 'con-

stitutes' will suffice and 'substantial-

ly falls within' is a very wide term

and that is why it has been specifi-

cally used here in the place of the

word 'constitutes'. So far as 'sub-

stantially falls within' is concerned,

it qualifies any thing which may fall

within substantially. This is to be examined on the basis of the evidence, on the basis of the material before the Commission and then the Commission will decide. I do not know how my friend says that this will be an option left to the Government because the matter has to go to the Commission which will decide it. If we begin start thinking that every Chairman or member of the Commission is a person not having integrity, then there will be no end to the matter.

MR. CHAIRMAN: I will put amendments 208 and 330 to the vote of the House.

Amendments Nos. 208 and 330 were put and negatived.

MR. CHAIRMAN: The question is:

"That Clause 14 stand part of the Bill".

The motion was adopted.

Clause 14 was added to the Bill.

Clause—15 (*Restriction of application of orders in certain cases.*)

SHRI N. DANDEKER: I beg to move:

Page 11, line 33,—
 after "or" insert—

"of a trade mark or copyright registered in India, or" (209)

Page 11, line 36,—
 after "or" insert—

of a trade mark or copyright registered in India, or" (210)

SHRI KANWAR LAL GUPTA: I beg to move:

Page 11, line 33,—
 after "India" insert—

"except the right of a person who is not an Indian citizen" (331)

SHRI N. DANDEKER: I have got two very important amendments to make here. It is merely to amplify the meanings that are obviously intended in this clause. The clause reads as follows:

"No order made under this Act with respect to any monopolistic or restrictive trade practice shall operate so as to restrict—

- (a) the right of any person to restrain any infringement of a patent granted in India, or
- (b) any person as to the condition which he attaches to a licence to do anything, the doing of which but for the licence would be an infringement of a patent granted in India, or" etc.

I do not know why from this excellent protection that we have given the trade marks and copyrights have been excluded. Therefore, I have suggested in the case of both these clauses—sub-clause (a) and (b) the addition of the words 'of a trade mark or copyright registered in India, or', whereupon the whole clause will read:

"No order made under this Act with respect to any monopolistic or restrict trade practice shall operate so as to restrict—

- (a) the right of any person to restrain any infringement of a patent granted in India, or of a trade mark or copyright registered in India, or
- (b) any person as to the condition which he attaches to a licence to do anything, the doing of which but for the licence would be an infringement of a patent granted in India, or of a trade mark or copyright registered in India, or....."

I hope the Minister will accept this. It is in exactly identical spirit with which this particular clause is framed.

श्री कंवर लाल गुप्त : सभापति महोदय इस क्लॉज में कहा गया है कि अगर किसी व्यक्ति ने अपना कोई पेटेंट रजिस्टर किया हुआ है, तो इस एक्ट के अधीन जारी किया गया कोई आदेश उस पर लागू नहीं होगा। मैं इस बात से सहमत हूँ कि जिस व्यक्ति ने अपना पेटेंट रजिस्टर किया हुआ है, अगर वह भारतीय है, तो उस को एग्जैम्पशन मिलना चाहिए। लेकिन मैं अपने संशोधन संख्या 331 द्वारा यह चाहता हूँ कि अगर वह भारतीय नहीं है, विदेशी है, तो उस को एग्जैम्पशन नहीं मिलना चाहिए। आप जानते

[श्री कंवर लाल गुप्त]

कि अभी तक जितने भी पेटेन्ट भारत में रजिस्टर हैं, उन में से 86 परसेंट पेटेन्ट विदेशियों के हैं और विदेशी लोग पेटेन्ट्स के जरिये साल में करोड़ों रुपय कमा कर ले जाते हैं और हमारे गरीब लोगों को लूट रहे हैं। मैं चाहता हूँ कि उन को कोई सुविधा नहीं मिलनी चाहिए और उन को इस कानून की परिधि में लाया जाना चाहिए।

अगर मंत्री महोदय सही मायनों में मानो-पलिस्टिक टेन्डेन्सीज़ को खत्म करना चाहते हैं, तो वह इस की शुरुआत भारत में नहीं, बल्कि विदेशियों से करें। स्थिति यह है कि वह भारतीयों की मानोपली को खत्म कर रहे हैं और हमारे देश में विदेशियों की जो मानोपली है, उस को बचा कर कायम रखना चाहते हैं। मैं इस बात के खिलाफ हूँ।

SHRI F. A. AHMED: With regard to the amendment moved by Mr. Dandekar, may I just inform him that if I could understand his underlying intention, it was to provide restriction in respect of articles relating to trade marks and copyrights registered in India. That is his purpose. This matter was discussed in the Joint Committee and it was decided that instead of making a provision here, it should be provided in clause 39 of the original Bill which is now also clause 39. So, this has been looked after in clause 39. Therefore, I do not think that it is necessary here to provide for this.

So far as Shri Kanwar Lal Gupta's amendment is concerned, he wants that this should be extended to non-residents also. As he may have seen, this Bill is to provide for all those people who are residents in India and not for the non-residents. Therefore, it is not necessary to accept his amendment.

SHRI KANWAR LAL GUPTA: Why should it not be applicable to non-residents?

SHRI N. DANDEKAR: The Hon. Minister says that it is covered by clause 39. But clause 39 deals with an entirely different thing. It does not

deal with any question of monopolistic or restrictive trade practice, but with the specific question of the practice known as maintaining re-sale prices. This has no direct relevance. I am concerned with a wider question.

SHRI F. A. AHMED: This matter was thoroughly discussed and it was found that what the hon. Member seeks to provide has already been provided in clause 39, and it is, therefore, not necessary to make provision here.

MR. CHAIRMAN: I shall now put amendments Nos. 209, 210 and 331 to the vote of the House.

Amendments No. 209, 210 and 331 were put and negatived.

MR. CHAIRMAN: The question is: "That clause 15 stand part of the Bill".

The motion was adopted.

Clause 15 was added to the Bill.

New Clause 15-A

SHRI N. DANDEKER: I beg to move:

Page 11, after line 40, insert

"15A. No order made under this Act with respect to any monopolistic or restrictive trade practice shall operate so as to require any person to disclose any formulation, process or technique, whether patented or not, adopted by him in the manufacture, production, processing or marketing of any goods, to any other person." (211).

This is very important clause and it is in line really with the suggestion which I have made in relation to the amendment to clause 15. In clause 15 there is an express provision that nothing will operate to restrict the right of a person to protect his patent etc. What I am suggesting is this. Since I could not fit it in clause 15, because it is concerned with another aspect of the same matter, I have moved this as a new clause. The new clause which I have moved is exactly on the same lines as clause 15.

Frequently, processes and formulations are incapable of being paten-

ted because if they are patented, they really get disclosed to one's competitors. Very often, the capacity of an industrial unit which produces things of a particular quality or specification, is dependent upon its own technical research and development results which have given it certain formulations and techniques and processes which it uses for the purpose of manufacturing things. Those techniques can also extend to techniques of marketing and distribution and so on. What I am suggesting here is that no order passed in respect of monopolistic or restrictive trade practice should require a person to disclose his particular formulations or techniques to third parties.

SHRI RAGHUNATHA REDDY: The Monopolies Commission will pass its orders under clause 13. It is clearly stated there that no order passed by it shall be inconsistent with the provisions of this Bill. Therefore, there is no need for such apprehension as the hon. Member has expressed. So, new clause 15-A is not necessary.

SHRI N. DANDEKER: I did not follow him. Does he mean that the commission cannot issue such an order?

SHRI RAGHUNATHA REDDY: It can issue only such order as are not inconsistent with the Act.

SHRI N. DANDEKER: Where does it say so? It is because the wording is that it can issue any order not inconsistent with the Act that I want to make it inconsistent with the Act for the commission to issue such an order.

SHRI RAGHUNATHA REDDY: There is no need for such provision at all.

SHRI N. DANDEKER: That is precisely the point that was raised earlier. The commission is entitled to pass any order not inconsistent with the Act. Unless it is inconsistent with the Act for the commission to require a person to disclose a private formulation or process, the commission can require its disclosure to third parties. It is precisely the argument which he is urging which I am also

urging for insisting on this namely that any order made by the commission to disclose to third parties private formulations should be inconsistent with the Act, so that the commission may not do it.

SHRI RAGHUNATHA REDDY: The commission will have to see whether any particular order that it passes is or is not inconsistent with the provisions of the Act.

SHRI N. DANDEKER: I am making it inconsistent.

SHRI RAGHUNATHA REDDY: The commission is bound to act with the Act, and, therefore, it is not necessary to have such a provision. The commission must be free to interpret the provisions.

MR. CHAIRMAN: I shall now put amendment No. 211 to vote. *Amendment No. 211 was put and negatived.*

MR. CHAIRMAN: The question is: "That clause 16 stand part of the Bill".

The motion was adopted

Clause 16 was added to the Bill.

Clause 17 — (*Hearing to be in public except in special circumstances.*)

SHRI KANWAR LAL GUPTA: I beg to move:

Page 12, after line 14, insert

"Provided that the Commission shall record the reasons in writing for such actions."
(332)

SHRI S. KUNDU: I beg to move: Page 12, line 7, after 'so' insert 'in public interest'. (436)

श्री कंवर लाल गुप्त : मैंने अपने अमेंडमेंट में यह कहा है कि इस क्लॉज के अन्तिम हिस्से के बाद यह जोड़ दिया जाय :

"Provided that the Commission shall record the reasons in writing for such actions."

जैसा कि इस क्लॉज में है कि इस की हीयरिंग पब्लिक होगी, जनता के सामने होगी लेकिन अगर कमीशन चाहे तो सीक्रेट हीयरिंग भी कर सकता है, प्राइवेट हीयरिंग कर सकता है। तो मैंने यह कहा है कि कमीशन को यह

[श्री कंवर लाल गुप्ता]

अधिकार तो होना चाहिए कि प्राइवेट हीयरिंग करे लेकिन किन चीजों में प्राइवेट करना है वह तय करने के पहले रीजनिंग अपनी दे, रेकार्ड में लिख दे कि इन इन कारणों से मैं नहीं चाहता कि पब्लिक हीयरिंग इस में हो ताकि उन के ऊपर जो डिस्क्रिशन है वह खत्म हो जायेगी और एक जूडिशियल चीज सामने आयेगी। मेरा अभिप्राय तो यह है कि जहां तक हो सके वह पब्लिक होनी चाहिए लेकिन कमीशन फील करता है कि प्राइवेट हो तो रीजनिंग लिखने के बाद तब वह प्राइवेट कर सकता है।

SHRI S. KUNDU: I generally do not approve of any such inquiry *in camera* or in private. So, keeping the spirit of this clause intact, I have just added two or three words and it will mean that enquiry *in camera* should be done only in public interest. If it is necessary to hold some sort of confidential inquiry or some private inquiry, the commission can do so. Otherwise, if this inquiry *in camera* is allowed to take place, away from the gaze of the public, then I am afraid that a lot of corruption is likely to crop up in such inquiries.

It will be delayed. There will be an apprehension that favouritism is done to certain parties and so on. I do not want to give such a latitude to this commission, to the Chairman of this commission, to decide upon himself as to what would be confidential nature and so on. I have to pin him down. If it is in the public interest he can hold it. Once it is public interest he has to record and give finding as to how it is in public interest and why it is in public interest. He can hold enquiry in private. It does not materially affect the provisions of this clause 17. I would plead with the Minister to accept the amendment.

SHRI RAGHUNATHA REDDY: The Commission consists of very high persons only those qualified to be supreme court judge or high court judge are eligible to be the Chairman of the Commission. We need not put a fetter on them to decide this matter.

We trust the Commission will act in public interest. Shri Gupta wants reasons to be recorded, if a private enquiry is to be held. The same answer which I had given to Shri Kundu will equally apply here. We have entrusted this to a very high powered commission. We trust that the high-powered body would act in public interest.

MR. CHAIRMAN: I will put both the amendments, No. 332 and 436 together.

Amendments Nos. 332 and 436 were put and negatived

MR. CHAIRMAN: The question is: "That Clause 17 stand part of the Bill".

The motion was adopted

Clause 17 was added to the Bill.

Clauses 18 and 19 were added to the Bill.

Clause 20—(Undertakings) to which this part applies.

SHRI M. R. MASANI: I beg to move:—

Page 12 and 13,—

for clause 20, substitute—

"20. This Part shall apply to—

- (a) an undertaking the total value of the assets of which is not less than twenty crores of rupees;
- (b) an undertaking having assets of not less than five crores of rupees, which assets together with the assets of its inter-connected undertakings, are not less than fifty crores of rupees.
- (c) a dominant undertaking—
 - (i) where it is single undertaking, if the value of its assets is not less than five crores of rupees, or
 - (ii) where it consists of more than one undertaking, in the value of the assets of the dominant undertaking is not less than five crores of rupees and the sum total of the value of its

assets together with the assets of all its inter-connected undertakings, is not less than twenty crores of rupees". (35)

Page 13, lines 10 and 11,—
 for "clause (a) or clause (b)"
substitute—

"Clause (a), clause (b) or clause (c)". (36)

Page 13, line 21,—
 for "clause (a) or clause (b)"
substitute—

"clause (a), clause (b) or (c)". (37)

SHRI SHIVA CHANDRA JHA:—
 I beg to move:

Page 13, line 1,—
 for "twenty" substitute "five". (80)

Page 13, line 8—
 for "one crore" substitute—
 "fifty lakhs" (81)

SHRI OM PRAKASH TYAGI: I
 move:

Page 12, line 37,—
 after "assets" insert—
 "excluding the value of the
 building of the undertak-
 ing" (212)

SHRI LOBO PRABHU: I beg to
 move:

Page 12, line 36,—
 for "undertaking" substitute—
 "individual" (236)

Page 12, line 37,—
 for "its" substitute "his". (237)

Page 12, line 38,—
 for "its own" substitute—
 "his own". (238)

Page 12, line 38,—
 for "of its" substitute—
 "of his" (239)

SHRI BENI SHANKER SHARMA:
 I beg to move:

Page 13, line 1,—
 for "twenty" substitute—
 "fifty" (397)

Page 13, line 8,—
 for "one crore" substitute—
 "five crores". (398)

SHRI S. KUNDU: I beg to move:
 Page 13, line 1,—

for "twenty" substitute—
 "two" (424)

Page 13, line 8.—
 for "less" substitute—
 "more"

SHRI S. S. KOTHARI:—I beg to
 move:

Page 13, line 8,—
 for, "one crore", substitute ten
 crores. (491)

SHRI N. DANDEKER: The whole Chapter III is really completely out of place in the Bill that is really concerned with monopolistic and restrictive trade practices. All these have been shelved in under concentration of economic power and it certainly results in additional power being centralised in the hands of the Government. Clause 20 with which I am presently concerned is a clause which indicates the magnitude of the undertaking to which this part would apply. They are defined in two ways. In the clause as it exists it will apply to the undertaking if the total value of the assets of that undertaking or interconnected undertaking is not less than 20 crores and secondly to a dominant undertaking if a single undertaking the value of which does not exceed Rs. 1 crore or if more than one undertaking the sum total of the said interconnected undertaking does not exceed 1 crore. In judging this limit on the value of assets, I would like the House to recall the definition of total assets in Clause 2(w). It is really to put it in simple terms gross assets without deducting liabilities. I had an amendment to Clause 2 for that particular-sub-clause and I defined the value of assets as value of net assets. That is to say, gross assets minus liabilities and provisions for outstanding expenses and so on. You come to the net wealth of that particular undertaking, the net assets. We are struck with the definition which is concerned with gross assets and it is for that that we have got to consider whether this scope of Concentration of Economic Power chapter is or is not wide. To me, it appears too

[Shri N. Dandekar]

wide and it is necessary to raise the limits somewhat in the way I have suggested in amendment No. 35. It reads:

Page 12 and 13,—

for clause 20, substitute—

“20. This Part shall apply to—

- (a) an undertaking the total value of the assets of which is not less than twenty crores of rupees;
- (b) an undertaking having assets of not less than five crores of rupees, which assets together with the assets of its interconnected undertakings, are not less than fifty crores of rupees;
- (c) a dominant undertaking—
 - (i) where it is a single undertaking, if the value of its assets is not less than five crores of rupees, or
 - (ii) where it consists of more than one undertaking, if the value of the assets of the dominant undertaking is not less than five crores of rupees and the sum-total of the value of its assets together with the assets of all its interconnected undertakings, is not less than twenty crores of rupees”.

This is necessary because we have to define the total value of assets and this will be the relevant definition. I suggest that we restrict this chapter to only powerful groups, not groups of such gross assets or other examples indicated in the clause as it is before us, but to groups of which the gross assets would be of the dominant nature indicated in the amendment which I have submitted. Only then we will be dealing with the large nexus or complex groups of undertakings and deal with concentration of economic power and wealth—all these fashionable expressions now being brandied about, Amendments Nos. 36 and 37 are only consequential.

श्री देवेन सेन : सभापति जी, मेरा संशोधन धारा 20, पन्ना 13, लाइन 1 में है। जहां पर

20 करोड़ लिखा गया है, मैं चाहता हूँ कि वहां पर 5 करोड़ लिखा जाय।

सभापति महोदय: मैं संशोधन नं० 48 मूव नहीं कर रहा हूँ। मैं संशोधन संख्या 130 मूव कर रहा हूँ।

सभापति महोदय, आपका जो यह संशोधन है नं० 130, उसको श्री शिव चन्द्र झा 80 नं० पर पहले ही मूव कर चुके हैं। अब आप इस पर बोल लीजिए, मैं आपको इजाजत देता हूँ।

श्री देवेन सेन : मेरा कहना यह है कि 20 करोड़ की जो सीमा रखी गई है उसके स्थान पर पांच करोड़ की सीमा रखी जाये। अगर 20 करोड़ की सीमा ही रहने दी जाती है तो इस देश में जो बड़े बड़े 75 बिजनेस हाउसेज हैं उनमें से केवल 33 बिजनेस हाउसेज इस बिल के मातहत लाये जा सकेंगे और बाकी सब छूट जायेंगे। लेकिन अगर आप 5 करोड़ की सीमा रखते हैं तो फिर सारे 75 बिजनेस हाउसेज इसके अन्तर्गत लाये जा सकेंगे। मैं उदाहरण के लिए आपको बताना चाहता हूँ कि 20 करोड़ की सीमा रखने से टर्नर मॉरेसन और जयपुरिया जैसे हाउसेज, बड़ी बड़ी फर्म इसकी परिधि के बाहर चली जायेंगी। इस प्रकार की बड़ी बड़ी फर्मों को छोड़ देने से फिर क्या फायदा होगा? किस तरह से आप मोनोपली रोक सकेंगे, यह समझ में नहीं आता है।

एक बात मुझे यह कहनी है कि मुझे ऐसा लगता है कि विधायक एक कदम आगे रखते हैं तो दो कदम पीछे चले जाते हैं। हर एक धारा में ऐसा दिखाई देता है। अगर एक कदम आगे बढ़े तो फिर टर्न हो जाते हैं। सोचते हैं कि कैप्टेलिस्ट्स का बहुत नुकसान कर रहे हैं इस लिए दो कदम पीछे हो जाते हैं। इसलिए मैं चाहता हूँ कि 20 करोड़ की जगह पर 5 करोड़ ही रखा जाये, उससे ज्यादा न रखा जाये।

श्री शिव चन्द्र झा : इस क्लॉज में मेरे दो संशोधन हैं— एक तो 80 है और दूसरा 81 है। 80 में तो वही बात है जो कि श्री देवेन सेन जी ने कही

(श्री शिव चन्द्र शाह)

है। आप इस चैप्टर की हैडिंग देखिए : कन्सेन्ट्रेशन आफ एकोनामिक पावर। बड़ी एंटरप्राइज हैडिंग दी है लेकिन इसमें छूट 20 करोड़ की दी गई है। इस से ऐसा मालूम होता है कि खाली दिखाने के लिए ही मानोपली को कंट्रोल कर रहे हैं। आप इसमें इस तरह के लूपहोल्स छोड़ रहे हैं ताकि वे वरकरार बने रहें। अगर इमानदारी से आप चाहते हैं कि मानोपलिस्ट्स पर कंट्रोल हो, उनकी खराबियां समाप्त हों तो उसके लिए जरूरी है कि जहां पर 20 करोड़ रुपया रखा गया है वहां पर 5 करोड़ रखा जाये ताकि बहुत सी कम्पनीज और मानोपोली हाउसेज इस कानून के मातहत आ सकें।

मेरा दूसरा सशोधन यह है कि (बी) के सेकेन्ड पार्ट में जो कहा गया है ;

“Where it consists of more than one undertaking, the sum total of the value of the assets of the inter-connected undertakings constituting the dominant undertaking is not less than one crore of rupees”.

इसमें भी आप बड़ा वाइड मैदान छोड़ रहे हैं मानोपोलिस्ट्स के लिए। आप नहीं चाहते कि उनको इस विधेयक के अन्तर्गत लाया जाये। इस विधेयक का जो ध्येय है, जो मकसद है उसको अगर आप पूरा करना चाहते हैं तो एक करोड़ की जगह पर आप 50 लाख कर दें। ऐसा करने के बाद ही आप बहुत हद तक उनको अपने जाल में फंसा सकते हैं और उन कंटेन्सिस्ट सांघों को नाश सकते हैं।

श्री बेबेन सेन : जो 131 और 132 नं० के मेरे संशोधन हैं उनको भी मैं पेश करना चाहता हूँ।

सभापति महोदय : अब आप उनको छोड़िये। श्री त्यागी।

श्री ओम प्रकाश त्यागी : सभापति महोदय इस क्लॉज में

सभापति महोदय : मेरी आप लोगों से एक रिक्विस्ट है जोकि आप लोगों के इन्टेस्ट में है। जिस क्लॉज को आप लोग ज्यादा महत्वपूर्ण

समझते हैं उसी पर ज्यादा टाइम लीजिएगा क्योंकि 5 बजे गिलोटीन हो जायेगा।

श्री ओम प्रकाश त्यागी : उपाध्यक्ष जी, इस क्लॉज में जो यह रखा गया है :

“Its own assets together with the assets of the inter-connected undertakings”.

मेरा कहना एक तो यह है कि यदि हम सोशललिस्टिक नारों के पीछे इतना पागल होकर चले जायें कि हम उद्योगपतियों की गर्दन ही दवा दें, उस धंधे की गर्दन दवा दें तो उससे देश की हानि हो जायेगी। कैपिटल का अर्थ है उत्पादन कर्ता, उसी को असेट्स कहते हैं। मेरे कहने का तात्पर्य यह है कि असेट वह है जिनसे उत्पादन होता है। मेरी प्रार्थना है कि जहां असेट्स लिखा है उसके बाद आप लिख दें :

“excluding the value of the buildings of the undertaking”.

मकान या भवन जो उद्योग के लिए बना हुआ है वह कोई उत्पादन तो करता नहीं है। फैक्टरी के लिए भवन बनाया गया है तो उसका मूल्य इसमें नहीं आना चाहिए ताकि आप असेट्स का सही अनुमान लगा सकें। अन्यथा असेट्स में अगर आपने विल्डिंग को भी लगा दिया तो परिणाम यह होगा कि फैक्टरीज में हानि आयेगी। इसलिए मैं चाहता हूँ कि आप असेट्स को स्पष्ट कर दीजिए :

assets “excluding the value of the buildings of the undertaking”.

दूसरी बात यह है कि उसमें 20 करोड़ की सीमा आपने दी है लेकिन मैं समझता हूँ कि अगर आपके दिमाग में डिसेन्ट्रलाइजेशन है और अधिक से अधिक आदमियों को आप काम देने की बात सोचते हैं तो 20 करोड़ की जगह 10 करोड़ कर दें। (व्यवधान) अगर सरकार इस स्थिति में आ जाये कि देश में कोओपरेटिव बेसिस पर इन्डस्ट्रियल चालू करादे तो मैं कहता हूँ 5 करोड़ रखने की भी जरूरत नहीं रहेगी बल्कि एक करो ही रहना चाहिए। एक आदमी को इतना बड़ा धंधा करने की कोई जरूरत नहीं

[श्री श्रीम प्रकाश त्यागी]

होगी। एक परिवार चलाने के लिए एक करोड़ का घंघा काफी होगा। लेकिन जब तक ऐसी स्थिति नहीं है कि गवर्नमेंट कोअपरेटिव बेसिस पर चला सके तब तक अगर आप इस पर प्रतिबंध लगा देंगे तो देश का उत्पादन बन्द हो जायेगा। रही बात यह कि इन मानोपोलिस्ट्स को हटाकर कम्युनिस्टिक या स्टेट मानोपली शुरू करें तो मैं उसके सर्वथा विरुद्ध हूँ। इसलिए जब तक यह चलता है तब तक इसमें बाधा नहीं डालनी चाहिए। और मेरी प्रार्थना है कि विल्डिंग की बैल्युएशन आप एसेट्स में से हटा दीजिए, यही आपके लिए हितकर होगा।

SHRI LOBO PRABHU: I am raising a fundamental issue in asking for the substitution of the word 'individual' for the word 'undertaking'. I would like the Minister to clarify how an undertaking in which there is money from Government institutions in which there is money from thousands of shareholders can become an object of economic power. If an individual has a tremendous amount of wealth, he represents economic power, he represents disparity about which they are so concerned. If they are aiming at an institution, they are aiming at thousands and lakhs of shareholders. Is it their intention to punish a shareholder because he has elected a bigger rather than a smaller company? In this connection, I would refer to the report of the Monopolies Commission. They do not make the mistake that size is sin. The Commission has made it clear that big companies have their justification because of the economies of scale.

You will not deny that a bigger company can produce a thing cheaper, that it is in the interests of the consumer, in the interests of the economy. Are you objecting to that? You will not deny that the Commission has also stated that only a big company can employ the right type of experts. Can produce the right type of goods. Is it your intention not to have any experts, any research, any progress? That certainly is not

apprehended by the idea of economic power.

Lastly, the Commission has found that the economic growth which has taken place in this country is due to these big houses, but for them you would not have had the economic growth which has been witnessed in the last 20 years. Is it your intention to reverse this process? I am against conspicuous wealth, against disparity, but you must deal with the individual. If you can deal with the individual, then you are proceeding in the right direction, you are compelling him to divide his wealth, to invest it in some other ventures and also to go in for risk capital. Recently, a Commission has found that no rich capital is coming from the promoters. They are only helping themselves to the capital of others here and there.

You will raise the question how we are going to prevent a company or an enterprise from abusing its power. My answer first is that you have the Company Law. It is a very ample law, a law that goes into minute details. Today if you have the present position that certain companies are playing with their shares, with their prices, it is because you have a law which you do not enforce for reasons either that you want to make some benefit out of it for yourself politically, or that your staff is not sufficiently vigilant. You do not want so many laws if you cannot implement even one. You just want to give a false impression that you are against wealth, you want to spread the net of your power.

AN HON. MEMBER: And collect donations.

SHRI LOBO PRABHU: By all means go for the individual, reduce his wealth. According to statistics, those who paid wealth tax on more than Rs. 1 crore were only 20 in 1964-65. These 20 people are your proper objectives. Strip them in whatever way you like if it is consistent with the economic policy, but otherwise do not go and injure the economy, do not go and destroy the faith of the people in the enterprises that pay. When you penalise a big enter-

prise, you are going to send these people to some of the smaller enterprises which are notorious for depressing their shares when they want to buy and raising them when they want to sell. My colleague, Shri Dandekar, has already said that Chapter III has no place in this Bill as there are other means of controlling wealth. I would suggest that you give up this Chapter, and failing that, substitute the word "individual" for "enterprise" because then only you will be making an attack on wealth and reducing disparities.

SHRI BENI SHANKER SHARMA : My amendment Nos. 397 and 398 are practically the same as Shri Dandekar's and my arguments are the same. I will simply add that the greatest malady from which we are suffering today is lack of production. We have begged and borrowed enough money from outside, but proportionately we have not increased production of consumer and other goods.

What is the harm if a businessman who is honest and hard working serves the country by producing more for the benefit of the consumer?

It has been said that this Chapter is meant as a safeguard against concentration of economic power. Those who know about income-tax and wealth-tax will agree with me that in the present set-up nobody can be a multi-millionaire if he pays his taxes honestly. There is concentration of wealth in the hands of people only because the taxes are not properly collected. If the taxes are properly collected, there is no question of concentration of wealth and consequently concentration of economic power. If these clauses are retained as they are, they will simply hamper production in our country and we shall be suffering from the malady of shortage of goods more and more. I would, therefore, suggest that simple bigness or smallness of an undertaking should not be the guiding principle. We should see whether the controllers of the undertaking are acting honestly and in the interests of the country. If they are so acting, there is no reason why we should not have industries of bigger size which would produce more at lesser cost.

SHRI S. KUNDU : The real test of your declarations is in seeing how you are going to implement this Bill and check concentration of economic power as envisaged in clause 20. Whatever you may profess about your concept of socialism, that will be evaluated by the way you implement this Bill. When you say that economic concentration comes only in the case of industrial houses with assets of Rs. 20 crores or above, I can imagine what sort of socialisms you have in view. They were saying that when the Congress was not divided, the other group did not allow them to proceed. So, now they can accept our amendments if they are really keen on what they are saying. It will be a fantastic suggestion to say that economic concentration only comes if the assets are Rs. 20 crores or above. Nobody will take you to be true, that you are really going to fight for the poor and down-trodden. People will think that you are also friends of B Class capitalists. When you limit it to Rs. 20 crores, those who have 19.99 crores will not come within the purview of this Bill. There will be many such capitalists and naturally motive will be imputed to you and you cannot escape it because there is no reasonable explanation.

In any developing country, the important contribution made by Government is to provide an industrial bias to its people. For the last 50 years our industrialists have not only controlled money, they have controlled ideas, dynamism, everything that goes to improve industry, and they have cared only for their profit. If you want to break this sort of thinking in the sphere of the industrial development of our country, it is necessary to put a stop to economic concentration. For this you must reduce the limit and therefore I have suggested Rs. 2 crores instead of Rs. 20 crores.

SHRI S. S. KOTHARI : Why not make it nil? Then it will apply to everybody.

SHRI S. KUNDU : I would like to, but it will not be accepted.

There are very few houses with assets above Rs. 20 crores and they are concentrating economic power. You are not going to do anything and

[Shri S. Kundu]

you cannot do anything to them. There is another B class and they will be in enormous numbers now. You do not need a licence to put up an industry if the capital invested is not more than 27 lakhs. Hundreds of industries will be put up by same family which will have a lot of production in this age of automation without owning assets worth Rs. 20 crores but being more coercive than people who own big assets. One automatic machine can replace a thousand workers. The assets could not be more than a lakh or two. But actually in the matter of industrial growth or production, one will control about a crore of rupees. And this thing is a misnomer, unless you put it down to Rs. 2 crores. It will still give a lot of scope, but I do not think they will agree to a lesser thing. So, I would plead with the Minister that he should accept this amendment.

16 hrs.

SHRI S. S. KOTHARI: Sir, this clause is a very important one, but I would like to emphasise one aspect I have gone through the Bill a number of times and tried to find out a definition for 'concentration of economic power', which the Government is trying to control. But they do not know what they are trying to control. There is no definition of concentration of economic power. There is no definition of common detriment; and what is meant by prejudicial to public interest. These are all vague terms, and on the basis of these terms—concentration of economic power, common detriment, prejudicial to public interest, the structure of this chapter is built up. It should not have any place in this Bill. Such a provision is not to be found probably in any other country. What it is going to do is to obstruct the growth of the economy, and this legislation, in my opinion, is not intended to promote what is known as socialism but to bring in or tend towards what I would call economic suicidalism. With this Bill plus the implementation of the injurious recommendations of the Dutt Licensing Committee and all that, they are heading towards a state of affairs where no-

body can expand or increase the assets. This would lead to stagnation in industrial development, with the consequence that employment and incomes would not increase. It is only the Communists who are going to benefit by measures of this kind. Frankly, I have no objection to your checking monopolies; I have no objection to your taking steps against or checking restrictive trade practices, curb them by all means, but do not strike at the root of economic growth.

Coming specifically to this aspect of the problem, what is meant by increase in assets? If any development takes place, there is an increase in assets. According to the Government, if there is an increase in assets, it means concentration increases. Sir, it is an absurdity to talk about assets, when we do not even talk about the net assets, after reducing the liabilities. They say that the assets should not be increased beyond Rs. 20 crores in inter-connected undertakings and in the case of dominant undertakings, they should not exceed Rs. 1 crore. What is an undertaking with a crore of rupees today? If you judge by world standards, it is not even a pigmy; it is much less than a pigmy, lilliputian. Even by Indian standards, a concern with Rs. 1 crore of assets is, in my opinion, just an ordinary middle-sized concern. It is not even a large concern, and the Government has put a limit at Rs. 1 crore for dominant undertakings and Rs. 20 crores for all the assets of a group together. I do not know how many groups would be included or excluded; it makes no difference. The basic point that I would like to emphasise is that you must ensure that economic growth is not checked.

Besides, this chapter also provides that the onus would be on the businessman to prove that the expansion or the establishment of a new undertaking would not result in the concentration of economic power to the common detriment and would not be prejudicial to public interest. It is absurd. How is an entrepreneur to prove this? It is not clear. These three terms, as I said, must be defined, and the onus—this is most inequitable—should not be on the entrepreneur to prove that his expansion

would lead to concentration of economic power. The assets are bound to increase, and the Government or some officer in the bureaucracy may say, "Your assets are increasing and it leads to concentration. Therefore, I do not permit it". Why this discretion be permitted to the bureaucracy? It is not in the interests of the country. Therefore, my amendment suggests that it should be Rs. 50 crores instead of Rs. 20 crores, and in the case of a dominant undertaking, it should be Rs. 10 crores instead of Rs. 1 crore.

May I say that in the United States, where there have been anti-trust laws, which most of the framers of this Bill might have gone through and culled to frame this Bill, it has been accepted by the Supreme Court and other courts in the United States that, firstly, "a rule of reason" shall be applied in making judicial pronouncement on such issues. secondly, the mere size is not an offence; in the modern technological age, the size of an industry has to expand if industries have to compete in the international market and if exports are to be competitive, and withstand competition. In this Bill, we say that if the size of a dominant undertaking increases beyond Rs. 1 crore, they must go to the Government for sanction. A multiplicity of licences and sanctions have to be gone through and that will probably involve a tremendous amount of time and in the end these licences may never be granted, and the permission may never come, and that undertaking may stagnate; the exports may go down because that undertaking may not be able to compete in the international market.

The third principle is one which has been decided in the United steel case in the United States. The idea is one of doing good to the community. If there is a combine of companies or industrial undertakings, and if that is efficiently conceived, so that breaking it up will actually cause a loss to the public, if it efficiently managed and is in the public interest or it does good to the community, there is no reason why this law should apply to it. These three

fundamental principles have not been kept in view in framing this Bill. Therefore, I would like to emphasise that this chapter is pernicious. It is anti-growth. I would say it is anti-people, and it must be reconsidered in its entirety. At least the limits must be reasonable, so that the harm is done to the minimum possible extent. This chapter, as it is, is bound to do harm and it is an attempt to check concentration of economic power which they are unable to define, and as such it is bound to do harm and go against the national interests; it is going to check economic growth. Let the limits be raised to such an extent that the harm done is the least.

SHRI D N. PATODIA: I am amazed to listen to some of my colleagues who are talking in terms of imposing and limiting the amount to Rs. 1 crore, Rs. 2 crores, Rs. 5 crores and Rs. 10 crores and so on. It is only a reflection of their colossal ignorance of what is happening in India and in the world. They are not aware of it; they are not aware of what production is, what technological development is, what modern research is. Mr Dandekar and other Members have said in detail that there is no place for this chapter in this Bill which is going to be anti-production and anti-development; nevertheless, I would like to touch on only one particular aspect of it.

Here, as my friend Shri Kothari said, they have imposed a limit of Rs. 20 crores on the assets of an undertaking and Rs. 1 crore for dominant undertakings. What are these assets? Do they propose to say that the bank borrowings which are invested in business would constitute assets? According to the definition which is given in the Bill, even bank borrowings, even market borrowings, even deposits would be considered a part of the assets when they are reinvested. It is fantastic.

The minimum improvement that could have been done by the Ministry is to define these assets and at least to say that the net assets will be applicable, but that has not been done. I do not know wherefrom they have found this Rs. 1 crore to be fixed

[Shri D. N. Patodia]

for a dominant undertaking. Do they have any conception as to what Rs. 1 crore can produce today? I hope you are aware that even a medium-sized plant for a fertiliser needs about Rs. 40 crores today. And they are imposing a limit of Rs. 20 crores. What do they mean? If calibre is found in an entrepreneur, or in a group of entrepreneurs, and if they extend their business, if my business is rising, if I am capable of increasing it and if I am borrowing from the market, if I am capable of taking a loan from the World Bank, should I not do it? It appears to be fantastic to prevent that. If I am not prepared to do that, if others are not allowed to do that, there would be stagnancy in the economy in the country. Therefore, I totally oppose this measure. I suggest that at least the amendment moved by Mr. Kothari to define what is an asset should be accepted; at least let them say that it is going to be the net assets. The amendment should be accepted by the Minister.

SHRI RAGHUNATHA REDDY: Mr. Chairman, two contrary views have been expressed.

MR. CHAIRMAN: I would request the hon. Minister to answer in full two very pertinent questions which have been asked by Sarvashri Patodia and Kothari of whatever school of thought they might be.

SHRI S. KUNDU: More pertinent questions have been raised by us. It is a question of how you look at problems.

SHRI P. VISWAMBHARAN: It is an aspersion on other Members.

SHRI S. KUNDU: They have raised a capitalist point of view.

SHRI S. S. KOTHARI: I object to it.

SHRI S. KUNDU: These people who run business houses do not know anything. They do not have an industrial bias.....(*Interruption*). The man who is in charge of crores of rupees does not know how to sign his cheque properly and he is responsible for growth.

MR. CHAIRMAN: All the points that you have raised will be answered. All important points will be answered.

श्री शिव चन्द्र झा : सभापति महोदय, आप इस तरह डिफरेंस कर रहे हैं ? दूसरे सदस्यों के पायंट भी पॉइन्ट हैं । आप मंत्री महोदय के दिमाग को प्रैजुडिस कर रहे हैं । आप को उन के दिमाग को कन्डीशन नहीं करना चाहिए । आप इस तरह के रिमार्क क्यों करते हैं ? आप को पार्टिजन नहीं होना चाहिए । चयरमैन को ऐसी बात कहने का कोई मतलब नहीं है ।

श्री रामावतार शास्त्री : सभापति महोदय, आप की दृष्टि सम होनी चाहिए ।

सभापति महोदय : माननीय सदस्यों के पायंट्स का भी पूरा जवाब दिया जायेगा ।

SHRI RAGHUNATHA REDDY: The views expressed by hon. Members can broadly be divided into two categories. One side has expressed the view that the Chapter is unnecessary, that the values of assets mentioned in clause 20 are less and should, therefore, be raised to Rs. 50 crores and, in the case of dominant undertakings, to Rs. 10 crores. The other side has sought to reduce it to Rs. 5 crores and below 1 crore; anyway, the central idea is a substantial reduction in that.

Before I deal with this question I would like to dispose of one question raised by Shri Patodia, namely, that by raising the value or quantum of assets it is going to raise production. It is one of the popular fallacies in economic theory that concentration of economic power would lead to further production. Any study of economic development would show that concentration of economic power has, on the contrary, proved that the production falls and it is anti-growth.

SHRI S. S. KOTHARI: What is he talking? The Minister's idea of economic theory is absolutely wrong. It is a wrong statement.

SHRI SHIVA CHANDRA JHA: It is cent per cent correct.

SHRI D. N. PATODIA: May I clarify?

MR. CHAIRMAN: Let him reply.

SHRI RAGHUNATHA REDDY: Only when there is even distribution of the cake that has been produced, there is greater scope of further sav-

ings to be brought about and proper mobilisation of resources, concentration of economic power has proved an agonising experience in this country and has become detrimental to growth itself.

Shri Kothari said that we have used some expressions and words in the various clauses, like common detriment, prejudicial to public interest etc.

SHRI S. S. KOTHARI: Concentration of economic power itself.

SHRI RAGHUNATHA REDDY: I am surprised that Shri Kothari, with his experience, should have raised this point because the expression "common detriment" is used in article 39(c) of the Constitution. This is an expression taken from the Constitution itself. About the rest of the expressions that have been used, if Shri Kothari refers to any law on the statute book he would find that these expressions have been interpreted judicially. There is any amount of case law. Therefore I need not further labour to answer this question.

SHRI S. S. KOTHARI: What is the definition of "concentration of economic power"?

SHRI D. N. PATODIA: He does not know that.

SHRI RAGHUNATHA REDDY: Concentration of economic power is explained and defined in clause 20 onwards as the power which a man would be able to command on the resources in the country, financial or otherwise, and on the means of production. You may have any amount of wealth; it is not concentration of economic power. It is not personal wealth but the power or the control which you are able to exercise on the resources that are flowing to the community. If it is a resource that belongs to you, it is not concentration of economic power but if you control the resources that belong to the community, it means concentration of economic power. I hope you would be able to understand this.

Then, Shri Patodia called it a fantastic idea. Though I do not have immediate figures, I would like him to refer to the December 1968 issue of the Reserve Bank Bulletin in which how the bank advances were taken is

given. To me it looks a fantasy—it is not fantastic. It looks as if it is a fantasy, looking to the type of advances taken from banks as loans and advances and the number of accounts. 437 accounts have taken 23 per cent of the total loans and advances of nearly Rs. 2,717 crores. I am subject to correction about the figures, I would only like to indicate the magnitude of economic power which certain sections of society can exercise and of the control which they could impose on the life of the community. This in essence constitutes concentration of economic power which I need not define further.

SHRI N. K. SOMANI: What were your colleagues in the Finance Ministry doing at that time? Do they function in a vacuum? Why did you not ask them to resign? What was Shri Sethi doing when all this money was going, according to you? You are confusing the two things.

सभापति महोदय, यह गलत-बयानी कर रहे हैं।

सभापति महोदय : मैं समझता हूँ कि अब मेरे दोनों दोस्त, श्री झा और श्री कुन्दू, सीटिसफाइड हो गये होंगे। मैंने इसी लिए मंत्री महोदय को श्री कोठारी और श्री पाटोदिया के पायंट्स का जवाब देने के लिए कहा था कि कोई मिस-अंडरस्टैंडिंग न रहे।

SHRI S. KUNDU: He is speaking like a pandit reciting Sanskrit slokas. He does not believe in what he says.

SHRI RAGHUNATHA REDDY: I am not going into the legal aspects of it. I am only trying to indicate the type of concentration that had taken place by the use of banks that were at the disposal of these business groups.

The basic question that has been raised is why this chapter should be there. If this chapter is not there in this Bill, this Bill is not worth passing. Unless monopoly is to be understood in the context of concentration of economic power and some indication is given of that by way of statutes, it is no use having a Bill on monopolies at all. Therefore this has been advisedly added here and this matter has been discussed in the Joint Committee.

[Shri Raghunatha Reddy]

The next question is about the value of assets. Shri Kundu and other hon. Members have lightened my burden by explaining the reasons why this amount of Rs. 20 crores should be reduced further. They have said that it should be reduced to Rs. 5 crores or Rs. 10 crores. When the Monopolies Commission analysed the entire business group, on the basis of Rs. 5 crores they arrived at 75 groups and we thought that at least half of them should be covered if the Monopolies Bill is to have any purpose. That is why as a working arrangement we have first put it as Rs. 20 crores and if in the working of it it is found necessary, certainly the suggestion made by Sarvashri Kundu and Jha will be considered with the utmost respect.

I would also like to tell them that under the Industries (Development and Regulation) Act, certain regulations are to be observed and certain aspects of the matter have to be looked into by the concerned authorities. There are specific cases here where a particular business group reaches a certain stage of value of assets, Rs. 20 crores; then, we have to look into the scheme of finance and other aspects; otherwise the Industries (Development and Regulation) Act could have dealt with the situation.

One question raised by Shri Kothari was that we have put the burden on the undertaking to prove whether it would lead to concentration of economic power or whether it is against the public interests. If he reads these provisions carefully, he would find that we have provided for an opportunity to the undertaking concerned to explain its case to the satisfaction of Government. And if the Government passes any order under Chapter III, it is subject to judicial review by the highest judicial tribunal in the country, namely, the Supreme Court. What else can I do in this matter except giving an appeal to the Supreme Court which can review any order passed by the Government under Chapter III? For this reason I hope the hon. Members will feel it reasonable to withdraw their amendments.

SHRI D. N. PATODIA. Will the hon. Minister clarify? There have been two different contradictory views. We are demanding that it should not be more than 5 crores. They demand that there should not be any restriction at all. To come to the conclusion, what is the sanctity or criteria you have?

SHRI RAGHUNATHA REDDY: The value of the assets of various undertakings have been taken into account. As a working arrangement, for the first time, we can start with Rs. 20 crores. Having regard to the value of the assets and in the course of the working if we find that Rs. 20 crores is too high, the value of the assets will be reduced. It is a matter for consideration. You need not insist on this question.

SHRI S. KUNDU: I just want to say that we are not interested in your working arrangement with 'B' class capital.

श्री शिव चन्द्र झा : अमेंडमेंट नं० ८० को सेरेट रखाए ।

MR. CHAIRMAN: I will put amendment No. 80 to the vote of the House.

SHRI SHIVA CHANDRA JHA: I want division.

MR. CHAIRMAN: Let the lobbies be cleared.

16.23 hrs.

[MR. DEPUTY SPEAKER in the Chair.]

MR. DEPUTY-SPEAKER: The lobbies have been cleared. I will put the amendment. The question is:

"Page 13, line 1,—

for 'twenty' substitute 'five.' (50)

The Lok Sabha divided:

Division No. 21] AYES [16.26 hrs.

Badrudduja, Shri
Birua, Shri Kolai
Chandra Shekhar Singh, Shri
Gowda, Shri M. H.
Jha, Shri S. C.
Joshi, Shri S. M.
Lakkappa, Shri K

Mangalathumadam, Shri
 Molahu Prasad, Shri
 Patil, Shri J. H.
 Patil, Shri N. R.
 Satya Narain Singh, Shri
 Shastri, Shri Ramavatar
 Viswambharan, Shri P.

NOES

Agadi, Shri S. A.
 Ahmed, Shri F. A.
 Ankineedu, Shri
 Arumugam, Shri R. S.
 Asghar Husain, Shri
 Awadesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Babunath Singh, Shri
 Bajaj, Shri Kamalnayan
 Bajpai, Shri Vidya Dhar
 Bansh Narain Singh, Shri
 Barupal, Shri P. L.
 Basu, Dr. Maitreyee
 Bhagat, Shri B. R.
 Bhanu Prakash Singh, Shri
 Buta Singh, Shri
 Chanda, Shri Anil K.
 Chanda, Shrimati Jyotsna
 Chandrika Prasad, Shri
 Chaturvedi, Shri R. L.
 Chavan, Shri Y. B.
 Choudhury, Shri J. K.
 Deoghare, Shri N. R.
 Deshmukh, Shri K. G.
 Dhuleshwar Meena, Shri
 Dixit, Shri G. C.
 Gajraj Singh Rao, Shri
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gautam, Shri C. D.
 Gavit, Shri Tukaram
 Ghosh, Shri Parimal
 Girja Kumari, Shrimati
 Goel, Shri Shri Chand
 Himatsingka, Shri
 Jadhav, Shri V. N.
 Jaggaiah, Shri K.

Jagjiwan Ram, Shri
 Kamble, Shri
 Kamala Kumari, Shrimati
 Karan Singh, Dr.
 Kinder Lal, Shri
 Kotoki, Shri Liladhar
 Kureel, Shri B. N.
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Mahadeva Prasad, Dr.
 Mahida, Shri Narendra Singh
 Mahishi, Dr. Sarojini
 Malhotra, Shri Inderjit
 Marandi, Shri
 Mishra, Shri G. S.
 Mody, Shri Piloo
 Mudrika Singh, Shri
 Nahata, Shri Amrit
 Naik, Shri G. C.
 Palchoudhuri, Shrimati Ila
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Parthasarathy, Shri
 Patil, Shri Deorao
 Patil, Shri S. D.
 Patodia, Shri D. N.
 Qureshi, Shri Shaffi
 Raghu Ramaiah, Shri
 Raju, Dr. D. S.
 Ram, Shri T
 Ram Swarup, Shri
 Ramshekhar Prasad Singh, Shri
 Randhir Singh, Shri
 Rao, Shri J. Ramapathi
 Rao, Dr. V. K. R. V.
 Raut, Shri Bhola
 Roy, Shri Bishwanath
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Saleem, Shri M. Y.
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sayyad Ali, Shri

Sen, Shri Dwaipayan
Sethi, Shri P. C.
Shah, Shri Virendrakumar
Shambhu Nath, Shri
Shankaranand, Shri
Sharma, Shri B. S.
Shastri, Shri Sheopujan
Sher Singh, Shri
Shiv Chandika Prasad, Shri
Shukla, Shri Vidya Charan
Singh, Shri J. B.
Sursingh, Shri
Tapuriah, Shri S. K.
Tiwary, Shri D. N.
Tiwary, Shri K. N.
Tula Ram, Shri
Uikey, Shri M. G.
Yadav, Shri Chandra Jeet

MR. DEPUTY SPEAKER: The result of the division is: Ayes: 14; Noes: 101.

The motion was negatived.

MR. DEPUTY SPEAKER: I will put amendment No. 491 of Shri S. S. Kothari to the vote of the House.

Amendment No. 491 was put and negatived.

I will put rest of the amendments to clause 20 to the vote of the House.

Amendments Nos. 35 to 37, 81, 212, 236 to 239, 397, 398, 424 and 425 were put and negatived.

MR. DEPUTY SPEAKER: Now the question is:

"That Clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

Clause 21—(*Expansion of undertakings*).

SHRI M. R. MASANI: I beg to move:

Pages 13 to 17,—

for clauses 21 to 25, substitute—

"21 (1) The following conditions shall govern the application of an undertaking—

(a) for its substantial expansion;
or

(b) for establishment of new undertakings; or

(c) for any merger, amalgamation and take-over; or

(d) for appointing directors of undertakings:—

(i) The Commission may call upon the undertaking concerned to satisfy it that its proposals for establishment of new undertakings or for substantial expansions or mergers, amalgamations or take-over or for the appointment of directors to undertakings, are not likely to lead to the concentration of economic power to the common detriment, or is not likely to be prejudicial to the public interest in any other manner, and thereupon the Commission may, if it is satisfied that it is expedient in the public interest so to do, by order, accord approval to the proposal from the undertaking concerned.

(ii) For any of these purposes, the undertaking concerned shall give to the Commission notice in writing in the prescribed form, and, if within a period of sixty days from the date of receipt of the notice by the Commission, no action is taken by the Commission thereon, the proposal of the applicant company may be given effect to subject, however, to the provisions of any other law for the time being in force.

(iii) The undertaking concerned shall at the time of its application to the Commission simultaneously forward a copy of such an application to the Central Government, which, if the circumstances in its judgment so warrant, shall submit to the commission within forty-five days a statement of its objections

or modifications to the proposed scheme of expansion, or the scheme for the establishment of a new undertaking or the scheme of mergers, amalgamations or take overs or to the appointment of directors proposed by the applicant undertaking.

(iv) If either the applicant undertaking or the Central Government shall feel that the findings of the Commission in respect of the proposals submitted by the applicant-undertaking, are not in their respective opinions fair and reasonable, either party shall have the right to make a reference to the Supreme Court whose judgement shall be final and binding on both the parties.

(v) The Commission shall record its reasons for the rejection or modification of any of the proposals made by the applicant-undertakings.

Explanation—For the purposes of this section “substantial expansion” means the expansion of an existing industrial undertaking which substantially increases the productive capacity of the undertaking, or 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.

(2) Nothing in this section relating to substantial expansion shall apply to any industrial undertaking to which section 13 of the Industries (Development and Regulation) Act, 1951, applies.

(3) Nothing in this section shall apply to the acquisition by an undertaking, which is not a dominant undertaking, of another undertaking

which is not also a dominant undertaking.

(4) Nothing in this section shall apply to the appointment of a director of an undertaking as a director of any undertaking inter-connected with such undertaking.’ (38)

Page 13, line 42,—
for “twenty-five” substitute—
“ten” (82).

SHRI DEVEN SEN: I beg to move:

Page 13, line 23,—
omit “substantially” (131).

Page 13, line 35,—
omit “substantial” (132).

Pages 13 and 14,—
omit lines 37 to 45 and 1 to 9 respectively. (133).

श्री रामादत्तारुशारत्री : मैं निम्नलिखित संशोधन प्रस्तुत करता हूँ :

पृष्ठ 16 एवं 17—जहां जहां “पच्चीस प्रतिशत” है वहां वहां “दस प्रतिशत” शब्द लिखा जाय। (178)

पृष्ठ 17 में (3) (क) में जहां जहां “लोक हित” शब्द है वहां वहां “लोक हित एवं समाजवादी लक्ष्य” शब्दों को जोड़ा जाय। (179)

SHRI N. K. SOMANI: I beg to move:

Page 13, line 32,—
add at the end—

“Section 23, shall however not apply to those companies who will undertake to export a significant portion of their newly expanded capacity and also not to dominate undertakings.” (194).

Page 14, line 16,—
for “so to do”
substitute—

“or exports to do so”, (195).

SHRI KANWAR LAL GUPTA: I beg to move:

Page 14, line 17,—

add at the end—

“but the Central Government shall record reasons in writing for such order” (333).

Page 14, line 22—

add at the end—

“within a period of three months as far as possible” (334).

Page 14, line 25,—

add at the end—

“and if the orders of Central Government are contrary to the recommendations of the Commission, the Central Government shall give reasons in writing for such orders” (335).

SHRI S. S. KOTHARI: I beg to move:

Page 14,—

after line 9, insert—

“Provided that this section shall not apply to any seasonal industry, where production has been increased by extension of the number of working days in any year over the previous year or by better utilisation of machines and the installed capacity.” (492).

Page 14,—

after line 9, insert—

“Provided that this section shall not apply where production has been increased by utilisation of existing installed capacity of an industry without addition of equipment, other than balancing equipment, if any.” (493).

SHRI D. N. PATODIA: While speaking on Cl. 21, I will not like to go into the details because most of the points were covered while speaking on Cl. 20. I would only like to highlight two points. One is with regard to the expansion that is carried

out by the undertakings who are holding valid licences for expansion.

There would be many such cases where certain licenses have been granted by this very Ministry for carrying out expansion in their production, sometimes for similar goods and sometimes for such goods which are not similar. In respect of that undertaking which holds a valid license for expansion this provision of the Act should not apply. All the points would have been taken into account while granting the license. License was granted only after giving due consideration to all the facts of the case. It is said that if there is expansion beyond 25 per cent of the production it would be considered as substantial expansion. It has not been production what production do we properly defined. When we talk of talk of? There might be different production of the same undertaking in different years. I have an undertaking; on account of various factors in the year 1967 I produced 100 units, in 1968 I produced 120 units and in 1969 I produce only 80 units. Unless we define properly as to the nature of such production it would be very confusing. I suggest, the figure of production should be related to the installed capacity or the actual production whichever is higher. Unless you have this provision in the Bill, confusion will arise and a situation may develop which is not contemplated. A company may have lesser production compared to 5 years back, but more production compared to last year, but it would be considered as substantial expansion. Therefore, I hope the Hon. Minister would accept my amendment to this Clause.

श्री शिव चन्द्र झा : उपाध्यक्ष महोदय ! मेरा संशोधन इस क्लॉज में उस स्थान पर है जहाँ एक्सपैन्शन का उल्लेख किया गया है— कोई ग्रण्डर टैकिंग एक्सपैन्ड करेगा। यह कैसे समझा जायगा। जो मापदण्ड आप रखते हैं उसमें कहते हैं—

Value of the assets before expansion would result in an increase by not less than 25 per cent of such value.

और यह एर्लीकेवल होता है 20 करोड़ रुपये पर यानी 25 करोड़ रुपये तक बढ़ाया जा सकता है। एक तो 20 करोड़ को ही लेकर हमने आपत्ति उठाई थी, यह बहुत बड़ी छूट आप मानोपोलिस्ट्स को देने जा रहे हैं, सही मायनों में आप उन को पकड़ नहीं रहे हैं, अब यह पांच करोड़ की दूसरी छूट उन को देने जा रहे हैं। इस लिये मैं चाहूंगा कि इस को 10 पर सेंट कर दिया जाय। यदि आप 5 करोड़ की बात मान लेते तो 25 परसेंट एक्सपेंशन होने से बहुत ज्यादा फर्क नहीं पड़ता, लेकिन 20 करोड़ रुपये पर 25 परसेंट रखने से बहुत फर्क पड़ जायगा। इस लिये मैं चाहूंगा कि इस को 10 परसेंट रखा जाय।

SHRI N. K. SOMANI: I have moved amendments No. 194 and 195. This particular clause refers to expansion of undertaking. It is well known that when we compare sizes and operations of undertakings, we should compare them with what is happening in other countries. In the interest of exports we have to do something. We should not take any steps which might strangle the successful functioning of our exports. It is well known that performance of our exports from April this year has been completely a failure and it is a dismal showing by any account. We are losing ground more and more because of the policy of this Government. If a clause like this in respect of expansion or in respect of production is to apply not only to companies having assets of 20 crores or more but also to small, little, tiny companies which are now classified as dominant undertaking and having asset of one crore of rupees, I think this is going to be a tremendous problem and it will put a disincentive to all the companies to function properly. I cannot understand the need for this either. There are so many rules and conditions and regulations and other things for which one has to approach various ministries of the Government. So, why should this additional burden be sought to be put on the undertaking at all? My amendment exempts those

companies which are undertaking to export a significant portion of their expansion. When the company gives the undertaking saying a major portion of the expansion would go entirely for export I do not see what objection this Government can have for not exempting these companies at all. These are the two main points.

In Page 14, line 15, it is said that "The Central Government may, if it is satisfied that it is expedient in the public interest so to do, by order accord approval to the proposal for such expansion". I have said that in addition to the public interest we must add the word 'exports'. Export oriented units are to be put on a different footing than all other companies which only produce to sell in this country. This is in the interest of our exports. They can compete well in the world market. I do not see any objection at all for the Minister accepting such an amendment. I hope the hon. Minister will accept this, in view of the objects I have spoken.

श्री दवेन सेन : मेरा संशोधन पन्ना 13 लाइन 23 और 35 में है, जहां पर कहा गया है -

An undertaking to which this part applies, proposes to substantially expand

मैं यहां पर शब्द सब्सटैन्शली को डिलीट करना चाहता हूँ क्योंकि सब्सटैन्शली की शब्द कोई जांच नहीं हो सकती है। कोई आदमी बोलेगा कि 20 करोड़ पर सब्सटैन्शल एक्सपैन्शन होगा, कोई बोलेगा 3 करोड़ पर सब्सटैन्शन होगा। इस लिए इस में कन्फ्यूजन होगा : गरीबों को इस में नकसान होगा। इसी तरह से लाइन 35 में, जहा कहा गया है।

"give effect to any substantial expansion".

यहां पर भी सब्सटैन्शली को डिलीट करना चाहता हूँ क्योंकि इस से कन्फ्यूजन हो जाता है। मेरी राय में इस से विधेयक का जो अभिप्राय है, वह कट जाता है। इस लिये मैं अपनी अमण्डमेन्ट आपके सामने रखता हूँ।

श्री रामावतार शास्त्री : मेरा भी संशोधन उपाध्यक्ष महोदय, वही है कि जहां जहां 25 परसेन्ट कहा गया है, वहां वहां 10 परसेन्ट किया जाय। इस सम्बंध में मेरा निवेदन यह है कि आप छोटे इजारेदारों को क्यों छोड़ रहे हैं, उन को लूप-होल क्यों दे रहे हैं, इस से देश में उन के शोषण जारी रहेगा। इसको कम करना चाहिए उन को लूप-होल दे कर बढ़ने नहीं देना चाहिए वल्कि जितने भी इजारेदार हैं उन पर अंकुश लगाने की जरूरत है। इसी उद्देश्य से मैं अपने दोनों संशोधन पेश करता हूं।

श्री कंबर लाल गुप्त : उपाध्यक्ष जी, मेरे तीन संशोधन हैं - 333, 334 तथा 335 और वे संशोधन ये हैं कि अगर कोई अण्डर-टेकिंग एक्सपैन्शन करना चाहे तो वह सरकार को नोटिस देगी, जसा कि इस क्लॉज 21 में कहा गया है और उस के बाद सैन्ट्रल गर्वनमेंट उस की जांच करेगी और जांच के बाद अगर इन को यह मालूम हुआ कि इस से कन्सन्ट्रेशन अफ इकानामिक पावर नहीं होगी तो उन को एक्सपैन्शन की इजाजत देगी।

क्लॉज 21(3) में यह कहा गया है :

“The Central Government may call upon the undertaking concerned to satisfy it that the proposed expansion or the scheme of finance with regard to such expansion is not likely to lead to the concentration of economic power to the common detriment or is not likely to be prejudicial to the public interest in any other manner and thereupon the Central Government may, if it is satisfied that it is expedient in the public interest so to do, by order accord approval to the proposal for such expansion.”

तो मेरा कहना यह है कि इसमें आगे यह जोड़ दिया जाय :

‘But the Central Government shall record reasons in writing for such order.’

मेरा कहना यह है कि अगर सैन्ट्रल गर्वनमेंट स्वीकृति देगी तो वह क्यों दे रही है, इससे कन्सन्ट्रेशन अफ पावर नहीं हो रहा है, ये जो कारण हैं, वह इसमें बता देने चाहिए। मैं ने जब पहले कहा था तो मंत्री महोदय कुछ नाराज हो गए। वह बात उसमें चाहे लागू न होती हो लेकिन इसमें जरूर लागू होती है। यह सैन्ट्रल गर्वनमेंट की व्हिम पर है कि किसी को परमीशन दे दे और किसी को परमीशन न दे। अगर मोदी को देनी होगी तो दे देंगे अगर एशियन कविल्स को देनी होगी तो दे देंगे क्योंकि वे आपके नजदीक हैं। गोयन्का साहब हैं। तो सोकाल्ड प्रोप्रेसिव इन्डस्ट्रियालिस्ट्स को आप परमीशन दे देंगे क्योंकि वे ए आई सी सी के होस्ट बनने के लिए तैयार हैं। ए आई सी सी के सारे डेलिगेट्स का जो खाना है उसका सारा खर्चा सोकाल्ड प्रोप्रेसिव इन्डस्ट्रियालिस्ट्स ने दिया। तो जो इनकी कुर्सी के नजदीक होंगे उनको पब्लिक इंट्रेस्ट में ये परमीशन दे देंगे। लेकिन दूसरे जोकि आपकी हां में हां नहीं मिलाते, जो कि आपकी ट्यून पर डांस नहीं करते उनको आप परमीशन नहीं देंगे। कमीशन के पास भेज देंगे। तो मेरा कहना यह है कि अगर आप के पास पावर है तो आप उसम कारण भी दें कि क्यों देना चाहते हैं।

अगर नहीं देना चाहते हैं तो भी कारण देना चाहिए। मैं समझता हूं कि सरकार की जो डिस्क्रिशनरी पावर है, जो स्वीपिंग पावर है उस पर लगाम लगनी चाहिए। नहीं तो होता यह है कि टेलीफोन कर बेते हैं कि आप जरा दे दीजिए और अपने कुछ भी लिखते नहीं हैं तो जो पोलिटिकल एथारिटी हो उसको पकड़ा जा सके इसीलिए मैं नें संशोधन रखा है कि केन्द्रीय सरकार अगर पब्लिक इंट्रेस्ट म देना चाहती है तो उसका कारण दे।

मेरा दूसरा संशोधन न० 334 यह है कि 3 (बी) के अन्त में यह बढ़ा दिया जाय :

‘within a period of three months as far as possible.’

मेरा मतलब यह है कि तीन महीने में रिपोर्ट दे देनी चाहिए।

मेरा तीसरा संशोधन यह है कि 3 (सी) के अन्त में यह बढ़ा दिया जाय :

“and if the orders of Central Government are contrary to the recommendations of the Commission, the Central Government shall give reasons in writing for such orders.”

मेरा कहना यह है कि एक तो सेंट्रल गवर्नमेन्ट को पावर ही नहीं होनी चाहिए बल्कि जो कमीशन का बॉडिक्ट हो उसी के मुताबिक होना चाहिए। मान लीजिए कमीशन ने कह दिया कि इससे कन्सन्ट्रेशन आफ पावर होगा तो आपको लाइसेंस नहीं देना चाहिए। अगर कमीशन कहता है कि कन्सन्ट्रेशन आफ पावर नहीं होगा तो आप लाइसेंस जरूर दें। लेकिन आपने यह कहा है कि कमीशन बिठाना भी है, उसको आपने रेफर किया और रेफर करने के बाद जो उसकी रिपोर्ट आई उसपर आपकी मर्जी है कि उसको मानें या न मानें। मैंने कहा है अपने संशोधन में कि अगर कमीशन की बात सरकार नहीं मानती तो सरकार को अपनी रीजनिंग देनी चाहिए कि वह क्यों नहीं मानती है। वह चीज आपको व्हिम पर नहीं होनी चाहिए।

उपाध्यक्ष जी, इस सरकार की पिछले 18 सालों की जो लाइसेंसिंग पालिसी रही है—ये भले ही नाराज हों—लेकिन मैं इस बात को साबित कर सकता हूँ कि मंत्रियों की केनावाइस से बड़े बड़े अफसरों की साजिश से और इंडस्ट्रियलिस्ट्स को साजिस की वजह से मानोपली हुई है, कन्सन्ट्रेशन आफ पावर हुआ है : इसको तोड़ने का तरीका यही है कि आपके पास जो डिस्क्रिशनरी पावर है वह न रहे। आपके पास जितनी ही ज्यादा डिस्क्रिशनरी पावर होती जायगी उतना ही ज्यादा चन्दा आप अपनी पार्टी के लिए लेते जायेंगे। पहले आप चन्दा लेते थे, अब पाबन्दी लगाई गई है लेकिन आप ब्लैक में पैसा लें। जैसा मैंने कहा, आप उसको डिनाई कीजिए, कि ए आई सी सी

की बैठक जो रिक्वीजिशन की गई उसका सार। खर्चा इंडस्ट्रियलिस्ट्स ने दिया। मैं आप को चार्ज करता हूँ कि आप सोशललिज्म की बात कर रहे हैं, सोशललिज्म का नारा लगाने के लिए ए आई सी सी को रिक्वीजिशन किया गया उसके लिए प्रोग्राम बनाने का काम और सारे लोगों के भोजन की व्यवस्था समायदारों ने की। इसके अलावा इन्होंने एक सोधिनार ए आई सी सी का निकाला, विद काम्प्लीमेन्ट फ्राम ए आई सी सी, उसमें लाखों रुपया इकठ्ठा किया गया उसमें कोई एडवर्टिजमेन्ट नहीं है। इस तरह से कम्पनी ला को वायलट किया गया। एडवर्टिजमेन्ट में कम से कम कम्पनी क्या काम करती है वह बताना चाहिए लेकिन वह नहीं बताया। यह इन्डायरेक्टली किसी पोलिटिकल पार्टी को पॉलिटिकल डोनशन है। मेरा चार्ज है कि इन्होंने वायलेशन किया है। मुझे डर है कि अगर सेंट्रल गवर्नमेन्ट के पास अनफर्टर्ड पावर्स रही तो ये उसका मिसयूज करेंगे। वह मिसयूज नहीं इसीलिए मैंने यह संशोधन सदन के सामने रखा है

SHRI S. S. KOTHARI: I have three amendments to this clause and the next which are very constructive. Probably the mischief has been created in an unintended manner, and Government did not envisage the contingencies I have highlighted in my amendments. I would request the department to examine these points very carefully. I am not concerned whether they accept these amendments here or not. It is for them to look into them.

First, there may be a case where a concern has not utilised its entire installed capacity, but only a part of it. Suppose a motor manufacturing company with a capacity of 1 lakh units is at present producing only 30,000 and next year it is able to improve its efficiency and produce 50,000. Does it come within the mischief of this clause? My reading is that the expression ‘proposes to substantially expand its activities in any other manner’ may mean that even such a case may come within its ambit. There are many concerns in the country which have unutilised capacities and when they fully utilise them it is in the country’s in-

[Shri S. S. Kothari]

terest. This is a very reasonable plea and I would request that it be examined.

Then there are seasonal industries like sugar mills. Suppose in one season they work for 100 days and in the next year they may be able to work 140 or 150 days. This happens when there is more of cane available. It is in the national interest that they work for more days then, because more sugar is produced. In case, will this clause be attracted? This needs careful examination because it is not substantial expansion. It leads to increased production which should not attract this provision.

Lastly, suppose a concern has already been granted an industrial licence or has been given a letter of intent. It may have incurred on a project expenditure exceeding a lakh of rupees. If the Government has already sanctioned it, why should that entrepreneur be compelled to go to the Commission or Government again for sanction under this Bill? It is for Government to consider this. I believe Government also wants to act in the national interest and they also want that production should go up.

SHRI N. K. SOMANI: Question.

SHRI S. S. KOTHARI: On the basis of this clause, I expect that Government want that production should go up, that resources should be fully utilised, that a seasonal industry like a sugar mill should produce more sugar using more sugarcane. Besides, where a licence has already been granted, they should not be harassed again. I hope the Minister will carefully look into these contingencies and do his best.

श्री रामावतार शास्त्री : उपाध्यक्ष महोदय मैं अपने संशोधन नं० 179 के बारे में कहना भूल गया था। उस में यह है कि पृष्ठ 17 में (3) (क) में जहां जहां लोकहित शब्द हैं वहां वहां लोकहित एवं समाजवादी लक्ष्य शब्दों को जोड़ा जाय। सब लोग लोकहित की बात करते हैं। स्वतंत्र पार्टी के साथी भी करते हैं। चाहे

समाजवादी हों या गैर-समाजवादी हों, या साम्राज्यवादी, हों या सामन्तवादी हो सब अपना प्रचार लोकहित के नाम से करते हैं। मैं चाहता हूँ कि लोकहित के साथ समाजवादी लक्ष्य जोड़ दिया जाय। हमारी सरकार ने समाजवादी सरकार की स्थापना का अपना लक्ष्य बनाया है। मैं चाहता हूँ कि इस में समाजवादी लक्ष्य के मुताबिक शब्द जोड़ दिये जायें क्योंकि मैं डेफिनिट करना चाहता हूँ, कोई भेद नहीं रहने देना चाहता क्योंकि इस का इस्तेमाल सब लोग करते हैं। मैं इस को सीमित करना चाहता हूँ क्योंकि समाजवादी लक्ष्य के मुताबिक काम होना चाहिए -

SHRI RAGHUNATHA REDDY: As far as the point raised by Shri Kanwar Lal Gupta is concerned, under clause 55 an appeal is provided to the Supreme Court, and once an appeal is provided to the Supreme Court, the Government naturally will have to give reasons one way or the other and the order is bound to be a speaking order. Therefore, the apprehension of Shri Gupta need not persist further.

Shri Patodia has asked a question about the retrospective character of this legislation. Unless it is specifically provided in any legislation, its operation would be only prospective and not retrospective.

SHRI D. N. PATODIA: Suppose one interested in an undertaking holds a licence for expansion, but a licence has not been acted upon, the very fact that a licence has been granted by the Ministry is good enough to indicate that all the pros and cons were examined before granting licence. In such cases, the expansion should not come within the purview of this Bill.

SHRI RAGHUNATHA REDDY: The question is again whether the provisions of the Bill will be prospective or retrospective. I need not give a legal opinion on it, but normally if the provisions of a Bill are not retrospective, they would be only prospective.

The question of expansion up to 25 per cent has been raised by both

sides, by one side about its interpretation and by the other side about the advisability of reducing the percentage further. It has been asked why it is necessary to mention substantial expansion. If it is not mentioned, any expansion may have to come before the Government and so this has been used and it has been further explained by an Explanation. Any undertaking which goes in for an expansion would certainly know what its capacity is under the licence given under the Industries (Development and Regulation) Act and the value of assets it has shown. Therefore, there should not be any difficulty. An hon. Member asked what objection we could have if an industry uses its equipment more efficiently and produces more. To meet such a contingency 25 per cent expansion has been provided for and I do not think there should be any hardship.

In respect of export industries etc., clause 28 has laid down certain guidelines both for the Government and the Monopolies Commission to deal with matters when applications come for expansion, and certainly these guidelines would be borne in mind. They give us sufficient indication and I would, therefore, appeal to the hon. Members to withdraw the amendment.

SHRI S. S. KOTHARI: If a seasonal industry like the sugar industry works for hundred days in one year and for 150 days in the next year, will that come under substantial expansion?

SHRI D. N. PATODIA: Does it mean that 25 per cent would apply to the licensed capacity of an undertaking?

SHRI RAGHUNATHA REDDY: Under the Industries (Development and Regulation) Act there are certain provisions under which applications are filed and licences granted. The undertaking knows what its capacity is. I do not think I need explain what this 25 per cent expansion over capacity means.

SHRI KANWAR LAL GUPTA: The Minister has not denied the allegation that I made against the Cong-

ress Party and given an assurance that they will not misuse the powers.

SHRI RAGHUNATHA REDDY: I thought he would refrain from raising issues which are not relevant to the matter under discussion. That is why with great respect to him I did not refer to irrelevant matters.

SHRI S. S. KOTHARI: If a factory has a licenced capacity to produce one lakh cycles, in the first year it produces 50,000 and in the next year it improves its efficiency and produces 80,000, according to the language of the Act, in my opinion it may be covered by the provisions of this Bill. If installed capacity is fully utilised, does it mean they should again go to the Monopolies Commission and ask for permission to use the unutilised capacity? Let him say it is not covered.

SHRI RAGHUNATHA REDDY: I do not know whether the hon. Member wants me to give a legal opinion, but I may refer him to sub-clause 4 of clause 21 which reads:

"Nothing in this section shall apply to any industrial undertaking (which is not a dominant undertaking) to which section 13 of the Industries (Development and Regulation) Act, 1951, applies, in so far as the expansion relates to production of the same or similar type of goods."

We are interested in achieving economies of scale in the production of same or similar goods, but we do not want them to appear in various incarnations in various fields.

MR. DEPUTY SPEAKER: I put all the amendments to Clause 21 to the House.

Amendment Nos. 38, 82, 131 to 133, 178, 179, 194, 195, 333 to 335, 492 and 493 were put and negatived.

MR. DEPUTY SPEAKER: The question is:

"That Clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

MR. DEPUTY-SPEAKER: Earlier the House had decided to conclude discussion of all the remaining

[Mr. Deputy-Speaker]

Clauses by 5 P.M. It is now just one minute to 5 P.M.

SHRI HIMATSINGKA: On Clause 38 I would like to say something.

THE MINISTER OF PARLIAMENTARY AFFAIRS, AND SHIPPING AND TRANSPORT (SHRI RAGHURAMAIAH): The hon. Member was not present, but there was a general consensus of all parties and it was decided and the House accepted my suggestion that it will be guillotined at 5 P.M. If every Member wants to speak, there is no meaning in the decision.

17 hrs.

SHRI KANWAR LAL GUPTA: Let us know whether any amendment is to be accepted by the Minister.

MR. DEPUTY SPEAKER: I think we had better close this discussion now.

SHRI HIMATSINGKA: Please give me two or three minutes to speak on amendment No. 38.

MR. DEPUTY SPEAKER: Then the whole thing will be reopened. (Interruption). It is now exactly five. If we reopen it, then we cannot abide by the decision of the House.

SHRI HIMATSINGKA: Will the Minister say—

MR. DEPUTY SPEAKER: You may highlight it in the third reading. We still have one hour. Kindly cooperate.

SHRI N. K. SOMANI: Is it not possible to give more time to this Bill?

MR. DEPUTY-SPEAKER: No.

SHRI RAGHURAMAIAH: The leaders have all agreed. Please do not object now.

SHRI KANWAR LAL GUPTA: Please ask the Minister whether he accepts any amendments?

SHRI RAGHUNATHA REDDY: No, Sir.

MR. DEPUTY-SPEAKER: I shall now put all the remaining clauses together to the vote of the House. The question is:

"That clauses 22 to 67 stand part of the Bill."

The motion was adopted.

Clauses 22 to 67 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI F. A. AHMED: I move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: I may remind hon. Members that we have got only one hour for the third reading, and the discussion will conclude at 6 p.m. Kindly bear that in mind and be brief in your observations.

SHRI KANWAR LAL GUPTA: Please give five minutes to each Member.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill be passed."

SHRI HIMATSINGKA: Sir, the Bill as was introduced in the Rajya Sabha and as was put before the Select Committee had clause 37 as one of the clauses. According to this Bill, all agreements which are regarded as restrictive have to be registered. Even in the Bill previously, the provision was that all agreements which are registered will not be deemed to be prejudicial, unless the Commission come to certain positive findings, that is to say, unless the Commission came to the conclusion that it will unreasonably increase the cost relating to the production, supply and distribution or it will unreasonably increase the price at which goods are sold and so on. That was the provision in the Bill that was suggested as an example in the MIC report and that was the provision in the Bill as introduced. Suddenly in the Select Committee, though all the old clauses were retained as they were,—the definition about the restrictive practices and so on—where the monopolistic trade practices would be deemed to be prejudicial if the Commission comes to certain positive findings that they are prejudicial, that the prices would increase and so on, in the case of clause 37, which is now clause 38, the position has been completely altered. It now says that the restric-

tive trade practices shall be deemed to be prejudicial to the public interest unless the Commission is satisfied on any of the following grounds. So, the Commission, if it will not be able to come to a positive finding, and so long as they do not come to a positive finding that the restriction is reasonably necessary or the removal of the restriction would be denying the public, it will be regarded as prejudicial. What is the effect? All the agreements will be registered and they will be regarded as prejudicial unless the Commission comes to certain positive findings that they are not so. Therefore, the table has been turned, and the position as it stands in clause 38 is contradictory to the definition of a restrictive trade practice or monopolistic trade practice. I doubt very much if this will stand scrutiny in any court, and I would even now request the Minister to consider this position.

MR. DEPUTY-SPEAKER: Shri Aga—absent. Shri Patodia.

SHRI D. N. PATODIA: Sir, We are opposed to monopolies, whether private or State, which come in the way of the smooth working of the free competitive enterprise, which go against the consumer interest and which do not protect social justice. It was with this intention that we wanted to improve upon this Bill and we moved certain amendments so that this Bill may make some sense, but unfortunately, so far, the Government have not seen the light of the day, and the truth of our arguments and they have failed to accept any amendment so far. I only wish even at this late stage, they may do something about it.

Our principal amendment related to the extension of the provisions of the Bill to all public sector and State enterprises. We feel that this Bill would be meaningless, would have no significance, unless this provision was made in the Bill.

The hon. Minister, this morning, while replying to some of the questions, stated that the public sector undertakings in India is not a monopoly, and that the public sector in India has been set up with a view to bringing generally the public good.

What a travesty of truth? In India, there is no monopoly except the State monopoly. There is no restrictive trade practice except that adopted by the State enterprises. There is no dominant company or dominant undertaking excepting those owned by the State Government. And these are the concerns, monopolistic concerns, owned by the State which are doing all that is harmful to the consumers, harmful to the nation, to the economy. I will give you a few illustrations.

Take the case of the Food Corporation of India. They have a complete, 100 per cent monopoly of that particular sector. I now refer to a journal published recently. In West Bengal, rice is procured by the Government from the mills at Rs. 106. The same rice is sold to the consumers at Rs. 128, with Rs. 3 as commission to the retailer, and the FCI makes a net profit of Rs. 19 in the case of rice, which is as much as 17 per cent.

Take another case. This is a case where a Member of Parliament, Mr. M. Sudarsanam, a Member belonging to this House and belonging to the ruling party, has come out with a positive and definite statement in a press conference in Andhra Pradesh, that in Andhra Pradesh the rice mills are being forced by the FCI to buy rotten wheat, without which fresh wheat is not supplied to them. This is the condition of the Food Corporation of India.

Take the condition of the LIC. Who is not aware that in spite of conditions being favourable for the reduction of premium rates they are not being reduced because there are no competitors? Take the case of fertilisers. India's cost of production is the highest and the consumers of fertilisers in India are paying on account of the inefficiency of the State by paying high prices not only for the Indian product but also for the imported product.

Who is doing all this at the cost of the consumer? Who is monopolist? Who is dominant? Who is bad for the economy? But in this Bill Government undertakings have not been included. Government is permitted

[Shri D. N. Patodia]

to increase its activities in a monopolistic form. Foreign companies, holding billions of dollars and pounds, are permitted to expand their activities in India. But Indian companies are not permitted. Indian private enterprise, which had been responsible for the development of the economy of this country, has been prevented by this legislation from expanding. The result will be that State monopolies will thrive at the cost of the consumer and of the economy, all sorts of corruption will flow in and thrive at the cost of efficiency.

They have also ignored modern technological development all over the world. Should I point out to you how the Monopolies Commission in the UK is functioning now-a-days? Instead of causing restrictions on development, they are permitting mergers of big companies. To take advantage of modern technology, scientific research and development they are thinking in terms of mergers and larger and larger combinations so that the cost of production may come down, the consumer may be benefited, the economy may develop and they may compete in exports. In India we are talking of smallness of size. It will create a scare; it will not be helpful to the economy, to growth, to production and to the consumer. Whatever little enterprise is left in the country will be scared; they will not come forward. Therefore I would appeal, even at this late stage, to Government that they should make certain necessary improvements in the legislation so that growth may not be retarded.

SHRI S. S. KOTHARI: Sir, Government appears to have been overwhelmed by, what I would call, the dilemma of developing countries. Excessive concern and measures to check, concentration of economic power do not go well with economic growth. That is the basic dilemma that is facing all developing countries. It depends on what emphasis a country is to place, whether it wants economic growth or whether it wants to check concentration of economic power by all possible measures as a

consequence of which economic growth would be checked and stultified. There are countries like Burma which went all out to bring in socialistic or Communistic measures. They wanted that there should be a levelling down and they probably did achieve that and succeeded in bringing about some element of levelling down; but their economies were completely jeopardised. Burma today is in the wilderness as far as economic growth is concerned.

For the last two or three years we have been noticing a tendency in this country that Government is trying to bring forward measures after measures which are ostensibly intended to control, what they call, monopolies, restrictive trade practices, concentration of economic power and a variety of other slogans or words that they have discovered. But in effect they are all having an adverse and stagnating effect upon economic development of this country. I should like to sound a serious note of warning today that within a period of two or three years all this is going to boomerang upon the Government.

Production is being checked in a variety of ways. As we have seen a few minutes back, they are not even prepared to concede the right of an undertaking to utilise its installed capacity without going to the Monopolies Commission or to the Government. We are now heading towards an inflationary stage. It is fortunately only because of the Green Revolution that we are not yet faced with actual inflation or rather its further accentuation. But every four or five years unfortunately there is a bad year with regard to the harvest. God forbid, if that year comes, you will have accentuation of the price level and these pressures would be further accentuated because production is not allowed to increase, capital formation is not allowed to take place and there are laws which tend to inhibit, restrict and obstruct production and capital expansion, capital investment and capital formation. That is a grave note of warning. If you go the same way, I think, a stage is going to

come when we are going to be faced with complete stagnation and the economy would go backwards instead of going forwards. The momentum of growth would all be lost.

Does increase in assets alone mean concentration of economic power? Assets are bound to go up if you have development. Does it mean that we have to stop completely development? You will kindly appreciate that if any industry is to provide employment to people, naturally it must have productive assets. But if those productive assets increase, the Government would turn round and say, "You are concentrating power in your hands." It is not concentration of power by an increase in assets which is harmful. It is the misuse or abuse of those assets which the Government should check and aim against; it is not the increase in assets which the Government should check but the abuse or misutilisation or the anti-public interest utilisation of that power that the Government should curb. I will be the first to support the Government in that. Let them check monopolies and restrictive trade practices. But blindly going against concentration of economic power and interpreting it just to mean an increase in assets is where, I think, the Government is going wrong. That is the crux of the problem. As I said earlier, they have not been able to tackle this dilemma of growth, they are actually tackling it in a wrong manner. Instead of aiming at economic growth, they are trying to curb it. They always have the power to nationalise; they have nationalised banks and they can nationalise any industry they like. But let the economy grow; let industries come into existence. If the Central Bank or the UCO Bank were not there, what would you have nationalised? what would you have nationalised if we had provided in the early stages of banking against their development and if we had not allowed proper banking facilities to come about? We may have ten steel mills tomorrow. You can take them over whenever you like. Put your public sector in order first and let factories and mills grow and multiply.

Then, the question of State monopolies is very important. As I have already stated, the STC, the LIC and various other corporations have been misusing their monopolistic power and position. When this Monopolies Commission is coming into existence is it not necessary that the State monopolies should also be covered by this law that is being enacted? This is the basic, fundamental point. Time and again the Government, the Prime Minister, the Minister of Industrial Development, all of them, say that they want to treat the public sector and the private sector on par. Is this not discrimination? Why do they want to discriminate in favour of the public sector and not bring it within the ambit of this Monopolies and Restrictive Trade Practices Bill? Why should State monopolies be allowed to flourish and exploit the consumer? I think, it is for the House to search its conscience and answer and for the Government and the Minister also if they have a conscience.

श्री शिव चन्द्र झा : उपाध्यक्ष महोदय, इस विधेयक की 67 क्लॉजिज़ पर लगभग 500 संशोधन रखे गये थे, जिन में से 73 मेरे संशोधन थे। क्लॉज 21 तक के संशोधनों पर विचार हो सका और बाकी क्लॉजिज़ गिलोटीन हो गई। हालांकि इस विधेयक की लिखावट अच्छी नहीं है, फिर भी सरकार ने सदस्यों के सुझावों के बारे में इतने पथरीले ढंग से रिसपांड किया कि उसने एक भी संशोधन को कुबल नहीं किया।

आप शर्मन ऐंटी ट्रस्ट ऐक्ट जो है उस को पढ़ें और क्लेटन ऐक्ट को पढ़ें तो उस के भी शब्द ज्यादा कड़े हैं मोनोपली को कंट्रोल करने के लिए लेकिन फिर भी उन विधेयकों के जरिये मोनोपली अमेरिका में कंट्रोल नहीं हो पाई। लेकिन बावजूद लिखावट में डिफेक्ट के और बावजूद हमारे संशोधन के न मानने के मैं इस विधेयक का समर्थन करता हूँ। इसलिए समर्थन करता हूँ जैसा कि कहा है - समर्थिग इज़ ब्रेटर दैन नर्थिंग। चूंकि इस दिशा में सरकार की तरफ से अभी तक कोई कदम नहीं बढ़ा

[श्री शिव चन्द्र झा]

था और अब सरकार यह कदम बढ़ा रही है तो मैं इस का समर्थन करता हूँ।

जहाँ तक मोनोपली का सवाल है, मसानी साहब ने चैम्बर्स डिविजनरी से बताया कि मोनोपली के जो माने हैं उस माने में सेंट परसेंट मोनोपली कहीं नहीं है दुनिया में। लेकिन अर्थशास्त्र में मोनोपली का दूसरा मतलब होता है। ज्यादा में नहीं कहना चाहता हूँ। यह शमपेटर के शब्द हैं। "केपिटलिज्म सोशलिज्म ऐंड डेमोक्रेसी" में उन्होंने बताया है कि मोनोपलिस्ट के जो रेस्ट्रिक्टिव प्रैक्टिसेज हैं और वायस्ड कंट्रोल और प्राफिट लेने का जो तरीका है वह ओलिगार्थी के तरीकों से होता है। वह कहते हैं :

"Again the monopoly schemes, suitably adapted, seems to fit this type of behaviour much better."

ओलिगोपोली का वही रूप होता है जो मोनोपली का होता है इस तरह से जिस तरह से अमेरिका में मोनोपलिस्ट्स हैं, ब्रिटन में हैं, उसी तरह से हिन्दुस्तान में भी हैं। और शर्मन, क्लैटन इत्यादि दूसरे अर्थशास्त्रियों को मसानी साहब न पसंद करते हों तो उनके बगल के जो पड़ोसी हैं, अशोक मेहता, उन्होंने अपनी पुरानी किताब डेमोक्रेटिक सोशलिज्म में जो लिखा है, उसी को पढ़ लें। उन्होंने लिखा है :

"You have heard of Matsya Nyaya. A big fish lives on small fish. Under capitalism too this law operates. There is a constant pressure in favour of the emergence of a monopoly."

Under capitalism there is a persistent, irresistible effort on the part of the entrepreneurs to build up monopolies, to raise profits and thereby make competition imperfect."

वह अपने खुद नहीं बोले, लेकिन आज से कई वर्ष कबल वह कबल कर चुके हैं कि मोनोपली हिन्दुस्तान में है। इसी तरह से उस से पहले की किताब उनकी है "ब्लू आन्स इंडिया" उस में उन्होंने लिखा है :

"The oligarchies of . . . economy are, however, only dwarfs before the leaders of the world's financial capital. . . the important Trusts are often subsidiaries of subsidiaries."

"The oligarchy is a closed-preserve. The son succeeds the sire. It is generally so in every country but in India it is particularly so. So sons and relations—community men at the farthest—reach 'the height of Simla'. Fresh blood finds it difficult to enter the oligarchy as the proverbial canal the eye of a needle."

तो यह अपने पड़ोसी को ही पढ़ सकते हैं। लेकिन हैरानी की बात यह है कि वह अपने बोले, फखरुद्दीन साहब को उन्होंने हर तरह से उन की मज्जमत करने की कोशिश की लेकिन बिरला और टाटा और हिन्दुस्तान के दूसरे मोनोपलिस्ट्स जो हैं उन के हाथ में किस रूप में कंसेन्ट्रेशन चल रहा है उस के बारे में उन्होंने बहुत चालाकी के साथ नज़र अन्दाज़ किया यह बहुत दुख की बात है। 1961 की बजट स्पीच में खुद उन्होंने कहा है कि टाटा बिरला इस देश में आगे बढ़ रहे हैं। टाटा नम्बर 1 हो गया है और बिरला पीछे चला गया है। 61 की बात है, प्रोसीडिन्स निकाल कर आप देख लीजिए जिस में यह कहा है कि अब वह मोनोपलिस्ट्स आगे और तेजी से बढ़ रहे हैं। सरकारी रपटें हैं। बहुत बार यह बात आ चुकी है। 75 बड़े बड़े मोनोपलिस्ट्स हिन्दुस्तान में हैं। कहा जाता है कि :

France is controlled by 200 families.

फ्रांस को 200 फेमिलीज़ कंट्रोल करती हैं, उस की अर्थ-व्यवस्था को, और अमेरिका का भी यही हाल है। लेकिन हिन्दुस्तान की अर्थ-व्यवस्था को 75 परिवार कंट्रोल करते हैं। हिन्दुस्तान में मोनोपली और एकोनामिक पावर का यह नक्शा हमारा सामने है।

आखिर में एक बात और कहना चाहता हूँ। इस विधेयक में प्रैस कंसेन्ट्रेशन के मुतालिक कुछ साफ नहीं है। प्रैस में बहुत तेजी के साथ

कंसेन्ट्रेशन चल रहा है। उस को आप को कंट्रोल करना होगा। समाजवाद का वातावरण बनाने के लिए मानस-पटल को बदलना जरूरी है। लेकिन यह मोनोपलिस्टिक बुर्जुआ येलो प्रेस जब तक रहेगा तब तक क्या आप उम्मीद करते हैं कि समाजवाद के लिए वातावरण बन सकता है? इस विधेयक में प्रेस कंसेन्ट्रेशन को कंट्रोल करने के लिए कुछ भी नहीं है।

तो मोटे तौर पर यह विधेयक टिमिडिटी से श्रोत-श्रोत है, टिमिड है। अब चूँकि हिन्दुस्तान की जनता चाहती है कि यह जो वीभत्स राक्षस है मोनोपली यह समाप्त हो, इसीलिए यह विधेयक यह ले आये हैं, वैसे शायद विश्वास इस में इन को नहीं है। इसीलिए लिखावट जो है, प्रेजेन्टेशन जो है उस में टिमिडिटी है। लेकिन एक टिमिड आदमी भी चूँकि मुर्दे से अच्छा होता है, इसलिए बावजूद टिमिड बिल होने के भी यह अच्छा है और मैं इस का समर्थन करता हूँ।

SHRI S. KUNDU: While supporting this Bill, I have my own reservations. I would like to say here that it does not go to the extent where we can check the monopolistic growth in this country. But anything that comes in any form to any extent to curtail the growth of monopolies in this country, we welcome it. But the problem is so great, so vast that it is impossible just to tinker with it. I think this Bill just tinkers with this problem.

The problem of monopolies or the problem of economic concentration or having economic power in a developing country is much different than the problem in a developed country. In a developed country where there are big business houses, the basic needs of the workers or the most humble people are felt and they can assert their rights through various processes, through the Press, Parliament and by holding meetings and can defend their rights. In a developing coun-

try where 80 per cent people are illiterate and about 90 per cent are poor and lakhs of people die of starvation and they do not have a roof over them and they have no jobs and they do not know what the future holds for them, if this economic power is concentrated in a few hands, it goes to the detriment of the national growth. I can never agree that in a developing country like ours the big business houses have really endeavoured and promoted the industrial growth of the country. On the contrary, by cornering all the technical know-how, all the intelligence, all the sources of knowledge to build up industries for themselves, they have killed the dynamism, they have killed the skill among the vast sections of the young people who could have built up a new India. Therefore, I feel that Indian businessmen during the British time as also after Independence always looked to the profits rather than the economic growth of India. Whenever they thought of economic growth of the country, they always equated it with their profit, whereas in other parts of the world where the capitalism has not died, the capitalists have become a little enlightened. Take the Ford company of America. They have established a Foundation and in Africa they have laid roads which incidentally will encourage their trade and also help the people. That sort of voluntary organization tries to create a consumer bias. But, to-day our Indian businessmen do not know anything except profit and profit for themselves. Therefore, it is not a fact that the Indian big industrial Houses have really brought about any economic growth to our country.

I would very much welcome the Minister give a very serious thinking to this problem. Whenever I championed the cause of small scale industry, the cause of medium scale industry, the more and more I go into it, the more and more I find that they are being eased out. There are so many restrictions put in their way that they cannot survive in this country. It is again the big business houses having export markets stay

[Shri S. Kundu]

at such a position, at such a vital position where all the facilities they enjoy in our country in the name of export, in the name of increasing the industrial growth. This needs a detailed examination.

Now the unemployment problem is growing and at the end of a few years, I think, the unemployment figure would be about 40 million men. There are already more than one lakh unemployed men—engineers and technicians. Unless we take a very drastic and radical measure, I do not think we are going to solve this problem. Therefore, I have moved amendments aimed at achieving this objective. I knew the Government would not accept them. I just wanted: let there be a process of thinking in this country, let the Government come out and create a sort of industrial bias among the educated young people and among larger sections of the people. That can only be done by restricting this economic growth, this monopolistic tendency, not to the extent of Rs. 20 crores but by keeping it down still further.

Thank you, Sir.

SHRI AHMAD AGA (Baramula): It is our firm belief that public sector is intended for the common good. It is not correct to say that there is State monopoly. Actually when we started, we had both the public sector and the private sector and we expected that the private sector would behave. But our experience is that the private sector did not behave well. The Monopolies Enquiry Commission report, the Dutt Committee and other reports that were furnished by the economists reveal that the private sector had not done as much as was expected of them. We had given long gestation period to industries in the public sector and purposely we had given short gestation period, to the private sector. We had expected that they would keep the common good in view; but they have not. The reports are there and everybody knows about them. I don't want to repeat.

Sir, it was heartening to hear what the Minister said yesterday that they would be considering other amendments to the Bill. Because, Sir, I personally felt that this Bill was restrictive of monopolistic tendencies, but it did not eradicate the monopolies as such. Since the Minister has given an indication in this respect, I feel most heartened. The Minister has also hinted yesterday that shares would be converted into equity. I was myself feeling that there was no indication whether Government is going to participate in the management where heavy loans are put in, where shares are put in.

There is one point I would like to speak about and it is this. These various private sector companies have huge reserves. I do not understand what is the difficulty for converting these reserves as compulsory deposits with the Government. There is yet another thing which I would stress. This is in respect of non-essential items. Various non-essential items are produced by various private sector companies like toys, cosmetics, loud-speakers and things like that. Will Government stop capacity for further expansion in respect of various non-essential items? That is something which I would like to know. I feel, there should be very strict action which should be taken in this regard, to ensure that the capacity for non-essential items are not increased.

Sir, because of de-licensing and de-control what has happened? What has happened is that the regional disparities have increased. I belong to the State of Jammu and Kashmir. So far as petroleum is concerned, it is much more expensive there than in the rest of the country. I don't understand why this could not be taken into consideration, and the policy reversed. I want also to bring it to the notice of the Minister that these companies are importing crude oil from abroad and are paying 5 per cent higher price than the world market price. I can't understand why Indian Oil Company cannot import crude so that they can save at least 5 per cent of the foreign exchange.

With these words I support the Bill.

श्री कंवर लाल गुप्त : मैं केवल एक प्रश्न पूछना चाहता हूँ—मेरा प्रश्न यह है कि मंत्री महोदय बतायें कि आया मोनोपली आहिस्ता-आहिस्ता कम हो रही है, इस को वाच करने के लिये क्या कोई मशीनरी बनाई है। ऐसा न हो कि 10 साल के बाद—जैसा 1950 के बाद 1960 में महसूस हुआ कि मोनोपली बढ़ रही है, तब आप न केमटी बनाई। यह मोनोपली इस बिल के द्वारा कम हो रही है इस को वाच करने के लिये आपने क्या मशीनरी बनाई है?

श्री चन्द्रिका प्रसाद (बलिया) : उपाध्यक्ष महोदय, मोनोपली तो यहां भी दिखाई पड़ रही है। जितने आदमी आगे बैठे हैं, उनको आप मौका देते हैं, लेकिन जो पीछे बैठे हैं उन को मौका नहीं देते हैं। हम भी इस मामले में बोलना चाहते हैं। हमारे देश में मोनोपली बहुत जोरों से बढ़ी है, देश का सारा धन 50 परिवारों में बटा हुआ है, इसको रोकने के लिये और अधिक से अधिक परिवारों को धन मिले, इसी उद्देश्य से यह बिल यहां लाया गया है। यह बिल बहुत क्रान्तिकारी बिल है, मैं इसका हृदय से स्वागत करता हूँ और समर्थन करता हूँ। लेकिन दुख यह होता है कि जब आपकी लिमिट 20 करोड़ की है, तो सारी उम्मीदें खत्म हो जाती हैं। इस 20 करोड़ की लिमिट को कम करना चाहिये, ताकि गरीब लोगों का भी भला हो सके।

हमारी एमेण्डमेन्ट थी कि जो कमीशन बनेगा उस में अधिक से अधिक पब्लिक के लोगों को रखा जायगा, उस में पब्लिक एप्रोच होगा। आपने पब्लिक वर्क्स के लिए केवल 2 का प्रोविजन रखा है, जब कि मैंने अपनी एमेण्डमेंट में 5 के लिए प्रस्ताव पास किया था ताकि कमीशन में पब्लिक एप्रोच हो, जितना पिछड़ा हुआ वर्ग है, जितने पिछड़े हुए इलाके हैं, उन में इण्डस्ट्रीज बढ़ सके प्राइवेट सैक्टर का काम बढ़ सके, जिससे गरीबों को रोटी मिल सके, काम धन्या मिल सके और धन का सही बटवारा हो सके।

THE MINISTER OF INDUSTRIAL DEVELOPMENT, INTERNAL TRADE AND COMPANY AFFAIRS (SHRI F. A. AHMED): Mr. Deputy Speaker, Sir, I am indeed grateful to the many hon. Members who have tabled large number of amendments and have taken a very keen interest in helping me to pilot this Bill. According to the Business Advisory Committee, nearly 10½ hours were allotted for the disposal of this Bill for all the stages but I find that as much as nearly 14 hours have been taken by this House. There are large number of amendments and all of them could not be moved and some had to be guillotined because of the general consensus so far as the disposal of the Bill is concerned. Those Members who had tabled their amendments would have felt disappointed because they had no opportunity to place their point of view which I feel ought to have been placed; and I am sure they had made certain suggestions in the interest of the country and for the purpose of improving the provisions of the Bill. As I said in the beginning I was also anxious that the Bill as has been sent by the Rajya Sabha should be passed by this House, but it is a question of acquiring experience and I have no doubt that with the good deal of experience and also large number of matters which have been recommended by the Dutt Committee, the recommendation of the Planning Commission etc., all these factors will be taken into consideration. I shall also further look into the various suggestions given by the hon. Members on these amendments. If on account of the various reasons given by them any modification is called for, I shall certainly bring such amendments as are called for at the earliest opportunity.

So far as the basic principles and the objectives of the Bill are concerned, there were two opinions in this House. One opinion was more or less opposed to the passing of such a legislation. But, I am glad, such opinion was shared only by a very small number of Members of this House—we may have difference of opinion with regard to several matters—by and large overwhelming

[Shri F. A. Ahmed]

number of Members accepted and supported the concept and the objectives behind the provisions of this Bill.

It is true, according to some Hon. Members, the Bill has not gone very far and they would have liked to make it more effective, more vigorous, in order to check monopoly. The question raised by my hon. friend Shri Kanwar Lal Gupta is whether action will be taken by us to check monopolies or whether the monopoly will be reduced in the future. As I said, this provision will provide an opportunity where there will be a body appointed permanently to look into this question and wherever the tendency of monopoly is seen, that Commission will see to it that the tendency is checked and monopoly is not allowed to increase in the country.

But, as I said, this Bill by itself is not sufficient to check the tendency towards monopoly. We shall have to consider and tighten other measures also to check this tendency. I can assure Shri Gupta that when the House has accepted this policy and the country is very anxious to check this tendency, we shall see that it is checked. At the same time, we must also see that production increases because without it is not possible to solve many other problems confronting us, particularly the problem of poverty. So we have to strike a mean between these two objectives: the rate of industrial and economic growth must be accelerated but while pursuing that goal we must also see that the socio-economic objectives we have accepted and which the country is very anxious to implement are also recognised and attained.

I know many of the amendments moved from the Swatantra benches were tending only towards one direction. They wanted the Bill to become more conservative and to weaken the power of the Bill to check monopolistic tendencies. The other attempt made by them was to include public undertakings or undertakings controlled by Government, Government corporations and so on within the meaning of 'monopoly'.

I have not been able to understand it.

SHRI D. N. PATODIA: He will not.

SHRI F. A. AHMED: How can government undertakings come under this definition?

SHRI D. N. PATODIA: Why not?

SHRI F. A. AHMED: Monopoly is a feature which is likely to be detrimental to public interest.

SHRI D. N. PATODIA: Government monopoly is definitely detrimental; I gave illustrations.

SHRI F. A. AHMED: I entirely differ. I know he quoted a case and said if a consumer does not get the commodity he wants or if he has to pay a higher price for it.

SHRI S. S. KOTHARI: LIC premium rates, STC's profiteering—these are instances.

SHRI F. A. AHMED: We must realise that public undertakings are subject to the supervision of this House and if anything goes wrong, it can be set right in the public interest. But not so with private enterprise. There is no one to take care of that aspect; they can only grow for the good of a few, they do not care for the good of the common people or the country as a whole. That is why there can be a monopoly in respect of a public sector, but we cannot allow a monopoly in a private undertaking. There our views are entirely different from those of the Swatantra Benches.

I am glad that Shri Gupta and some of the other members of his party who at one time were thinking in that line have veered towards this line. This was evident in their speeches and in some of their amendments.

Shri Himatsingka referred to cl. 38. The phraseology is more or less the same as in the UK law. I do not know what objection he has.

SHRI HIMATSINGKA: The scheme here is quite different. All agreements will be registered and they are not bad by themselves. They will become bad if the Commission gives an adverse finding that they had raised their prices and so on. The clause

here says that all agreements registered will be regarded as prejudicial unless the Commission comes to a positive finding that they are necessary and they will not raise prices etc. That is automatically they would become bad unless the Commission gives a positive finding in their favour. This is putting it negatively.

SHRI F. A. AHMED: The presumption is that all agreements which tend to bring about restriction of trade are bad unless reasons are given on account of which the Commission comes to a finding that they are not prejudicial to public interest.

SHRI HIMATSINGKA: There is another provision whereby all agreements registered, whether bad or not, will all be regarded as bad unless there is a positive finding by the Commission.

SHRI F. A. AHMED: We would not allow agreements registered which stand in the way of the operation of this Bill. They have been brought within the purview of the Bill. We do not want to leave a loophole thereby excluding agreements entered into which are detrimental to public interest.

The original provision in the original Bill actually provided the circumstances in which a trade practice would be deemed to be prejudicial to the public interest. The question as to whether such practice was in existence was left to be determined by the Commission. But the Joint Committee felt that instead of leaving the matter to them, it should be specified on the basis of which the Commission can come to a finding whether it is prejudicial to public interest.

SHRI HIMATSINGKA: Automatically it will be regarded as bad unless there is a positive finding.

SHRI F. A. AHMED: Here an improvement has been made. Some indications have been given that for these reasons at least they cannot be regarded as prejudicial to public interest. This is an improvement over the original Bill which the Committee made to meet the objection.

As I pointed out earlier, our objective is not to restrict economic or

industrial development, but to check such tendencies as are against our socio-economic objectives which we have accepted and for which the country is anxious. I am very glad that an overwhelming number of Members of this House have given support to these concepts and objectives and I, therefore, commend my motion for the acceptance of this House.

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

17.50 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF FOREIGN EXCHANGE REGULATION (AMENDMENT) ORDINANCE

AND

FOREIGN EXCHANGE REGULATION (AMENDMENT) BILL

MR. DEPUTY SPEAKER: The Bill and the Resolution are to be taken up together. The time allotted is three hours.

SHRI KANWAR LAL GUPTA (Delhi Sadar): I beg to move:

"This House disapproves of the Foreign Exchange Regulation (Amendment) Ordinance, 1969 (Ordinance No. 9 of 1969) promulgated by the President on the 13th November 1969".

उपाध्यक्ष महोदय अपने डिस्पूचल के प्रस्ताव को पेश करते हुए मैं आर्डिनेन्स की स्पिरिट का तो स्वागत करता हूँ क्योंकि मैं इस के विरुद्ध नहीं हूँ और मैं समझता हूँ कि आज अन्डर-इन्वायर्सिग और ओवर-इन्वायर्सिग तथा फारेन एक्स्चेंज को बचाने की जो बीमारी हमारे देश में चली है उसको रोकने के लिए यह आर्डिनेन्स लाया गया है। लेकिन मुझ को इस पर दो ऐतराज हैं। एक ऐतराज तो इस बात पर है कि यह आर्डिनेन्स 13 नवम्बर को इशू किया गया था जब कि पार्लियामेंट 17 तारीख को शुरू होने वाली थी