

LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

11895

LOK SABHA

Friday, 2nd September, 1955.

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER in the Chair.]

QUESTIONS AND ANSWERS

(See Part I)

12.01 P.M.

PAPERS LAID ON THE TABLE

SUMMARY OF PROCEEDINGS OF 14TH SESSION OF INDIAN LABOUR CONFERENCE

The Deputy Minister of Labour (Shri Abid Ali): I beg to lay on the Table a copy of the Summary of Proceedings of the Fourteenth Session of the Indian Labour Conference held at Bombay in May, 1955. [Placed in Library. See No. S-291/55.]

MESSAGES FROM RAJYA SABHA

Secretary: Sir, I have to report the following two messages received from the Secretary of Rajya Sabha:

(i) "In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 31st August, 1955, agreed without any amendment to the Delhi Joint Water and Sewage Board (Amendment) Bill, 1955, which was passed by the Lok Sabha at its sitting held on the 2nd August, 1955".

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(ii) "In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on the 31st August, 1955, agreed without any amendment to the Abducted Persons (Recovery and Restoration) Continuance Bill, 1955 which was passed by the Lok Sabha at its sitting held on the 23rd August, 1955".

CORRECTION OF ANSWER TO STARRED QUESTION

The Deputy-Minister of Communications (Shri Raj Bahadur): I beg to lay on the Table a statement correcting the reply given to Starred Question No. 813 on the 17th August, 1955, regarding the export of Dakota aircraft to Afghanistan. The reply to the question contained in the statement was incomplete due to clerical inadvertence. (See Appendix V, annexure No. 48).

COMPANIES BILL—Contd.

Clauses 251 to 283

Mr. Speaker: The House will now resume further consideration of Clauses 251 to 283 of the Companies Bill. A list of selected amendments to these clauses has already been circulated to hon. Members last night.

Out of 3½ hours allocated to these clauses, 2 hours and 55 minutes have already been availed of yesterday and 35 minutes now remain. This would mean that these clauses will be disposed of now, immediately, and I would call upon the Minister to reply.

Shri G. D. Somani (Nagaur-Pali): An assurance was given by the Deputy-Speaker yesterday that an opportunity will be given for a proper consideration of the issue involved in these clauses. Only a few minutes are left and I therefore request you to kindly allow some more time which might be made up, as the Deputy-Speaker suggested, by sitting longer next week. That was agreed to by the House.

Mr. Speaker: I do not know. The Deputy-Speaker will explain the position.

Shri M. A. Ayyanger (Tirupati): Yesterday, I think there was half-an-hour discussion to be had, but that was given up. I suggested to the House that, in view of the importance of the subject on hand and because a number of hon. Members intended to speak and rose in their seats, we might sit for half-an-hour more. The House did not agree but then I suggested that at least today the House must be sitting an hour more so that good justice may be done to all the clauses if in case a number of hon. Members wanted to speak. They ultimately agreed that from the 5th to the 9th September, both days inclusive,—on every one of these days—the House will sit for one hour more, that is, from 5 P.M. to 6 P.M. By that arrangement, I thought, some more time may be given to these clauses today. That was the general understanding. The House also agreed to sit continuously and not put off the Companies Bill beyond the originally agreed date. If the House agrees to that and continues to stand by that arrangement, I think you may give some time more.

Mr. Speaker: Does the House wish to sit longer every day next week?

Some Hon. Members: That was agreed to.

Mr. Speaker: Do I understand that the House wants to sit today for one hour longer?

Some Hon. Members: No, no. That is from the 5th instant.

Mr. Speaker: The position seems to be that the allotted time is being exceeded every day in the hope of adjustment later on, but that adjustment does not come later on.

Shri C. C. Shah (Gohilwad-Sorath): The position is this. This is a very important group of clauses as also the next one. The group of clauses beginning after clause 388 and ending with clause 612, to which 22 hours have been allotted, may not require that much time. I submit that the House rightly agreed to a little more time.

Mr. Speaker: I have no objection, and I am entirely in the hands of the House. But I am not quite sure as to whether the 22 hours will not be availed of and whether a demand may not come at the end, again, to sit for a longer time in view of the importance of this group of clauses. So I want to be sure that we finish the whole Bill by the allotted time. That is the whole point. If the House likes to sit longer, I have no objection. But today, do we sit longer? We do not, I believe.

Some Hon. Members: No, no.

Mr. Speaker: Very well. For this group, what is the time? Let me be quite clear on that point.

Shri Bansal (Jhajjar-Rewari): One hour more.

Mr. Speaker: Very well. That means, 35 minutes now remain.

Shri Heda (Nizamabad): The Minister said he would take about 20 minutes.

Mr. Speaker: Yes, after deducting that, about 35 minutes remain for others.

The following is the list of selected amendments to clauses 251 to 283.

which the hon. Members have indicated to be moved, subject to their being otherwise admissible:

<i>Clause Nos.</i>	<i>Amendment Nos.</i>
251	737, 738
252	578, 579
254	224, 739, 415, 740, 416, 808, 809, 810
254A (New)	741
255	417
259	580, 757, 742
260	581, 758, 743, 420, 744, 421
263	512
264	513, 745, 227, 550, 228, 229
265	514
266	656 (Govt.), 424, 763
267	657 (Govt.) 64, 658 (Govt.)
269	765
272A (New)	746
273	769, 770, 128, 515, 129, 771, 516.
274	102
275	781.
279	799, 518, 798 (same as 518.), 519, 583, 358 (Govt.), 584
280	585, 520, 521, 522, 586 (same as 522).
281	523, 587, 588, 589.
282	130, 524, 796, 131.
283	231, 659 (Govt.), 425.
283A (New)	232.

Clause 251.—(Minimum number of directors.)

Shri Sadhan Gupta (Calcutta South-East): I beg to move:

(1) Page 135, line 6—

add at the end:

"of whom the employees of the company who are workmen within the meaning of the Industrial Disputes Act (XIV) of 1947, shall elect from amongst themselves one-fourth of the total number of directors or one director whichever number is greater".

(2) Page 135, line 8—
add at the end:

"of whom the employees of the company who are workmen within the meaning of the Industrial Disputes Act (XIV) of 1947 shall elect from amongst themselves one-fourth of the total number of directors or one director whichever number is greater".

Clause 252.—(Only individuals to be directors.)

Shri Tulsidas (Mehsana West): I beg to move:

(1) Page 135, line 11—

after "to be directors" insert
"(1)".

(2) Page 135, after line 13 add:

"(2) nothing in sub-section (1) above shall apply to a company not managed by a managing agent or secretaries and treasurers."

Clause 254.—(Appointment of directors etc.)

Shri Asoka Mehta (Bhandara): I beg to move:

Page 135,—

for clause 254, substitute:

"254. The directors of a company shall be—

(a) persons elected by members of the company at a general meeting according to the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise, the appointments being made once in every two years; and

(b) in case of a company employing more than one hundred persons, two employees from amongst them to be elected at a general meeting of such employees, the appointments being made every two years."

Shri Sadhan Gupta: I beg to move:

Page 135, line 20—

for "two-thirds" substitute "three-fourths".

Shri N. P. Nathwani (Sorath): I beg to move:

Page 135, line 21—

after "a public company" insert
"excluding directors if any appointed under section 407".

Shri Sadhan Gupta: I beg to move:

Page 135, line 22—

after "public company" insert:

"including any director or directors elected by the employees under Section 254A".

Shri N. P. Nathwani: I beg to move:

Page 135, line 23—

before "be persons" insert
"except where directors are appointed under section 264".

Pandit K. C. Sharma (Meerut Distt.—South): I beg to move:

(1) Page 135, line 28—

add at the end:

"by the system of proportional representation by single transferable vote".

(2) Page 135, lines 29 and 30—

omit "in default of and subject to any regulations in the articles of the company".

(3) Page 135, line 31—

add at the end:

"by the system of proportional representation by single transferable vote".

New Clause 254-A.

Shri Sadhan Gupta: I beg to move:

Page 135—

after line 31 insert:

"254 A. Election of Directors by employees.—(1) The employees of a company who are workmen within the meaning of the Industrial Disputes Act (XIV) of 1947, shall elect by secret ballots from amongst themselves, one director or a number of directors equal to one-fourth of the total number of directors, whichever number is greater.

(2) A director elected under subsection (1) shall hold office—

(a) if elected before the statutory meeting from the date of such meeting to the day previous to the date on which the annual general meeting is held; and

(b) if elected before any annual general meeting, from the date on which such annual general meeting is held till the day previous to the date on which the next annual general meeting is held.

(3) The said employees shall at any time be entitled to elect such number of directors as may be necessary to make the number of such directors equal to the fourth of the total number of directors, and shall elect such directors when additional directors are appointed under Section 259".

Clause 255.—(Provision regarding directors, retiring etc.)

Shri N. P. Nathwani: I beg to move:

Page 135, lines 36 to 40—

for "and at every subsequent annual general meeting, one-third of such of the directors for the time being as are liable to retire by rotation, or if their number is not three or a multiple of three, then the number nearest

to one-third, shall retire from office" substitute:

"and at every subsequent annual general meeting, one-third of the directors for the time being, excluding directors if any, appointed under clause 407, or, if that number is not three or a multiple of three, then the number nearest to one-third, shall retire from office."

Clause 259.—(Additional directors)

Shri Tulsidas: I beg to move:

Page 137, lines 18 and 19—

for "in section 254, 257, or 258" substitute "in section 254 or 257".

Shri K. K. Basu: (Diamond Harbour): I beg to move:

Page 137, after line 25, add:

"Provided further that on the application of any member or employee, the Central Government may enquire into grounds of such appointment and if satisfied that such appointment has been made unnecessarily and not in the interest of the company the Central Government may annul such appointment; and on such decision the additional director will cease to be such director."

Shri Sadhan Gupta: I beg to move:

Page 137—

(i) line 23,

after "provided further" insert "(a)"

(ii) after line 25 inserts

"(b) that appointment of additional directors shall not be made so as to reduce the number of directors elected under section 254-A to less than one-fourth of the total number of directors".

Clause 260.—(Certain persons connected with managing agent etc.)

Shri Tulsidas: I beg to move:

Page 137, lines 29 and 30—

for "and such managing agent is authorised by the articles to

appoint any director to the Board" substitute:

"and such managing agent, being so authorised by the articles, appoints any director to the Board."

Shri K. K. Basu: I beg to move:

Page 137, line 34—

add at the end:

"but subject to the approval of the Central Government".

Shri Krishna Chandra (Mathura Distt.—West): I beg to move:

Page 137, line 35—

after "officer" insert "or his relative".

Shri K. P. Tripathi (Darrang): I beg to move:

Page 138—

for lines 6 and 7, substitute:

"(f) any associate of a managing agent; or"

Shri Krishna Chandra: I beg to move.

Page 138—

after line 12 add:

"(h) any associate of the managing agent".

Shri N. P. Nathwani: I beg to move:

Page 138—

after line 16, add:

"(h) any associate of the managing agent of the company".

Clause 263.—Consent of candidate for directorship etc.)

Shri C. R. Iyyunni (Trichur): I beg to move:

Page 139—

for clause 263 substitute:

"263. No person shall be appointed as a director of a company unless the general body is satisfied that he is agreeable to

[Shri C. R. Iyyunni]

the appointment. A letter of consent in writing is taken and filed before he attends a meeting of the Board."

Clause 264.— (Option to Company etc.)

Shri C. R. Iyyunni: I beg to move:

Page 139—

for clause 264 substitute:

"264. Notwithstanding anything contained in this Act or the articles of Association a company may, in a general meeting, appoint directors according to the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise:

Provided that a resolution to that effect, a notice of which has been given to the company before 21 days of the meeting is passed in the general meeting by a majority of votes in person or proxy".

Shri Barman: (North Bengal—Reserved—Scheduled Castes.). I beg to move:

Page 139, for clause 264 substitute:

"264. Adoption of proportional representation for the appointment of directors.—Notwithstanding anything contained in this Act, from the year commencing on 1st of April 1957 appointment of not less than two-third of the total number of directors of a public company or of a private company which is a subsidiary of a public company shall be held according to the principle of proportional representation whether by the single transferable vote or by a system of cumulative voting, the appointments being made once in every three years and interim casual vacancies being filled in accord-

ance with the provisions, *mutatis mutandis* of section 261.

The articles of associations of all new companies will be framed accordingly and those of existing companies suitably modified before that date."

Shri N. P. Nathwani: I beg to move:

(1) Page 139,

(i) line 20, omit "option to"

(ii) line 22, for "may" substitute "shall".

(2) Page 139—

(i) line 21, after "directors.—" insert "(a)".

(ii) line 22, after "articles of a" insert "public".

(iii) lines 24 and 25, omit "or of a private company which is a subsidiary of a public company".

(iv) after line 29, insert:

"(b) Notwithstanding anything contained in this Act, the articles of a private company shall provide for the appointment of directors according to the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise, the appointments being made once in every two years"

(3) Page 139, lines 24 and 25—

omit "or of a private company which is a subsidiary of a public company".

(4) Page 139, line 28—

for "three years" substitute "two years".

Clause 265.— Restrictions on appointment etc.)

Shri Ramachandra Reddi (Nellore): I beg to move:

Page 139—

for lines 44 to 45 substitute.

"(i) signed the memorandum for subscribing to shares not less than 50 in number or of a value not less than Rupees five hundred whichever is less, unless the articles provide for a higher qualification subject to the provisions of section 269 (3)"

Clause 266.— (Certain persons not to be appointed etc.)

The Minister of Finance (Shri C. D. Deshmukh): I beg to move:

Page 140, line 37—

for "managing director" substitute "managing or whole time director".

Shri N. P. Nathwani: I beg to move:

Page 140—

(i) for lines 38 to 44, substitute:

"(a) is an undischarged insolvent; or has at any time within the preceding five years been adjudged an insolvent; or

(b) suspends, or has at any time within the preceding five years suspended, payment to his creditors, or makes, or has at any time within the preceding five years made, a composition with them; or

(c) is, or has at any time within the preceding five years been convicted by a court in India of an offence involving moral turpitude."

(2) The Central Government may, by notification in the official Gazette, remove the disqualification incurred by any person in virtue of clauses (a), (b) and (c) of sub-section (1) either

generally or in relation to any company or companies specified in the notification.

(ii) line 45—

for "(2)" substitute "(3)".

Shri K. K. Basu: I beg to move:

Page 140—

omit lines 45 and 46.

Clause 267.— (Amendment of provision etc.)

Shri C. D. Deshmukh: I beg to move:

Page 141, line 5—

for "managing director" substitute "managing or whole time director".

Clause 268.— (Appointment of managing director etc.)

Shri Krishna Chandra: I beg to move.

Page 141—

for lines 16 to 21, substitute:

"managing director shall be made with the approval of the Central Government."

Shri C. D. Deshmukh: I beg to move:

Page 141, line 16—

for "managing director" substitute "managing or whole time director".

Clause 269.— (Time within which share qualification etc.)

Shri Krishna Chandra: I beg to move:

Page 141, line 35—

after "shall" insert:

"Vary with the amount of the subscribed capital of the company and shall be laid down by rules and it shall".

New Clause 272-A.

Shri Sadhan Gupta: I beg to move.

Page 142—

after line 9 insert:

"272A. Prohibition of appointment of tax-evaders as directors.—(1) No person who has been found guilty by any Court or Tribunal or other competent authority of evading any tax payable by him, shall be appointed as director of any company.

(2) Any person, on being found guilty as aforesaid shall forthwith vacate the office of a director.

(3) In the case of a person who has been found guilty as aforesaid before the commencement of this Act the provisions of sub-section (2) shall apply as if he had been found guilty as aforesaid at the date of commencement of this Act.

(4) This section shall apply notwithstanding any want of jurisdiction in the Court or Tribunal on account of any technical defect in its constitution or composition."

Clause 273.—(Disqualification of directors.)

Shri Krishna Chandra: I beg to move:

(1) Page 142, line 10 and 11—

for "not be capable of being appointed directors" substitute "not remain a director".

(2) Page 142, line 18—

for "and" substitute "involving moral turpitude or".

Shri Rane (Bhusaval): I beg to move:

Page 142, line 18—

after "offence" insert "involving moral turpitude".

Shri Ramachandra Reddi: I beg to move:

Page 142, line 18—

after "offence" insert "not being an offence under this Act, involving moral turpitude".

Shri Rane: I beg to move:

Page 142, line 19—

for "for not less than six months" substitute "for more than two years".

Shri K. K. Basu: I beg to move:

Page 142, line 21—

after "partner" insert "or any private company of which he is a member".

Shri Ramachandra Reddi: I beg to move:

Page 142—

omit lines 29 to 36.

Clause 274.—(No person to be a director of more than twenty companies.)

Shri M. S. Gurupadaswamy: I beg to move:

Page 143, line 5—

for "twenty companies" substitute "ten companies".

Clause 275.—(Choice to be made etc.)

Shri Krishna Chandra: I beg to move:

Page 143—

after line 28, add:

"(4) If any person, in contravention of the above provisions, continues to be the director of more than twenty companies his directorship in each of these companies will become void."

Clause 279.—(Age limit etc.)

Shri Krishna Chandra: I beg to move:

Page 144, line 29—

after "appointed" insert "or remaining".

Shri Ramachandra Reddi: I beg to move:

Page 144, line 31—

for "sixty-five years" substitute "seventy years".

Shri Krishna Chandra: My amendment No. 791 is the same as No. 518 moved by Shri Reddi.

Shri C. R. Iyyunni: I beg to move:

Page 144, line 31—

for "sixty-five years" substitute "seventy-five years".

Shri Tulsidas: I beg to move:

Page 144, line 35—

for "sixty-five years" substitute "seventy years".

Shri C. D. Deshmukh: I beg to move:

Page 144, line 42—

for "completed" substitute "attained".

Shri Tulsidas: I beg to move:

Page 144, line 42—

for "sixty-five years" substitute "seventy years".

Clause 280.—(Age limit not to apply etc.)

Shri Tulsidas: I beg to move:

Page 145—

for lines 4 to 9 substitute:

"280. Age limit not to apply if company so resolves.—(—) A company may, by a special resolution, provide for an age limit other than that provided by section 279, or provide that no age limit shall apply to its directors."

Shri Ramachandra Reddi: I beg to move:

Page 145, line 6—

for "sixty-five years" substitute "seventy years".

Shri C. R. Iyyunni: I beg to move:

(1) Page 145—

for lines 10 and 11 substitute:

"(2) No previous notice of such a resolution is required to be given before the meeting."

(2) Page 145—

omit lines 12 to 14.

Shri Tulsidas: My amendment No. 586 is the same as No. 522 moved by Shri Iyyunni.

Clause 281.—(Duty of director to disclose age.)

Shri C. R. Iyyunni: I beg to move:

Page 145, line 17—

for "sixty-five years" substitute "seventy-five years".

Shri Tulsidas: I beg to move:

(1) Page 145, line 17—

for "sixty-five" substitute "seventy".

(2) Page 145, line 18—

for "lower age" substitute "other age".

(3) Page 145, line 19—

after "articles" insert "or special resolution".

Clause 282.—(Vacation of Office by directors.)

Shri Rane: I beg to move:

Page 146—

for lines 6 to 8 substitute:

"(e) he is convicted by a Court in India of any other offence and is sentenced in respect thereof to

[Shri Rane]

transportation or to imprisonment for not less than two years;".

Shri Ramachandra Reddi: I beg to move.

Page 146 line 6—

after "offence" insert:

"not being an offence, involving moral turpitude".

Shri Krishna Chandra: I beg to move:

Page 146, line 7—

for "and" substitute "involving moral turpitude".

Shri Rane: I beg to move:

Page 146—

for lines 26 to 39 substitute:

"(2) Notwithstanding anything in clause (c), (d) and (e) of sub-section (1), disqualification referred to in those clauses shall not take effect until thirty days have elapsed from the date of such disqualification, or if within those thirty days an appeal or revision petition is filed in respect of the adjudication, conviction or sentence, until that appeal or revision petition is disposed of."

Clause 283.—(Removal of directors.)

Shri N. P. Nathwani: I beg to move:

Page 147, lines 1 and 2—

for "ordinary resolution" substitute "special resolution".

Shri C. D. Deshmukh: I beg to move:

Page 147, line 2—

after "director" insert "(not being a director appointed by the Central Government in pursuance of section 407)".

Shri N. P. Nathwani: I beg to move:

Page 147—

after line 6 add:

"Provided further that this sub-section shall not authorise

the removal of a director appointed under the provisions of section 407."

New Clause 283-A.

Shri Asoka Mehta: I beg to move:

Page 148—

after line 13, add:

"283-A. Notwithstanding anything contained in this Act, the permanent employees of every company employing one hundred persons or more, shall be entitled to elect from amongst themselves at the time of the annual general meeting of the company, two persons to hold the office of Directors of the company until the next elections."

Mr. Speaker: All these amendments are before the House for discussion.

Shri Bansal: I rise to oppose the amendments moved by my friends Shri Nathwani and Morarka regarding proportional representation. Shri Morarka and Shri Nathwani yesterday gave a very imposing array of arguments in favour of their amendments.

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

I really appreciate the very brilliant and cogent arguments given by my friend Shri Nathwani, but when I consider the speech of my hon. friend Shri Morarka, I cannot help feeling that he was protesting a bit too much. He referred to my previous speech and had something to say about my association with the late Shri J. J. Kapadia. He also challenged my statement that Bombay Shareholders' Association had not wanted proportional representation and he referred to the Evidence volume in which the Bombay Shareholders' Association seemed to have suggested some change in the method of representation on the Board of Directors. But I do not know why Shri Morarka should be knowing the reasons—he did not quote those particular relevant portions where they definitely are supposed to have demanded proportional representation. I do not want to go

into the history of those clauses, but I will invite the attention of my friend Shri Morarka to the evidence before the Joint Committee, where the accredited representatives of the Bombay Shareholders' Association led by Shri Maganlal were present and my friend, Shri Avinasalingam Chettiar, asked them certain questions relating to these very aspects of the Bill. Shri Chettiar asked, "would you like to provide any safeguards for small shareholders?" Shri Maganlal replied, "there are provisions by which minority shareholders are protected against even big majority. Ten per cent. of the shareholders can ask for inspection. I think that is a sufficient right for the small shareholders." Shri Chettiar again asked, "how will you react to the suggestion that in the directorate by some way of election or representation, a minority shareholder may also get a seat?" Shri Maganlal replied, "I believe then the minority majority questions will go on. After all, the election of a directorate is on a majority basis and I do not want that this principle should be vitiated." I would like my friend Shri Morarka to note this phrase: "Minority majority questions will go on." Shri Chettiar again asked, "do you not like to introduce proportional representation for minority shareholders on the Board?" Shri Maganlal replied, "no". This is what the representatives of the Bombay Shareholders' Association have said before the Joint Committee, where my friend Shri Morarka was very much present and where in fact he had asked a very large number of questions. Shri Nathwani quoted from a letter which the Bombay Shareholders' Association seemed to have written to the Finance Minister. I do not know what happened in Bombay between the time when they came to give evidence before the Joint Committee and the time when this House has taken up the clause-by-clause consideration of this Bill. Both Mr. Nathwani and Morarka belong to Bombay and surely they know better what has passed on in Bombay and in the committee of the Bombay Shareholders' Association.

An Hon. Member: Nothing happened.

Shri Bansal: Something must have definitely happened after the Bombay Shareholders' Association expressed their view before the Joint Committee. I am just saying that I do not know what happened.

Shri N. P. Nathwani: Has my hon. friend referred to the memorandum which was also submitted by the Bombay Shareholders' Association to the Bhabha Committee?

Shri Bansal: I do not know what they have said in their memorandum to the Bhabha Committee; but in the memorandum which they gave to the Joint Committee, they never made any suggestion about proportional representation. That is all I had said in my previous speech.

I would very humbly ask the House to consider one aspect. What is the minority we are talking of? Is it the minority of the incoherent large number of shareholders or is it the minority of a few people who own 10 or 15 per cent. shares? Let us be very clear on this point as to which minority we are talking of. Are we talking of the minority of the vast majority of shareholders or are we talking about the minority of those people who hold a group of shares in their hands, and who, because they cannot get elected to the Board of Directors, are anxious to get elected?

Shri Morarka quoted from the speeches which were made on the floor of this House in 1936, 20 years back. He quoted from respected leaders like Pandit Pant. But it was all in 1936 and now we are in 1955. Shri Morarka will ask me, "what is the change that has taken place?" I would humbly tell him what is the change that has taken place. At that time we had the European managing agency houses and they were dominating the economic scene of this country. Although Indian shareholders held up to 20 or 25 per cent. of shares in their companies, they were never

[Shri Bansal]

allowed to go near the Board of Directors of those European companies. My friend knows how the phrase "guinea-pig directors" came into vogue. It was under those circumstances that the nationalist point of view was being asserted in this House for the introduction of proportional representation. If I may tell my friend Shri Morarka, that was the stand taken by the Indian businessmen of this country at that time, because our economy was being dominated by the European managing agency houses. Shri Morarka quoted from a businessman who used to sit on the Treasury Benches at that time. I do not want to name that gentleman; he is a very respected friend of mine. But lest the House should be carried away by Shri Morarka's assertions and protestations, I am telling this. In 1936, an employers' federation was formed by leaders of Indian business under Shri Walchand Hirachand. The then Minister for Commerce and Industry, Shri Frank Noyce, called this very friend of mine to form another employers' federation on which the majority of European employers was represented. So, that friend was playing that part at that time, supporting foreign managing agency houses in this country. That was why he was opposing proportional representation.

Shri K. K. Basu: Say "supporting".

Shri Bansal: Today the picture is quite different. Indian businessmen have come into most of the managing agency houses.

Shri N. P. Nathwani: May I put one question? Is my friend aware of the fact that when Shri Govind Ballabh Pant referred to the directorates of the textile mills at Ahmedabad, all these 106 directorates were filled by the members of 64 families, preventing young and talented skill from entering into the directorates?

Shri Bansal: I may submit that I am not such an expert as my friend Shri Nathwani. I am giving to the House

whatever arguments I am capable of to the best of my ability. What I am suggesting is that the scene today is quite different and it is no use quoting what was said in 1936. A man got chill in winter and the doctor advised him to cover himself up properly with five blankets; the man again got chill in summer and he repeated the same thing, with the result he died of suffocation. Therefore, we have to use of appropriate medicine at the appropriate time. There is no use quoting in 1955 what was said in 1936.

Mr. Deputy-Speaker: Minority directors are expected to fumigate the rest.

Shri Bansal: The point to consider is, what is the minority we are talking of? The analogy of the Muslim League has been given; the analogy of so many political parties has been given. But I ask, who are minority shareholders? Will any Member here suggest that these represent the minority? I can understand managing agents holding a group of shares and the other people who are not managing agents being in the opposition against the managing agents. But that opposition may be in majority or minority. In a large number of cases in our country, managing agents do not hold majority shares. It might be that in some companies they hold a majority of the shares; but in most of the companies, managing agents do not hold a majority of shares. Therefore, what is the meaning of minority in those cases? This question of minority and majority is a mere red herring, so that the disgruntled people who own group of shares, 10 or 15 per cent. of shares might get into the Board of Directors. It is a red herring only created by them. I would request the House to consider very calmly this question and if they come to the conclusion that it is in the interests of the country to allow representation to this kind of minority, then they are welcome. But as I said, there is a real danger of

disparous tendencies developing in the Board of Directors to the detriment of company management. This Company Law Report is always referred to like the Bible by my friends who are championing the cause of proportional representation.

Mr. Deputy-Speaker: Why are you quoting from their Bible?

Shri Bansal: I am quoting their Bible for their sake and for their edification. Is there anything here to support proportional representation? Has this Committee said anything in support of proportional representation? Certainly, according to Shri Morarka, this question was very much before the Company Law Committee. The shareholders, according to them, had made a detailed representation on this question. But, how is it that even in spite of that and in spite of the fact that Shri J. J. Kapadia was a member, this Committee has not said anything about proportional representation. I do not want to quote from where they say what safeguards they are suggesting for oppression of minority. But they have not suggested anything about proportional representation.

Mr. Deputy-Speaker: Have they considered it and said, No?

Shri A. M. Thomas (Ernakulam): They have not considered.

Shri Bansal: They have referred to the oppression of minorities.

Mr. Deputy-Speaker: Directly, was the question of proportional representation referred to them?

Shri A. M. Thomas: That aspect has not been considered by that Committee.

Shri Bansal: No.

Mr. Deputy-Speaker: So, it is neither the one nor the other.

Shri Bansal: The question was very much before them. As Shri Maganlal in his evidence before the Joint Committee said that the other safeguards are enough, my presumption

is that the Company Law Committee came to the conclusion that the other safeguards which they were providing were enough to meet the case.

Mr. Deputy-Speaker: Why did not they say specifically?

Shri Bansal: I do not know. I am drawing my own inference. Similarly, the House is also welcome to draw its own conclusion. My conclusion is that the Company Law Committee did not consider that question worthwhile after they came to the conclusion that they could secure safeguards to the minority interests by the other clauses which they have dealt with in their report and in the re-draft of the various clauses. That is the only short point that I am trying to make.

Shri Morarka gave the analogy of the Public Accounts Committee of this House. Again, I say, the Public Accounts Committee is on a different footing. Firstly, the Public Accounts Committee does not rule the country. Secondly, on the Public Accounts Committee, this method succeeds because there is a coherent minority. My communist friends are in a minority and form a coherent block. Similarly, there are other groups which form definite blocks. Therefore, proportional representation on the principle of cumulative voting has some meaning. Suppose, Sir, you were elected by cumulative voting by your constituency, how can any minorities exercise their voting rights? How can a constituency like that be divided into various groups so that minority representation could be given?

Mr. Deputy-Speaker: I would request the hon. Member to elucidate to the House this point. Voting power is given in proportion to the capital paid; that is, on the amount of capital which each person has paid. If a person has paid two-thirds of the capital, is it not likely that he will be able to get two-thirds of the directors? What he wants is that having got two-thirds, he must get all the directors elected by himself.

Shri K. K. Basu: Even if he has 51 per cent.

Mr. Deputy-Speaker: Each person is given the power according to the capital subscribed by him. Those who have paid the majority of the capital 51 per cent., want to have not only that percentage, but also power to control cent per cent. So far as directors are concerned, 51 becomes equal to 100. Is it wrong for the other 49 to say, I will apply the same principle and I shall get some other directors as I am entitled to? What is the injustice done? I am unable to follow. I believe the House also will like to have an elucidation.

Some Hon. Members: Yes.

Mr. Deputy-Speaker: Proportionately to the capital invested, each man has the right to vote. Those who have paid the majority of the capital will have a majority. But, the aim seems to be that they must have every director according to their choice. If they command 66 2/3 per cent. of voting strength, they want to have cent per cent. of the directors. Merely on the principle of 51 per cent. majority they want to claim cent per cent. power, and make the other people suffer.

Shri C. D. Deshmukh: I thought the hon. Member was making a limited point that there are certain circumstances in which proportional representation cannot give you proportionate representation, as in a constituency of 300,000 votes, each one has a vote and each one may wish to exercise it in a different way and only one person can be elected. He poses that question as I understood it. That is the only argument, whether it is right or wrong.

Mr. Deputy-Speaker: So far as politics are concerned, everybody has got a vote irrespective of any qualification. Here, we have a richer man and a poorer man.

Shri S. S. More (Sholapur): The instance of a single seat territorial constituency is not a good instance for the purpose of illustrating this proportional representation.

Shri Bansal: I was replying to an analogy by an analogy. I know analogies are not perfect.

Mr. Deputy-Speaker: What is the justice behind this? One would like to know that. I invest some money in the shares of a company. Is it not just that I should have voting strength in proportion to the amount of capital paid? If you say that so far as the directors are concerned, they must be the representatives of some other men and the minority owners should not have one to represent themselves, what is the justice?

Shri Bansal: That is exactly the position. A man has as many votes as he has shares in the company. He exercises the voting rights.

Mr. Deputy-Speaker: Let me exercise and get a director of my choice.

Shri Bansal: You are free to vote for the director of your choice.

Mr. Deputy-Speaker: But, I am drowned on the ocean of 51 per cent. There is no use of mincing facts. The 51 per cent. are able to get all the directors whereas their voting right is only equal to 51 or 75 or 60. They want to dominate over the rest and they begin to call the other fellows bad fellows. The hon. Finance Minister will try to convince me later on.

Shri C. D. Deshmukh: I am not taking sides in this.

Mr. Deputy-Speaker: If you say as if the whole thing is unjust, it passes my comprehension.

Shri C. D. Deshmukh: The hon. Member can explain himself better than I can. He was drawing attention to the impracticability....

Mr. Deputy-Speaker: That is another matter.

Shri C. D. Deshmukh:.... of a situation where 5,000 people with a theoretical right to elect a director have to elect 12 directors. In politics one can understand a minority or a majority: they may be 5, they may

be 10. Therefore, an individual right is subjected *ab initio* to another grouping, namely political group A, B, C, D, or E. There it is easy to work. Where in theory each voter has a separate right, out of 5,000 voters, if there are 5,000 candidates, and only 12 seats are to be filled, he asks how are you going to ensure that each man who may be regarded as a minority in himself gets his own director.

Shri Bansal: That was my point. I am very much obliged to the Finance Minister.

Mr. Deputy-Speaker: The percentage is not one in a thousand, but it is one in a hundred. Instead of losing the whole thing, at least 10 people will join and get one.

Shri C. D. Deshmukh: If they join together.

Mr. Deputy-Speaker: They will do so.

Shri S. S. More: Supposing 12 directors are to be elected, what is the harm if 12 votes are given to each shareholder which he can give to one person?

Shri Bansal: He can always give. You can give 12 votes to any director you like. What I say is that the conflict which is supposed to be there between a group of minority shareholders, say your 49 per cent. and 51 per cent., where is it?

Mr. Deputy-Speaker: It is not a question of conflict.

Shri Bansal: A conflict will arise say if there are 5 or 6 shareholders holding some blocks of shares and they place themselves in opposing blocks.

Mr. Deputy-Speaker: We will assume a case where all the 49 per cent. of the voters want some representative. They all join together. Unless there is proportional representation, they may not have a single representative. The 51 per cent. will drown the 49 per cent. Is that not so?

Shri Bansal: They will drown not in the deep sea. What is this drowning? I want to know what is this drowning, what for?

Mr. Deputy-Speaker: What I am saying is this. It is always implied that at least the majority will have to join together for the purpose of harmonious working. At least 51 per cent. of the shareholding must combine to have a harmonious directorate. That is implied. Every hon. Member who supports this implies it. There may come a time when they will quarrel with one another and there may not be 51 per cent. at all coming together.

Shri C. D. Deshmukh: That is right, but the commoner case will be where large blocks of shares will belong to certain groups or persons who have already joined together for other purposes. It is far more difficult for the individual voter to join together with somebody else, and secondly, the individual voter may change. It is only at the time of the election. Stockholding is something quite different from membership of a political party. Even political parties are known to change their principles and membership, but that does not happen so quickly, in such rapid succession as change of shares in the market. Therefore, this minority is a kind of transient thing, and what will happen really under proportional representation is that small powerful groups of 10, 15 or 20 per cent. will try to get their representatives. In other words, it is a means of getting a small minority in a rather large majority.

Pandit Thakur Das Bhargava (Gurgaon): This principle ought to be introduced in private companies.

Mr. Deputy-Speaker: What is the harm if a small minority comes in out of 12?

Shri Bansal: That will always be a question of opinion. As I had pointed out on the last occasion, in recent years certain cases of gross mismanagement of companies have come

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to light, and to the best of my knowledge that statement has not been challenged even by Shri Morarka; the difficulty there was this kind of minority to which the Finance Minister referred, got control or were trying to get control of the Board of Directors. And that is why we saw this kind of gross mismanagement of those companies with the result that Government in many cases have had to interfere. And therefore, my anxiety is to avoid this kind of bad name coming to the companies. That is exactly what I am trying to impress on the House.

These are things where there will be always difference of opinion, and I know opinion is very sharply divided, but I just try to the best of my ability to answer some of the points raised by Shri Nathwani and Shri Morarka.

One more point and I will finish. Shri Morarka referred to this system being prevalent in America. The Finance Minister in his speech had pointed out that even in America in one of the most industrially important States, this system does not obtain. Anybody who has read the life of Ford or other such industrialists has heard of their struggle against the minority shareholders. In how many cases have they not had to go before the minority, in fact at times purchase the entire minority interests at huge costs? The story of the conflict between the minority and majority in America is a classic one and I think it will be a bad day for our country if that conflict comes about in our company management. I would once again appeal to the House to consider this question in a dispassionate and calm manner and come to a decision. Thank you.

Shri C. C. Shah: In discussing the clauses under consideration in this group, our search is for an independent, honest and efficient Board of Directors. In the discussion of this Bill our mind has been too much preoccupied with managing agents to

realise that the Board of Directors occupy or in any event ought to occupy a pivotal position in the management of a company. The managing agents have very much overshadowed and overpowered the Boards of Directors. We made that search in 1936 and we have found that that search has been fruitless. We are again on that quest and I wish to draw the attention of the House briefly to some of the improvements which we have made in this Bill. Proportional representation is one of the remedies which is proposed and a very effective remedy, but I also want to draw attention to what we have done in this Bill to meet the evil and to what extent it will meet it.

The managing agents in theory are supposed to act under the supervision, control and direction of the Board of Directors. In effect, it is the Board of Directors which is swamped or packed by the managing agents' nominees, and that is why we are now trying to see whether we cannot by some means provide a Board of Directors which will look after the interests of the company. And I want to say this, that the key to the reform of company law is really to reform the directorate, and if we can succeed in reforming the Board of Directors and providing an independent board, we have done almost all that a company law will require. The difficulty is how to provide for it.

The peculiar characteristic of corporate enterprise is that it divorces ownership of property from its control and management. Ordinarily speaking, if I own a property, I am in control and management of it. It is the peculiar characteristic of corporate enterprise or of corporate companies that whereas ownership rests with a large group of people diffused all over the country, the control and management goes to a small group of people who dominate the company. Now, what we really wish is, because

the scattered shareholders cannot manage the company, that that small group must be really representative and must be of the choice of those shareholders and not of a dominant minority. Really speaking, the problem is not so much to protect the minority of shareholders, but the problem is to protect the majority of shareholders against the dominant minority, the group which holds a block of shares, say 20 or 15 or 30 per cent. It is that dominant minority group which dominates over the majority. This divorce between ownership and control of property goes on increasing as the field of corporate enterprise becomes wider, and the result is that the shareholder instead of remaining the owner of the property becomes a mere recipient of dividend like a bond or a debenture holder. Our effort is to restore to the shareholder the position to which he is by right entitled.

Now, what have we done in order to do this? In the Act of 1936 for the first time we provided that the managing agent cannot appoint on the board more than one-third of the directors, but as the Bhabha Committee has rightly pointed out, our experience shows that they not only nominate by right the one-third, but even the remaining two-third become their nominees. Therefore, in this Bill we are introducing for the first time clause 260 by which it is provided that certain persons closely associated with managing agents shall not be elected on the Board of Directors unless special notice of election is given and a special resolution is passed by the shareholders. The intention is to draw the attention of the shareholders that the particular persons standing for election to the board are persons closely associated with the managing agents. If they want to elect them they are free to do so provided they get three-fourths of the majority. That is one device which we have adopted in this Bill to see that in the remaining two-third field at least no nominee of the managing agents comes in.

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The second remedy which we have provided is clause 377, and we have said that where that one-third comes to more than two directors, the managing agents shall not be able to appoint more than two directors, so that the maximum number of directors which they can appoint are only two, and if the whole board consists of not more than five directors, only one.

The third remedy is clause 407 where we have given power to the Government to appoint two directors on the board on the application of one-tenth of the shareholders and I hope there will be an amendment to that clause permitting 100 shareholders to apply if it is less than one-tenth.

These three things which we have provided in this Bill will, I hope, go some way in at least securing an independent board.

Two other remedies which we have provided are the retiring age of directors and the limitation of the number of directorships which an individual can hold. The retiring age of directors, which we have provided, is for a reason. As you know, and as everyone knows here, few people can realise that the time has come for them to retire, and it is very inconvenient for their colleagues to remind them that they should retire. Therefore, it becomes necessary for law to provide that at a particular age they shall retire. But we have provided also for a contingency; if a gentleman is very able and very wise and statesman like and the company requires his services, then we have provided that the company can pass a resolution exempting him from the age limit. But I submit that that will go some way in providing for an independent board.

The second remedy, as I said just now, is limiting the number of directorships which an individual can hold. In this connection, I would like to give a few facts as to the concentration of directorships which we have in India today. I have a list here of 29 individuals who hold directorships in companies ranging from 61 for one

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individual to about 19; and in between, there are some who hold 45, some 51, and some 38 and so on. So, as the Bhabha Committee have given the figures of....

Mr. Deputy-Speaker: I believe all those figures have been given by other hon. Members.

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): They have already been circulated.

Mr. Deputy-Speaker: I am going to call the hon. Minister at one o'clock. Some other hon. Members also want to speak. So, the hon. Member may be brief.

Shri C. C. Shah: I shall be very brief. I do not know whether this other fact has been brought to the notice of the House, namely, that only nine families hold six hundred directorships, of all companies, like jute, coal, cotton, sugar, bank and investment companies etc. We see from this what the concentration is. And that is the reason for the limitation which we have provided.

In regard to clause 260, there is only one thing to which I want to draw the attention of the hon. Minister, and that is in regard to amendment No. 420 or No. 421, which provides that an associate of a managing agent shall not be elected. I believe my hon. friend Pandit K. C. Sharma has also given an amendment to the same effect. I hope the hon. Minister will be pleased to accept that amendment.

Shri C. D. Deshmukh: There are two amendments, namely amendments Nos. 420 and 421.

Shri C. C. Shah: About proportional representation, since it has been much discussed, I do not want to take up the time of the House. But there is one aspect of it to which I want to draw attention, and that is as regards private limited companies. I would request the hon. Minister to consider that even if it is not possible to apply

proportional representation to all public limited companies, it may be applied to private limited companies. The reason is this. So far as private limited companies are concerned, it is a very peculiar position that obtains. If you will see clause 254, you will find that while it provides that in public limited companies, two-thirds of the directors shall be elected and one-third shall retire by rotation every year, in a private limited company which is exempted from the operation of that clause, it is left to the articles to provide as to the manner in which the directors will be elected or appointed or nominated. I know of a number of private limited companies in which by the articles directors are appointed for life, and they are irremovable.

Shri Gadgil (Poona Central): Not after death.

Shri C. C. Shah: I know also of a number of private limited companies where those who are appointed for life have the right to nominate their successors either by will or by deed-pool or by this, that and the other, so that it becomes a hereditary thing. And not only that, but you will also find that clause 260, in which we have provided that associates of managing agents can be appointed only by special resolution, does not apply to private limited companies. Then, you will find that we have provided in clause 262 that voting on directors shall be individually on each director. That clause also does not apply to private limited companies, with the result that they can put election of all the directors to vote in one resolution; and one does not know how they are elected. Again, in clause 266, we have provided that a managing director of a company if he is convicted of a criminal offence involving moral turpitude or is an insolvent cannot continue to be the managing director of that company, but this bar does not apply to the directors of private limited companies.

Then, there are clauses 273, 282 and 283. Clause 273 makes mention of the disqualifications of directors of public limited companies. Now, these are the only disqualifications which can be imposed on directors. But sub-clause (3) says that private limited companies can impose still further disqualifications on their directors by their articles, so that the dominant group, if they do not desire the others to come in, can by articles provide any number of disqualifications which will prevent the other people from becoming directors of private limited companies. Similarly, in clause 282 we give the grounds on which a director will vacate his office, but we have also provided that a private limited company can add to these grounds in the articles under which he will have to vacate his office.

So, you will see that so far as private limited companies are concerned, there is a free field so to say, and there is no law which generally applies to it by which you can any day secure that at least representatives of shareholders will come. And it is not very difficult to provide for proportional representation in private companies, because the membership is not more than 50; it is very easy and more convenient in private limited companies than in public limited companies. All the difficulties which are pointed out will be the difficulties which will come in, in public limited companies. But for private limited companies, I submit that the proportional representation method is an ideal method. There is an amendment to this effect by my hon. friend Shri N. P. Nathwani, namely amendment No. 550. I would request the hon. Finance Minister to consider that amendment.

Pandit Thakur Das Bhargava: With all the reasons that my hon. friend has given so far as proportional representation is concerned, I also beg to add one. In private companies, when there are only 50 persons, the shares would also exist in such a fair division, that it is possible for proportional representation to be in intro-

duced there. If there is aggregation of shares in minority groups as in public companies, even then it is difficult to have a defined group, because there are thousands of shareholders. But in private companies where there are only 50 persons, there might be different groups, and therefore, this principle of proportional representation is, I think, very apposite so far as the private companies are concerned. Other reasons have been given by my hon. friend Shri C. C. Shah already, and I do not want to add to them. But I would only say that this is the principle which should be applied to private companies first of all.

Coming to my own amendments, I would like to draw your attention to my amendment No. 867 to clause 268. In clause 268, it is provided that no managing director can be appointed without the approval of the Central Government. The words are:

"In the case of a public company or a private company which is a subsidiary of a public company, the appointment of a managing director for the first time after the commencement of this Act in the case of an existing company, and after the expiry of three months from the date of its incorporation in the case of any other company, shall not have any effect unless approved by the Central Government; and shall become void if, and in so far as it is disapproved by that Government."

My submission is this. So far as the managing agents are concerned, I shall have occasion to give the reasons when we come to clauses commencing from 323 onwards. Even there, I do not agree with this proposition that every appointment or reappointment shall be made with the approval of Government. Much less do I agree, in the case of managing directors.

So far as managing directors are concerned, their case stands on a better footing. All the complaints that have been directed so far are against

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the managing agents. So far as the managing directors are concerned, the complaints are not so many. Further, so far as directors are concerned, they are not appointed with the approval of Government; and similarly managers also are not appointed with the approval of Government. But in the case of a managing director who is somebody in between these two categories, I do not know why Government insist that he cannot be appointed except with the approval of Government.

If you would kindly look into the scheme of the Bill and the other provisions therein, as for instance clause 266 which deals with the disqualifications in regard to managing directors, you will find that a list of disqualifications has been given similarly for directors also. It is a very good list that has been given. Nobody has said a word about those lists, saying that they are not complete or that they are not good. But I do not understand why we want to see that so far as the initiative of the people is concerned, and so far as the choice of the ordinary man is concerned, that should not be allowed to prevail.

Now, it is quite true that so far as the companies are concerned, their management is not above board. It is not satisfactory, and therefore, this Bill is brought in to curb those companies which are not managed well. I can understand all the curbs, all the provisions of this Bill relating to betterment of company management. For instance, you have narrowed down the limits within which, they can get profits; from 24 and 27 per cent. according to the Finance Minister, it has been brought down to 8 per cent. So far as their powers are concerned, the previous powers have all been curbed. So far as the question of their qualification etc. is concerned, they have all been curbed in such a manner that now those agents or those managing agencies or directors do not possess even a medium of those powers which they had previously. Now, we come to

the question of the necessity of the Government approving them. Why should Government take the power of approving them? I can understand the Government taking the power of disapproving them. For instance, if a certain managing director is not quite efficient and is not qualified, and yet the shareholders in their obstinacy choose to appoint him as their managing director, the Government may come down upon him and say, 'We do not approve of him; he is not the right person; he comes within the ambit of the disqualifications'. I can understand that. But I do not understand why every choice of the shareholders should be subject to the approval of the Government in so far as managing directors are concerned.

Now, when we enacted our Constitution, in the preamble we guard against this. We know that so far as an individual is concerned, he must have the right to grow to his full stature, and although we were of the opinion that the community also should have a right, yet we came to the conclusion that the individual's right must be there. The words used are "fraternity assuring the dignity of the individual and the unity of the nation". I beg to ask, what is the right of this individual when so far as his property is concerned, you regiment all the incidence of management of his own property? Suppose I am the owner of 50,000 shares and I join with others and we want that our company should be managed by Shri Deshmukh because we like him very much; yet Shri Khandubhai Desai, who is the Finance Minister then says 'No. I do not approve the choice'. My choice should be the first. I know how my property is to be managed.

Mr. Deputy-Speaker: Are there not cases when people have to be guarded against themselves?

Pandit Thakur Das Bhargava: If that is so, Government will be perfectly

justified in regimenting life in this way, that you shall engage such and such a servant, you shall eat this, you shall not eat that. Now, the persons whom you are referring to who ought to be guarded against them, also are under court of wards or guardianship or in the lunatic asylum. Here it is the case of a man who is a good man, a good citizen, having the right to manage his property, and so far as his rights to manage his property are concerned, they should not be curbed by the Government in this manner.

Mr. Deputy-Speaker: Is there not a Usurious Loans Act? Suppose a man contracts to give cent. per cent. interest?

Pandit Thakur Das Bhargava: I am not objecting to that.

Mr. Deputy-Speaker: So long as the individual is an animal all by himself, he need not be regulated by the State. But when one lives in a society, his freedom may be a negation of the freedom of other people.

Pandit Thakur Das Bhargava: I do not object to many of the curbs. I am in agreement so far as controlling the propensity to profit is concerned, and so far as the exercise of other powers is concerned. But so far as my manager is concerned, suppose I own an estate, will the Government come and say, 'No, do not appoint this man as your manager'.

Mr. Deputy-Speaker: There he deals exclusively; here he is dealing jointly with the rest.

Pandit Thakur Das Bhargava: Suppose twenty of us join and we own a particular estate.

Mr. Deputy-Speaker: Has he the right to impose his will on the twenty-first one?

Pandit Thakur Das Bhargava: So far as imposition is concerned, the Bill refers to proportional representation. But we are agreed that we shall have this man; why should the Government come and say, 'No, you shall not have him'.

Mr. Deputy-Speaker: Is it unanimous?

Pandit Thakur Das Bhargava: Suppose it is unanimous or approved by a large body of people.

Mr. Deputy-Speaker: The large body has no right to impose itself on the small body.

Shri C. D. Deshmukh: He is really in favour of people being allowed to make fool of themselves, if they want to.

Pandit Thakur Das Bhargava: I am sorry, I have not heard what the hon. Finance Minister said.

I was submitting that so far as this aspect is concerned, after all a person has some property, and he has a right to dispose of his property or managing his own property. Why should not a collection of people who own a particular property have that right? Why should Government come in?

Shri C. D. Deshmukh: Does it mean that the hon. Member objects to all those chapters about restrictions on managing agents, disqualifications of directors and so on and so forth?

Pandit Thakur Das Bhargava: No.

Shri C. D. Deshmukh: Why not?

Pandit Thakur Das Bhargava: After all, in a matter of this moment, I do not maintain that the individual has an absolute right. The society has a right, through the Government to see that things are not mismanaged, and this is the basis of your Bill. Why did it not strike you for 70 or 80 years before 1951, that the Government should have the last word, so far as this kind of management is concerned. In 1951, Government brought in this Bill for a temporary period of three years. Now, they are making it permanent. The best persons to make a choice are the share-holders themselves. The Government may also commit a mistake. Government shall have to inquire. The share-holders know the people who are in the management. They know them much better than the Govern-

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ment might possibly know them. There is no reason whatsoever that the Government should impose themselves on the share-holders regarding the managing director. They are taking so many powers. I am not opposing all those things. I am only submitting in the case of the managing director. In his case, you will be pleased to see he is a director. The director is only appointed by the share-holders. The Government do not approve of him. The manager is also not approved by the Government. Then why this provision about approval of the managing director by Government?

Mr. Deputy-Speaker: He is the executive authority, the head of the administration.

Pandit Thakur Das Bhargava: My submission is, how is his position better than that of a manager so far as management is concerned? They are both defined in the same way. Manager is one who has substantial authority of management; the same is the case with the managing director. I do not understand this difference as between the manager and a managing director; I do not see the logic behind saying that the managing director cannot be appointed except with Government's approval.

Now, in clause 268, they have got a double dose. First of all, the Government shall approve, and so far as the Government are concerned, if they disapprove, to that extent, he will not be appointed. Therefore, I am submitting through my amendment No. 867 that for "shall not have any effect unless approved by the Central Government, and shall become void if, and in so far as, it is disapproved by that Government", substitute "shall become void if it is disapproved by the Government for reasons mentioned in section 266 or section 273 relating to directors". The Government can certainly say that this man who has been appointed by the share-holders is disapproved of because so far as disqualification is concerned, he comes within the ambit of those disqualifications. I can very well

understand that, but I do not understand why initially even if he is not disqualified in any manner, he should be got approved by Government.

So far as this question is concerned, I also referred to it at the time of the general discussion and said that it offended against article 19(g): 'to practise any profession, or to carry on any trade or business'. I do not understand why a person who has been chosen as managing agent by a large body of share-holders and who has been carrying on this business for a long time, and has justified his position over a long period by virtue of the fact that he has brought success to the company, should in the case of re-appointment, seek the approval of the Government. The approval may not be given for a hundred and one reasons. We cannot say that all approvals and disapprovals will be on merits alone. You have got many other restrictions against the managing agent which I accept. You say that he shall not get more than 5 per cent. All right. You say he shall be there only for five years. I accept all those restrictions. But why should this double dose be given and all the initiative of the private man taken away and his life regimented in this manner? First of all, I am looking at it from the share-holders' point of view. I refuse to be guided in this matter by the advice of the Government or any officer of Government. My own advice, my own information, my own choice of a particular man to manage my property or estate, when I am backed by the share-holders, must be supreme. There is an agreement between the company and the managing director. What is the difficulty? Therefore, on the principle that a man is the best judge of his own affairs, is the best judge of his own commitment, investment and management of his property, on this broad basis, I think it is taking away from the liberty of the subject, taking away from the private life of a man his right. We provided in a particular article of the

Constitution that there should not be concentration of wealth in a few hands. But there is concentration of power in the hands of the Government and nothing is left to the private individual as a private individual. I am objecting to my powers—circumscribed though they may be in the public interest—being touched in this way. I have been for a long time enjoying all these rights. What has happened since 1951? If there had been any lapse on the part of managing agents, all right, you have clause 323, which we will consider at a later stage. But so far as managing directors are concerned, no evidence has been placed before us to the effect that managing directors have not behaved well.

1 P.M.

Shri U. M. Trivedi (Chittor): Will it not militate against the fundamental rights given by the constitution?

Pandit Thakur Das Bhargava: That I have already dealt with. Therefore my humble submission is that seeing it from the point of the view of the managing director who has proved himself to be a success for that company, in the case of re-appointment this will not be fair.

There is one other difficulty. Supposing the Government takes this power. What about persons who come to Government for the first time? How does the Government know that they will or will not make a success? After all, we go by past experience. Persons who are a success according to me, may not be a success according to Government. I can understand that so far as the private citizen is concerned his rights should be safe in the hands of the Government. I respectfully submit for the consideration of the hon. Finance Minister that he should consider it from the point of view of the rights of the private citizen. I can understand that in particular emergencies you can have regimentation of all my activities ordinarily and in the industrial field also. But you should not make the private

citizen a slave of yourself. If a person has been a success for the last 20 years there is absolutely no reason why he should be allowed to be re-appointed only after your approval. Your approval may be wrong or your approval may be right. At the same time, let him be allowed to commit honest mistakes.

One law was brought by the then Home Minister Shri Rajagopalachari, —the Press (Objectionable Matter) Act—and then he said that it was a scare-crow, that they did not want to use that but it was a scare-crow for the people. This Bill has come now which has been characterised by the Finance Minister himself as a scare-crow. But, in this case I find that they will exercise all these powers. Every person will have to run to some officer of the Government and ask him, 'Kindly give approval to my appointment or re-appointment'. I can foresee what would happen. Fifty thousand companies have to be controlled by the Government and the managing agents and the managing directors have to be appointed by the Government. There is bound to be nothing but nepotism and jobbery if it is left to the smaller people; and the hon. Finance Minister cannot do everything himself. The result will be—when they are going to have Rs. 750 crores invested in the Second Five Year Plan and start new companies—that ultimately we shall find that either all this breaks down or they will not be able to implement the promises that they are making.

Shri C. D. Deshmukh: Mr. Deputy-Speaker.....

Shri C. R. Iyyunni: Sir, I would like that he may answer some of the questions that I want to put to him.

Mr. Deputy-Speaker: That also takes away some of the time.

Shri C. R. Iyyunni: Sir, there are amendments and we do not get a chance of speaking; and, if we are not even allowed to put questions and get answers, this is also prevented, I do not know what is the use of our being here.

Mr. Deputy-Speaker: Hon. Members must have stated to the hon. Speaker that they wanted two more hours. At that time, they keep quiet and now want me to extend it.

Shri G. D. Somani: You can extend it by half an hour more.

Mr. Deputy-Speaker: I have no right. Hon. Members do not assess their time properly; they ask one hour and then they ask for more time.

Shri U. M. Trivedi: Yesterday we agreed to sit one hour more after Monday.

Mr. Deputy-Speaker: That is after Monday. All right, Shri Iyyunni.

Shri C. R. Iyyunni: In our part of the country there are a number of banks in which at the termination of the period—that is one year—all the directors vacate office. Now, according to this clause, it is only with regard to the retiring director that no notice need be given. That is what is stated. At that particular time all the directors vacate office and it is not a case of the seats of one-third of the directors becoming vacant. All of them go out of office and new people are put in. In that case is it necessary that they should also give a statement of consent before they stand for election? What is stated in this particular clause is that a statement of consent must be given to the Registrar before he is elected; so many days before his election. Will it not be enough if that consent is given after the man is appointed or elected? What exactly is the usefulness of this particular provision there? I would like to be informed about it.

Mr. Deputy-Speaker: The chance of anybody being elected against his consent must be very rare.

Shri C. D. Deshmukh: *Prima facie* there seems to be no chance. In any case, I do not know what the advantage would be of answering this. However, the hon. Member's fears will be allayed which can be allayed later or his fears will be kept alive in which

case the situation would remain unsatisfactory till an amendment is moved. It would be very much better.....

Mr. Deputy-Speaker: He says he has moved an amendment but he has not been allowed to speak.

Shri C. D. Deshmukh: Which amendment?

Mr. Deputy-Speaker: What is the number of the amendment?

Shri C. R. Iyyunni: No. 512.

Mr. Deputy-Speaker: Yes, to clause 263. That has been moved.

Shri C. D. Deshmukh: Then I will deal with it. I thought he wanted to ask some questions without moving an amendment.

Mr. Deputy-Speaker: He said he had no chance to speak. The hon. Finance Minister.

Shri C. D. Deshmukh: I am sorry I misunderstood.

I shall first deal with the observations made by Shri Sadhan Gupta. He again raised the question of employees' representation, and this time in connection with representation on the boards. Shri Asoka Mehta also raised this issue and the latter said that in one form or other this has been before the Government for the last so many years and, therefore, he does not accept the excuse that Government have not been able to make up their mind. I can only reply that in these 8 years—I think it was the period he mentioned—many other things have been done. It is possible that many other issues which require an answer and which have been before Government have remained undecided. All I state is that this is among the issues on which Government have yet to take a decision. And, as the matter is before the Planning Commission, we hope that in a short while we shall be able to take a decision—in which case that deci-

sion will undoubtedly be embodied not only in this Bill but in many other Acts. There may be dozens of Acts in which consequential changes would have to be made.

The other question which Shri Gupta raised was the question of the number of directorships. He said there was no great logic in it and it was not related to capital or any other criterion. Judging from statistics alone, and some of those statistics have been quoted twice, we consider that the Company Law Committee has made a fair recommendation, a recommendation which, obviously, was the result of considerable discussion and a compromise because, I think, they say somewhere that they attach great importance to this recommendation. Therefore, the Joint Committee, regarding this as a very substantial reduction, were content to adopt the figure which had been recommended by them. Some of the statistics given, of course, may point both ways, that is to say, 9 families holding 600 directorships and so on. It may not be a precise measure of the scarcity of talent in this country. But, it is a well-known fact that in business and industry, traditionally, certain sections of the community have been engaged for generations and that possibly is the explanation both of the scarcity and of the large number of directorships that are held by individuals. What we have done is to indicate the desirability of this field being widened and if one were to be very theoretical in this matter.....

Pandit K. C. Sharma: The business community does not consist only of 9 families.

Shri C. D. Deshmukh: I said that a particular kind of talent.....

Pandit K. C. Sharma: It does not come by birth.

Shri C. D. Deshmukh: Everybody is a born M.P. but everybody is not a born businessman. What I mean to say is that everyone can be elected.

Shri S. S. More: Is that not a slur on M.P.s?

Shri C. D. Deshmukh: It is a compliment.

Mr. Deputy-Speaker: It is an appreciation.

Shri C. D. Deshmukh: It is a compliment to the M.P.s that anyone who has the necessary antecedents and record of public service can be elected as a Member but you cannot appoint anyone as a director or a managing director of a company, because, as I said, certain communities have made their impression; it may be that they were in possession of wealth and so on, and it has been aided by our *chaturvarnyam*—*brahmins*, *kshatriyas*, *vaishyas* and *sudras*—and so on and so forth. It is an obvious reflection of that. Having regard to the paucity of managerial talent in this country, to which the Company Law Committee have themselves referred,.....

Mr. Deputy-Speaker: Are there any qualifications legally set down for appointment of a managing agent that he must have a doctorate in business?

Shri C. D. Deshmukh: We are talking of directors now.

Mr. Deputy-Speaker: It is only a choice of those persons who are there at the time of promotion or otherwise. Likewise, M.P.s are also in the hands of those who choose—though no qualifications are set out in any Act. Therefore, to refer to M.P.s in this connection that they need not have any qualifications and that businessmen alone should have qualifications does not seem to be proper. I would, therefore, urge upon hon. Ministers not to refer to M.P.s in any of their answers. It is suggested as if a man is born with a businessman's talent even from his mother's womb while an M.P. can come from any other persons. I would only urge upon the Minister to consider that whosoever elects an M.P. does not do so blindly. No qualifications are set down statutorily for an M.P., neither are they set down statutorily

[Mr. Deputy-Speaker]

for a managing agent that he should have five heads and ten legs—nothing of the kind. Need the managing agent be a B.A. or an M.Sc.? How can it be said that an M.P. need have no qualifications but that a businessman should have qualifications? On second consideration I feel that as far as possible, no reference shall be made to M.P.s. in any analogy as that will avoid any kind of misunderstanding....

Shri C. D. Deshmukh: I am very sorry, but what I meant was "not specialised talent".

Mr. Deputy-Speaker: It need not be said that no specialised talent is necessary and that anybody can become an M.P. I say likewise anybody can become a businessman. I can start business tomorrow. I can learn it in ten years and another man can learn it in five years. Therefore, unless there is a statutory obligation for an M.P. not to possess any qualifications and for a managing agent to possess a doctorate in business or some such thing, I cannot understand this. Both are born in the same way. There is *sui juris* for a person before entering into a contract that he must have attained the age of eighteen years, but here the age is twenty-five years. How can it be said that an M.P. need not have any qualifications whereas for the other man so many qualifications are needed? Will the company law taboo an M.P.? I would rather say that both an M.P. and a businessman stand on the same footing. On the other hand, as hon. Members know too well, an M.P. has to spend some money. Therefore, this sort of reference provokes an unnecessary controversy, and therefore let us avoid it. The hon. Minister is always sweet in his reference, but occasionally this one thing has occurred. I feel that no reference should be made in any speeches on the floor of the House, however much a person may be provoked to say, that M.P.s do not require any qualifications.

Shri C. D. Deshmukh: I did not refer to qualifications at all.

Shri S. S. More: He did.

Shri C. D. Deshmukh: My words did not include the word "qualifications"....

Mr. Deputy-Speaker: Anybody can become an M.P.; anybody can be elected an M.P.

Shri C. D. Deshmukh: But anybody cannot be elected a director.

Shri S. S. More: Why not?

Shri C. D. Deshmukh: Because the field is so much narrowed down.

Mr. Deputy-Speaker: I would urge upon the hon. Minister not to refer to M.P.s. All of us have come here and we have ultimately to decide who is to be in charge of it. We are super-managing agents, so to speak.

Shri C. D. Deshmukh: I shall give another analogy. Anybody can be appointed an officer of Government but anybody cannot be appointed a director, because a person wants to entrust his money to a man who has dealt with money—and it is not a thing in which a man can be trained by going to business schools and so on. I was trying to explain why it is that nine families—maybe fifty or hundred—are sharing five hundred directorships. I was trying to explain the historical phenomenon here.

Shri K. K. Basu: Does he know that all of them have the necessary qualifications now?

Mr. Deputy-Speaker: I know the case of an eminent lawyer whose son is a dud. Does the hon. Minister suggest that the son of a businessman is an extraordinary businessman?

Shri K. K. Basu: I can cite names (interruptions).

Shri C. D. Deshmukh: That is a matter of argument. So far as M.P.s are concerned, I accept whatever you say. I only want to give an analogy

to illustrate my point and I am not hurting anyone by saying that anyone can go and become an officer of Government, but when shareholders appoint directors, they usually see for someone who is actually doing business and who has made a success of it. You are quite right when you said that anyone can start business, but I am sure you would not say that anyone would succeed in business. There is only a limited number of fortunate people who have shown some success in business that are generally called upon, so to say, to become directors. The choice is always right.

Pandit Thakur Das Bhargava: If they are men of business and they are elected and everything is done, why make it subject to the approval of Government?

Shri C. D. Deshmukh: That is another matter, which my friend is bringing in support of his point. We were content to give some indication of our desire that this chance circle should be widened. We really have no logical case for saying that twenty by itself determines everything. Twenty companies may be very small companies with a total capital of Rs. 50,00,000 and three companies may themselves absorb Rs. 30 crores. There are men who are directors of a company with Rs. 30 crores—like the Sindri one, a Government company. Whether you add another nine or ten companies to it or nineteen companies to it and make up another Rs. 1,00,00,000, it does not really seem to me to make very much difference. Nevertheless, in such matters it is good to give an intention of one's ideas, that is to say, a token of what one would like to see, and if that by itself does not prove to be a corrective to people amassing directorships, why should one proceed to the next stage of elaboration? Therefore, I said theoretically it may be that there is a plausible case for limitation of directorships on the size of the company or the share capital, but that basis is likely to be misleading. Moreover, the time and effort needed to

look after the affairs of small companies may even be the same as the time and attention such a director might have to bestow on big companies. For instance, the work involved for a director in the case of a new company will be much greater than in the case of a going concern. The director's responsibility will vary with the number of other directors on the board and of the quality of the other colleagues on the board. It is not possible, we feel, to enter into the refinements in the statute and there does not seem to be any virtue for us to fix the number of directorships. It only hinges on the share capital of the company and that by itself is not a complete solution.

Now I come to the problem of share qualification to which also Shri Gupta referred. He said that the share qualification of a director should be limited to shares of the value of Rs. 500. I should like to point out that there is no statutory requirement about such qualifications. It is for the articles of a company to lay down the share qualification of a director if it so desires. All that the Bill says is that no article should provide for the share qualifications exceeding Rs. 5,000. It is perfectly open for a company either to fix or not to fix any share qualification for its directors. In this matter it is not easy to say that the maximum of Rs. 5,000 should, therefore, be further statutorily reduced since it is a matter within the discretion of the company.

Shri Sadhan Gupta: Discretion should be limited.

Shri C. D. Deshmukh: That is a minor point. If there is a danger that a company might go beyond Rs. 5,000 in order to deny themselves the pleasure of having directors it is their look-out. If they felt that they ought to regulate their affairs first by this criterion of a man having Rs. 5,000 in order to be able to buy a share I should say that it is their concern and one should not be unduly influenced by that consideration.

Mr. Deputy-Speaker: They go on modifying the articles from time to time. Originally when the company is small the share qualification may be small but as it increases in importance, they amend the articles and then say that hereafter the director, shall pay so much.

Shri C. D. Deshmukh: They could do so. I think it is best to leave it flexible as it is.

Then comes a very important question. I now come to the observations of Shri Asoka Mehta barring what are already covered by my remarks in connection with the previous speakers. This is with respect to interlocking directorates. This is an aspect of the old and big problem of interlocking finance, interlocking directorships and interlocking company finance. The provisions of the Bill, we felt, relating to associates of managing agents should go far to reduce the incidence of such interlocking directorates and the restrictions imposed on the powers of directors will in our view further reduce the evils arising from such interlocking. Shri Asoka Mehta referred to the evils of interlocking of directors on the banking and the insurance companies on the one hand and the joint stock companies on the other. The problem of concentration of economic power which results from interlocking directorates as between joint stock companies and banks and insurance companies has to be tackled administratively and it seems to us that no amount of legislation will be able to remove this evil because of the widespread practice of appointing nominees as directors. We feel that now that the new department for administration of Company Law has been created it will be possible for this department to watch the activities of companies closely and the inter-connections with banks and insurance companies through their common directorates and to suggest remedial action against demonstrable evils in consultation with the Reserve Bank of India and the Department of Insurance. These observations, I may add, apply

to many other things. In many other matters the House has felt that we ought to go further in this matter of regulation. One difficulty that we have is that we are not really sure of possessing up-to-date facts. It is true that from time to time evidence has been tendered and recorded by associations or by the expert committees. There are *ad hoc* enquiries made and so on. I have conceded that, in the past, administration of Company Law has not been very active and alert; indeed one would be justified in saying that it has been dormant.

Now we hope to be able to change all that. I hope we shall have a good research department associated with this new department and in a few years' time we shall have quite a good mass of data which will be more accurate, on which one could proceed and formulate policies and measures connected with the regulation of companies.

For the present it is really a question of forming one's judgment. Hon. Members who take another view say that the Joint Committee or the Finance Minister do not seem to have given attention to this or that matter. The facts are that they have given attention to it. But all are not in possession of the same set of facts and a large common body of facts is available to almost everybody who is devoting thought to this subject. Finally what emerges is honest difference of opinion—that is to say whether a particular sequence will follow or will not follow or whether a particular remedy will or will not be effective. When one reaches that stage there is really nothing more to be done except to say that this is the view to which I have come and hon. Members should have no sense of grievance that other people do not see eye to eye with them on every issue. The only thing is that so far as Government is concerned there is also a certain sense of executive responsibility apart from legislative responsibility. That is to say the executive will be called upon by the same legislature

to say whether they have succeeded in regulating it properly or whether certain other aspects of the plan in the industrial field have or have not been fulfilled and therefore the executive is inclined to take a little more conservative view than at least some Members of this House. That is all the difficulty in this matter. It is not as if the advantages and the disadvantages are not seen. There is an awareness that there is another side to the question and it is only a question of forming a judgment on the material available. That particularly applies to this vexed question of proportional representation. We have a representative—Financial Counsellor—in our Embassy in the U.S.A. and I had some enquiries made as to how this system was working in that country. I wanted to know in particular roughly what percentage of the companies operating there had this cumulative voting and how they felt about this method and how this method of voting for the election of directors has worked out in practice: whether it has affected the smooth working of the board of directors. These were the aspects which troubled Members on the opposite side. The answer was—I am not reading the whole of it; the cumulative voting method has been adopted for sometime now in the United States—not in all the States but in some parts of it. It is not recognised as common law and the courts have generally held that it can accept it as right only where statutory provision has been made for its use. 21 States, I think out of 49, insisted on the provision for cumulative voting. That is in 21 States, the requirements of cumulative voting is prescribed in the State Constitution. 17 States including New York, New Jersey and Delaware have enacted legislation permitting companies to provide cumulative voting if they so desired.

Shri N. C. Chatterjee (Hooghly): They are made optional.

Shri C. D. Deshmukh: Over ten States have made no provision for cumulative voting. It is, therefore,

not correct to say that in the United States all voting is cumulative voting. There are large differences—in 13 States it is compulsory; in 17, optional and in 10 States there are no provisions.

Mr. Deputy-Speaker: What about 9 others? 13 plus 17 plus 10 comes to 40.

Shri C. D. Deshmukh: We do not know about those nine. There is provision in 21 States but 13 insist on the provision that there should be some provision; it may be optional. That is where the difference comes in. 21 States insist on provision of cumulative voting; in 13 of these the requirement is prescribed in the State Constitution as compulsory. 17 States, as I said, have enacted permissive legislation and 10 others have no provision. It is understood that by and large the companies incorporated in the permissive States have not elected to provide for cumulative voting permitted in the Constitution. They have not actually in their laws provided. There is difference. The Constitution provides something and then the State goes on to enact a law and implement it. The majority of the corporations which have securities listed have no such provision. Apart from such legislation, the Banking Act of 1933 requires provision for cumulative voting in all elections of directors of the country's 5,000 national banks.

Mr. Deputy-Speaker: Does it apply to all banks?

Shri C. D. Deshmukh: It applies to what they call "National Banks". There are also some Federal Banks. I think they call "national" in the sense that it belongs to a State rather than "national" in the sense of belonging to the whole country which they call "federal".

Mr. Deputy-Speaker: Why should it apply to banks as opposed to other joint stock companies?

Shri C. D. Deshmukh: There is a general feeling that in public utility companies and companies in which

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the public have a more than ordinary interest, cumulative voting is preferable. Banking is a special kind of industry.

Mr. Deputy-Speaker: That is why there are not managing agents also.

Shri C. D. Deshmukh: There are certain distinctions here also. Now, an analysis of a few companies' experience in contests of directorship showed—I mean to say, in regard to question of disputes—that companies with provision for cumulative voting which are only 40 per cent of the total; that is to say, companies with provision for cumulative voting are 40 per cent of the total, and in these companies 60 per cent of the total contests were found. In other words, the number of companies providing for cumulative voting is smaller, 40 out of 100, but the contests are 60 in these companies and 40 in other companies. Therefore, the idea that, if you have a cumulative system of voting there is probably a greater chance of disputes, which was put forward by Shri Tulsi-das seems to be slightly borne out by these figures.

Mr. Deputy-Speaker: Smaller the constituency, the larger the possibility of interest.

Shri S. S. More: Can we not say that because there is cumulative system of voting people are encouraged to offer themselves as candidates because there is some chance of success and it is not an indication of larger number of disputes?

Shri C. D. Deshmukh: Maybe. I am not saying this way or that way. These are contests; whether they are good, wholesome or not I am not able to say. I am only actually quoting a report which I have received. I thought that it might be of some interest to the House on this matter because the House has taken a great deal of interest in this.

Therefore, our conclusion is that contests for directorship are more frequent—which, as hon. Members say, may be wholesome—among com-

panies with provision for cumulative voting. You might say: this is what we expect, unless what the hon. Member referred to was about the disputes that go on inside the board of directors after the directors have been elected. So, in a sense it may be said in favour of proportional voting that larger number of people take interest in voting and so it is not so much of a packed body or a parcel electorate.

Mr. Deputy-Speaker: Have we no information regarding the manner in which these are conducted inside the board of directors?

Shri C. D. Deshmukh: No, Sir.

Now, I would like to say that the three major States—I said that 17 States which have permissive legislation include New York, New Jersey, and Delaware—together account for 45 per cent of the total number of companies. These are very big States.

Mr. Deputy-Speaker: That is only optional.

Shri C. D. Deshmukh: Yes.

Mr. Deputy-Speaker: How many have exercised the option in favour of cumulative voting?

Shri Morarka (Ganganagar-Jhunjhunu): Perhaps none, Sir.

Shri C. D. Deshmukh: 11 per cent. We have made an investigation and the investigation shows that out of 189 companies incorporated in permissive States—this was chosen at random; this is a random sample from among leading firms in a wide variety of industries—only 21 companies or 11 per cent have exercised their right for cumulative voting. Therefore, we draw the conclusion that by and large the more important companies in the permissive States have not seen it fit to provide cumulative voting. There again, that might strengthen the argument, of those who are urging for this, that if you leave it permissive then you

might as well not live on the hope of this system arising in this country.

Shri K. K. Basu: Does it give any indication that either there is a tendency for increase or going away from this permissive system?

Shri C. D. Deshmukh: I have got a static report. I have not got a report of the trend. They must have taken it at a particular period.

Mr. Deputy-Speaker: Have we any information when this option was given to the States?

Shri C. D. Deshmukh: I am reading this report more or less verbatim. There is no further information in this letter which I have received.

Mr. Deputy-Speaker: If over a number of years—say, 30 or 40 years—more than 11 per cent have not taken advantage of this.....

Shri C. D. Deshmukh: I have not got any information.

As regards how this method of voting has worked in practice; that is to say, whether it has effected smooth working of boards of directors, the letter says that the answer can only be given after considerable research on voting practices of various companies. "Very often"—it concedes—"the very presence of the representatives of minority shareholders on the board of directors acts as a moderating influence on the actions of the management on the Board." Of course, a point to that effect was also made here. Even the mere threat arising from the process of voting which confers the right on minority shareholders to elect representatives has a similar effect. But, it is understood that in actual practice the day to day management of the affairs of the company, which inevitably rests in the hands of the nominees of majority shareholders, remains largely unaffected.

Shri Morarka: Hear, hear.

Shri C. D. Deshmukh: I thought that was an argument against the hon. Member.

Shri Morarka: Smooth working cannot be affected. The point is that the management would rest with the majority.

Shri C. D. Deshmukh: There is no such word as "smooth". It only says: "the management which rests in the hands of the nominees of majority shareholders"—it does not say whether it is smooth or whether it is not smooth.

Generally speaking, the studies made confirm that majority stockholders in the closely held corporations and the management and board of the widely owned corporations occupy an extremely strong position in relation to minority stockholders. That, I think is what one might expect. No system of cumulative voting or proportional representation is going to turn a majority into a minority. All that it will do is, as you have pointed out, to prevent it from swamping every other form of opinion. It says that cumulative voting has not in practice led to a weakening of the position of the management or the majority to a great extent. This is the report that we have received and, therefore, in theory I have not very much to say against it because it all depends on what the chances are.

I should like to point out—what I said in my intercession a little while ago—that what I fear is that instead of being a method by which the minorities which are only transient in their nature are represented, it might be a means by which small power groups will make sure that they get two or three directors on the boards of companies and they might emerge a kind of warfare among small power groups none of which is in a position to form a big majority. That danger also should not be ruled out.

Mr. Deputy-Speaker: Has any such difficulty arisen in the case of insurance companies where for the first time from 1938, 25 per cent or not less than 2 directors were of the policy-holders? I do not think any such rupture or difficulty has arisen.

Shri C. D. Deshmukh: That is a fixed number. One can understand minorities like policy-holders, debenture-holders, labour and the like. If they come in that is a different matter. In their cases there is a fixed percentage for minority. The point I was making was slightly different. Supposing we abolish the managing agent and yet the same person who wants to have some control wants to make sure that his 25 per cent comes in, it may be that certain other groups may join together and exclude him. But, in a system of proportional representation he is bound to come in. Therefore, he is a minority in one sense and yet he is a powerful person. He is not the kind of person whom we try to protect. Our idea is that an ordinary shareholder who wishes to send somebody up should have some chance. Instead of that this system could very well be used by small power groups in order to enter upon a warfare for capturing power in a company. That danger cannot entirely be ruled out. Also, it is a fact that this system does not obtain either in the United Kingdom or, as far as I know, in most other countries in Western Europe. Now, it is clear that—I have got the letter from the Bombay Shareholders' Association dated 20th August, 1955,—the Bombay Shareholders' Association have communicated their firm opinion that this system should be introduced. I also received a telegram from the Bombay Stock Exchange that they favoured this. We therefore think that since we are making a beginning we might see what advantages there are. After all, if a system has merits, then it should appeal to some people or the other. If it appeals to shareholders those who are anxious to secure the franchise of shareholders might be expected to have an arrangement by which shareholders will have some confidence in companies. I do not think we shall lose very much by leaving the matter there.

Mr. Deputy-Speaker: Is there any possibility of the Government interfering, where a large number of shareholders come in, and only be-

cause a few of them have got enormous shares, they refuse to allow this?

Shri C. D. Deshmukh: Not merely on the character of representation but arising out of the exercise of that power. If that power is misused, certainly then there are various sections, oppression of the minorities, a number of shareholders getting together, asking us to appoint Government directors, and so on and so forth.

Mr. Deputy-Speaker: Then, does the hon. Minister feel that this proportional representation also can be one of the things which would be taken into consideration if, in spite of a legitimate demand as against the two people who want to corner and get direct advantage ill or well, Government can interfere, as in some cases Government can interfere, when they find that the management is not right? Would they also take into account the demand of a large number of people, where it is legitimate, that proportional representation ought to be allowed there?

Shri C. D. Deshmukh: I should imagine that it will be one of the criteria by which we shall consider whether two Government directors should be appointed or not. Obviously it will be a case where minority interests have been ignored by a certain company. If, on investigation, we find that that is so, then the power is given to us to appoint the two directors.

Shri N. C. Chatterjee: Will you kindly look to clause 407 where power is given to the Central Government to prevent oppression or mismanagement? It occurs at page 205 of the Bill, and reads thus:

"Notwithstanding anything contained in this Act, the Central Government may appoint not more than two persons, being members of the company, to hold office as directors thereof for such period not exceeding three years as it may think fit, if the Central Government, on the application of members of the company holding

not less than one-tenth of the total voting power therein, is satisfied that it is necessary to make the appointment or appointments in order to prevent the affairs of the company being conducted either in a manner which is oppressive to any members of the company or in a manner which is prejudicial to the interests of the company".

Would the Government be pleased to take into consideration, in the absence of proportional representation, the effect of this provision, if, with proportional representation, they had exercised this power?

Mr. Deputy-Speaker: I will go a step further. Is it open to the Government to appoint two directors who need not necessarily be shareholders? Is there any such restriction that they should be shareholders?

Shri N. C. Chatterjee: They will be shareholders? Kindly see the phrase, "members of the company".

Mr. Deputy-Speaker: Would you have an alternative? Instead of nominating two persons of course they will be appointed only when the Government are satisfied that there is oppression of the minority—by whatever name they are called—they may appoint other shareholders, if the other conditions are satisfied. Would it not be allowed as an alternative method? In such a case, the other two persons may be appointed or nominated by Government or the principle of proportional representation may be applied compulsorily to them at that stage.

Shri C. D. Pande (Naini Tal Distt. cum Almora Distt. South-West-cum-Bareilly Distt.—North): The Government should also be satisfied that those who are taken into the Board of Directors should not have the only view of harassment and blackmail.

Shri C. D. Deshmukh: I have to submit with respect that there is a great deal in the suggestion that you have made and we should devote
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some thought to it when we come to clause 407. That seems to furnish a way out, that is to say, it widens the scope of this a little bit, and if we find that the permissive provision has not been taken advantage of, then if it is a proper case, we might say, "All right; you have failed to do so, when you were left free to choose your representatives in a certain way. Now, we do not think that appointing two directors will be a satisfactory remedy, because the circumstances which have led to this are likely to be more permanent than three years, and we may have to renew the sanction. Therefore, we think we should try this method of proportional representation in your case".

Shri K. K. Basu: Now, the provision is that the company has to accept it by a resolution. Is it your suggestion that even if the company does not amend the articles, Government can enforce it? I visualise this: supposing the promoters have a 26 per cent share. Then there is no provision. Ultimately even if the shareholders agree that there should be a proportional representation, they cannot amend the article if that 26 per cent cannot be covered by this resolution.

Shri C. D. Deshmukh: That will be a part of clause 407, how it should work and all that. Obviously you would not just leave it to Government to be guided by the articles when there would be something imposed on the article. All I can say is, this seems to be a good way out, because I have not two minds about this. If I was sure that in the 30,000 companies, by making this change, nothing whatsoever will happen, then I can say, "All right, you go ahead with proportional representation". I cannot dismiss airily the experience of some businessmen. I cannot say that every time they are interested. There are men opposite who have spent their lives in business and they say that according to their experience it would lead to a lot of disputes. On the other hand there is equally a competent businessman

[Shri C. D. Deshmukh]

although somewhat younger in age, on this side and he claims that this will not read to any embarrassment. There are both these views and I am inclined to respect both these views. My diffidence in announcing a kind of decision seems to rest, at the moment, only on myself, a decision that we will do something which will affect 30,000 companies immediately on the commencement of the Act. It is only this humility, if I may say so, which prevents me saying, "Yes, we shall go ahead with this". I say that the power is there. It is nothing irrevocable that is being done. This matter has been discussed now very fully. We know the pros and cons. I have promised to consider what the actual experience is with the help of much more elaborate staff than the Company Law Administration had in the past, and I think the House should be content to let us examine and investigate this thing a little bit and immediately to consider clause 407—to see whether it could be improved in any way—so that we can strengthen the provision of the law.

Mr. Deputy-Speaker: The hon. Minister wants to get the experience, and therefore an option is given. I am only suggesting a method of enforcing the option in very hard cases. Hon. Members will, I think, consider the matter when we come to clause 407.

Shri S. S. More: I wanted to suggest that the proper place for having some power with Government, for the purpose of enforcing such a clause, to avoid any abuse of power, will be somewhere near clause 264.

Mr. Deputy-Speaker: The hon. Member is making it difficult for the hon. Minister to consider it.

Shri C. D. Deshmukh: That also applies to the private limited companies. The arguments which were advanced by C. C. Shah cut both ways. He said that we should introduce this

in private limited companies because they seem to have a kind of unlimited freedom so far as those directors are concerned. There is no age-limit. They can impose special qualifications and all kinds of things. I feel that in this state of anarchy, it is hardly worthwhile introducing this one element of cumulative voting. It is not going to improve matters very much. If you do want to improve matters, then you should consider all the other clauses also, and if you decide to leave these affairs of private limited companies unlimited, but private then, in that case it might not be worth-while only to introduce this. That is what prevents me from accepting the amendment No. 550.

Shri C. C. Shah: Yes; we shall have to revise our whole attitude towards private companies.

Shri C. D. Deshmukh: It is part of a whole philosophy. As the Company Law Committee pointed out, you may do this and that, and yet it is a kind of integrated whole; the system of regulation of companies is based on a certain philosophy. That philosophy seems to me that you would have the minimum necessary regulation, in order that the shareholders may gradually be trained to look after their own affairs. Where experience proves that they are going wrong we will interpose the law there to protect them from the consequences of their own folly. That is the kind of answer that I would give to Shri Morarka regarding another point. He asked indignantly, "why should we interfere with the approval of a managing agent by people who know very well what their interests and whose money is at stake?" My answer is that our experience has been that this power also has been abused to the prejudice of the shareholders. I received the other day a letter from a person who calls himself the managing director of a private limited company. He drew my attention to various evils in the course of which he says: "At present, the Registrar is only a dummy....."—he is referring

to the present system—"...and he is unable to do anything. Majority of shareholders, in a private limited company appoint schoolboys as managing directors, who draw a minimum remuneration of Rs. 1,500 a month, plus motor car and all expenses from newspaper to funeral." This is how they cheat the minority shareholders, and this complaint comes from the managing director of a company.

Pandit Thakur Das Bhargava: Is this section applicable to private companies also?

Shri C. D. Deshmukh: So far as shareholders are concerned, the point was whether we should interfere with the freedom of the people, the investors of money, to appoint a managing director. Whether it is a private limited company or public limited company, I should say that the danger is so much greater, because the control is much more remote from the shareholder to the affairs of the company. There is also the danger of an unworthy person being appointed as managing director. I have known people appointing their sons-in-law and various other people as managing directors. We only want to screen these abuses which exist; we do not want to arrogate to ourselves the responsibility for finding out a managing director; in other words, we are not turning ourselves into a Federal Public Service Commission for limited companies. The object itself is a very limited one and it appealed to the House in 1951; and since there is no evidence that abuses of this kind will not recur in future, we thought it was a wise measure to make these temporary provisions permanent.

I now come to a small lacuna in clause 260. I think there is a great deal of force in the contention of Messrs. Nathwani and Morarka as well as Mr. Tripathi, so far as amendment No. 420 is concerned. Therefore, I am accepting in principle amendments Nos. 420 and 421.

Shri K. K. Basu: Are you accepting amendment No. 420?

Shri C. D. Deshmukh: Yes, I am accepting Shri Tripathi's amendment. Have I made any mistake in something?

Shri M. C. Shah: It is correct. Shri Tripathi's amendment is No. 420.

Mr. Deputy-Speaker: I have not yet put it to the vote of the House; there need not be any fear.

Shri C. D. Deshmukh: I accept Shri Kamakhya Prasad Tripathi's amendment and not Shri Kamal Kumar Basu's amendment. I am suggesting that instead of the present clause 260 (1)(f), we may substitute the following: "any associate or employee of the managing agent; or"

I am handing this over to the Secretary.

As regards removal of directors, I really cannot appreciate the argument of Shri Morarka about clause 283, namely, that directors should be removed only by a special resolution. You will see, Sir, that directors are appointed by an ordinary resolution and logically they should also be removable by an ordinary resolution. This is the provision in the English Companies Act and also the recommendation of the Company Law Committee. I fear I do not appreciate the apprehensions of Shri Morarka that there should be a provision for a special resolution.

I now come to clause 273.

Shri Morarka: Before the hon. Minister proceeds to the next clause, may I request that at least the directors appointed by the Government under clause 407 may not be removable under this clause 283.

Shri C. D. Deshmukh: There is no amendment moved by the hon. Member to that effect.

Coming to clause 273 which deals with the disqualification of directors, Shri Trivedi suggested that there should be no disqualification of a

[Shri C. D. Deshmukh]

person merely because he was convicted in a court of law of an offence and sentenced to imprisonment for not less than six months, unless he was convicted of an offence involving moral turpitude. We considered this point in the joint Committee at some length and we were unable to agree to a precise definition of moral turpitude. For instance, a question was asked if contravention of the prohibition law involved moral turpitude or not. It was felt that the true criterion for the disqualification of a director should be the period of the sentence. I would point out in this connection that there is no absolute disqualification imposed by a conviction in a court of law. All that clause 273 says is that the disqualification should extend up to a period of five years. Further, the Central Government has the power to remove the disqualification incurred by a person by virtue of sub-clause (d) either generally or in relation to any company or companies specified in the notification. This power was conferred upon the Central Government so that they could examine the nature of the offence and give relief in cases of genuine hardship. Shri Trivedi also raised the question of age limit.

Mr. Deputy-Speaker: I may tell the Finance Minister that those lawyers who were convicted for a year or a year and a half were struck off the rolls. That was on the ground that they were guilty of moral turpitude. There it is defined. They were struck off the rolls because they were convicted of offences involving moral turpitude.

Shri C. D. Deshmukh: Was it for political offences?

Mr. Deputy-Speaker: Yes.

Shri C. D. Deshmukh: That definition would not be of much good to us. It was a specific definition for a specific purpose.

Shri U. M. Trivedi: I want to point out to the hon. Finance Minister that in clause 266 (1) (c) the words "moral

turpitude" are used. If there will be no difficulty regarding the definition there, there should be no difficulty in using the similar language here. It occurs in clause 385 also.

Mr. Deputy-Speaker: Here it is. Clause 266(1)(c) reads:

"is, or has at any time been, convicted by a Court in India of an offence involving moral turpitude."

Shri C. D. Deshmukh: Then, we will look over this again.

The Minister of Legal Affairs (Shri Pataskar): May I explain the Joint Committee's point? The Joint Committee has found a way out of this. Instead of using the words "moral turpitude" which cannot be clearly defined, they have given the power to the Central Government that in any particular case they may remove the disqualification.

2 P.M.

Mr. Deputy-Speaker: The only small point here is, if it can be defined in an earlier clause, it should be equally definable here also. Therefore, in clause 273 also, moral turpitude and reserve power for Government in proper cases to remove may be there. The hon. Minister may consider it.

Shri C. D. Deshmukh: It should be possible. It does seem that if a person knocks down somebody or exceeds the speed limit, he should be disqualified for 5 years from being a director. I am content if it stands over now.

Mr. Deputy-Speaker: Clause 273 will stand over.

Shri C. D. Deshmukh: As regards age limit, we feel that the provisions of the Bill are sufficiently elastic and do not need a change. If a company wants to appoint a person beyond 65 to be a director, there is nothing to prevent it from doing so, provided it passes a resolution to this effect. Then, there was the question of corporate directors. Shri Tulsidas referred to

clause 252 and said that it should be so amended as to provide for the appointment of corporate directors. No demand for corporate directors has been voiced from any other quarter and I really cannot see sufficient justification for differing from the well considered views of the Company Law Committee on this subject.

Then, there was the question of retention of clauses 258, 267 and 268. The question was referred to by Pandit Thakur Das Bhargava also. I have already answered that. They seem to be under the impression that these clauses should be applicable only to managing agents and not to directors. As the House is aware, these restrictions are imposed by the Indian Companies (Amendment) Act of 1951 and our experience has shown the practical usefulness of these provisions. As I said, there is no guarantee that these abuses will not recur and therefore, we do not wish to deprive ourselves of this remedy. We do not think that any hardship will result from the operation of these clauses because their existence itself has prevented many a malpractice from taking place. I think that is a very valuable safeguard.

Shri Tulsidas: The only point on which I would like to have an explanation is this. Clause 258 (b) says:

"in the case of a company which came or may come into existence after that date, an increase which is within the permissible maximum under its memorandum and articles as first registered,"

You are increasing within the permissible number. Even then you want to go to the Government? If a company has got in the articles 8 directors permissible and they have appointed only 5, if they want to increase it further, within the permissible limit, they have to go to the Government.

Shri C. D. Deshmukh: That is so. According to the theory of numbers, you can have any number as permissible number.

Shri Tulsidas: The point is this. The report of the Joint Committee says that these clauses are required because of the managing agency system. That is the report of the Joint Committee. Therefore I say, why not exclude these clauses?

Shri C. D. Deshmukh: That is another point. The point now is, if the articles put a limit, why do you object. I say, the articles could be changed or new companies might start with the number as 200 directors so that they should never have to go to the Government for approval. Therefore, I think it is necessary to have them.

There is one other small point; otherwise, Shri Iyyunni will be angry. This is in regard to amendment No. 512 with regard to clause 263. This clause deals with first directors and directors appointed by the managing agents. So far as elected directors are concerned, before their re-election to the board, their consent to such a re-election is invariably first obtained. It is usual for companies when convening a general meeting to state in the notice to the members that so and so is due to retire by rotation and does or does not offer himself for re-election. Therefore, we think that this amendment is not necessary.

Shri K. K. Basu: I moved an amendment, No. 763 to clause 266. The clause relates to disqualifications of managing directors. It is said here; that an undischarged insolvent or a person who suspends or has suspended payment to his creditors, or makes, or has at any time made a composition with them or has been convicted by a court in India of an offence involving moral turpitude, cannot be appointed a managing director. You have completely left out the private companies from the operation of this clause. We do not understand why this clause should be excluded in respect of private companies.

Shri C. C. Shah: I have also pointed it out.

Mr. Deputy-Speaker: The objection seems to be that the disqualifications are of such a radical nature that private companies need not be distinguished from public companies.

Shri C. D. Deshmukh: The amendment is to omit this sub-clause 2.

Shri K. K. Basu: This must be made applicable to private companies.

Mr. Deputy-Speaker: If he is convicted or if he has become insolvent or suspends payment, these are of such a general nature and he ought not to be entrusted with funds whether belonging to a private company or public company.

Shri K. K. Basu: These private companies are managing agents of other companies. They are much more important in the economic life of our country. How can we accept this position?

Mr. Deputy-Speaker: This seems to have been added by the Joint Committee. It is underlined.

Pandit Thakur Das Bhargava: They should apply to both or to none.

Mr. Deputy-Speaker: We are not on the general question now. There is only a small point here. The disqualifications are of a serious nature. The hon. Minister is not responsible for this; the Joint Committee has added this. Why should the Joint Committee have taken this decision?

Shri K. K. Basu: It might possibly be at a depleted meeting where there were only 7 members.

Shri C. D. Deshmukh: This is not the only instance where we have left the private limited companies to their own resources.

Mr. Deputy-Speaker: What is urged upon the hon. Minister is, possibly a difference may be made with regard to age qualification. It is a small concern, it does not affect a large body. Therefore, even if a person over 65 is appointed let not the provision be made applicable. There are certain other provisions more innocuous than this. But,

the man is guilty of moral turpitude. He cannot deal with any money.

Shri C. D. Deshmukh: I should say I would accept this, because after all, many other things besides the interests of the shareholders, are determined by the management of a private limited company. A private limited company may be the managing agent of some other companies. Especially when our attention is drawn to this, there is no public purpose served by my saying that this should remain. Therefore, I accept the amendment.

Mr. Deputy-Speaker: The communists are not excluded.

Shri Sadhan Gupta: I had moved an amendment for barring tax evaders from acting as directors: that is, those who have been guilty of evading taxes.

Shri C. D. Deshmukh: The hon. Member would not accept the answer that we gave. Tax evasion is not on a par with the commission of an offence. Indeed it is a social offence. But, the words of the amendment, I think, are, found guilty by a court or tribunal. If you see the defunct—I think it is defunct—Income-tax Investigation Act, it never calls itself a court. It is a Commission. Neither is the word 'guilty' ever used as far as my memory goes. About 75 or 80 per cent. of the cases were settled cases, that is by compromise. In other words, the Commission went into the affairs of a company and said: don't you think a mistake has been made here in giving so much cloth out of so much yarn and the company has been gracious enough to admit, yes, probably it has been made and therefore I agree. Therefore, I do not think it comes in that class, and that is the reason why.....

Shri K. K. Basu: Does he mean to say that tax evasion is legally allowed in our country?

Shri C. D. Deshmukh: It is not an offence in the sense that a person is found guilty of it. The words of the amendment do not apply to anything

that exists in fact. I am the last person to justify tax evasion, but I do not say that it is an offence of which a person is found guilty.

Shri H. N. Mukerjee (Calcutta North-East): The Finance Minister seems to agree that, substantially speaking, since tax evasion is a social offence it should not be countenanced. Perhaps in that case, some deficiency in the drafting of the amendment might be rectified. If he is prepared therefore to accept the amendment substantially, in that case perhaps some kind of *via media* can be devised.

Shri C. D. Deshmukh: No, Sir, I am not prepared to accept it.

Mr. Deputy-Speaker: Hon. Members will consider that it is not an easy thing. Twice, three times penalty, any amount of penalty can be imposed and recovered.

Now, I will put the clauses to the vote of the House. Hon. Members will kindly say if they want me to put any particular amendment to the vote of the House, and I shall do so. Otherwise, I shall proceed with the respective clauses.

First, I am taking Clauses 251 to 254, both inclusive. No one has stood up. The amendments concerned, I take it, are not pressed.

The question is:

"That clauses 251 to 254 stand part of the Bill".

The motion was adopted.

Clauses 251 to 254 were added to the Bill.

Mr. Deputy-Speaker: The question is:

Page 135—

after line 31 insert:

"245 A. Election of Directors by Employees.—(1) The employees of a company who are workmen within the meaning of the Industrial Disputes Act (XIV) of 1947, shall elect by secret ballots from

amongst themselves, one director or a number of directors equal to one-fourth of the total number of directors, whichever number is greater.

(2) A director elected under sub-section (1) shall hold office—

(a) if elected before the statutory meeting from the date of such meeting to the day previous to the date on which the annual general meeting is held; and

(b) if elected before any annual general meeting, from the date on which such annual general meeting is held till the day previous to the date on which the next annual general meeting is held.

(3) The said employees shall at any time be entitled to elect such number of directors as may be necessary to make the number of such directors equal to the fourth of the total number of directors, and shall elect such directors when additional directors are appointed under Section 259".

The motion was negatived.

Mr. Deputy-Speaker: To clauses 255 to 259, are any amendments pressed? None.

The question is:

"That clauses 255 to 259 stand part of the Bill".

The motion was adopted.

Clauses 225 to 259 were added to the Bill.

Mr. Deputy-Speaker: There is an amendment to clause 260, as amendment No. 421. That is what was said.

Mr. C. D. Deshmukh: I have given a combined amendment in respect of 420 and 421.

Shri N. P. Nathwani: I wanted to say something about clauses 260.

Mr. Deputy-Speaker: The hon. Member has missed the bus. There are many amendments by hon. Members. I will close the whole chapter. I cannot allow any hon. Member to speak now.

Shri N. P. Nathwani: Most probably I think the hon. Finance Minister will agree.

Mr. Deputy-Speaker: He may agree, he may not agree. I am not going to agree. There is a stage when the Chair also must agree. Now, the whole thing is over. Even now if he has no objection I will put it to the House. It is open to him to say. The voices will be counted.

Shri C. D. Deshmukh's new amendment is:

Page 138—

for lines 6 and 7, substitute:

"(f) any associate or employee of the managing agent; or"

then, sub-clause (g) must go. I understand from this note:

"The above may be substituted for clause (f). It combines clauses (f) and (g) as given notice of by Shri Tripathi and others."

Shri Pataskar: No, no. It is a new amendment, but it carries out the effect of amendments Nos. 420 and 421.

Mr. Deputy-Speaker: But, is sub-clause (g) to stand or not?

Shri Pataskar: Let it be moved as an independent amendment.

Mr. Deputy-Speaker: Which one?

Shri Pataskar: The new amendment.

Shri C. D. Deshmukh: The question asked is whether you want sub-clause (g).

Mr. Deputy-Speaker: Because I find here.....

Shri C. D. Deshmukh:

In Page 138—

for lines 6 and 7, substitute:

"(f) any associate or employee of the managing agent; or"

Mr. Deputy-Speaker: That I have done. But in the note that is handed over to me I find: "The above may be substituted for sub-clause (f). It combines (f) and (g) as given notice of by Shri Tripathi and others, and by Shri Nathwani and Shri Morarka." That (g) refers to his amendment, is it not, in the clause?

Shri Pataskar: No, no. 420 is another amendment and the effect of both of them is the same. The original clause will stand as it is with this amendment.

Mr. Deputy-Speaker: Then I will put it to the vote of the House. The number of this new amendment is 892.

The question is:

Page 138—

for lines 6 and 7, substitute:

"(f) any associate or employee of the managing agent; or"

The motion was adopted.

Mr. Deputy-Speaker: Are there any other amendments?

Shri C. C. Shah: 419.

Mr. Deputy-Speaker: Notice was not given.

Shri N. P. Nathwani: It is not given in the Consolidated List, but we have tabled that amendment, and I understand the hon. Finance Minister.....

Mr. Deputy-Speaker: I will look into that.

Shri C. C. Shah: It reads:

Page 137, line 30—

after "the articles" insert

"or by an agreement".

Because managing agents may be authorised to nominate two directors either by the articles or by the agreement.

Shri C. D. Pande: "Agreement" is vague. It may contain a loophole.

Shri C. C. Shah: There are managing agency agreements which are well-known, and it is only the agreement which gives the right to appoint directors. **Shri Tulsidas** also agrees.

Shri Tulsidas: I agree.

Shri Gadgil: Once in a way they agree.

Mr. Deputy-Speaker: The question is:

Page 137, line 30—

after "the articles" insert "or by an agreement".

The motion was adopted.

Mr. Deputy-Speaker: These are the only two amendments. The others are not pressed.

The question is:

"That clause 260, as amended, stand part of the Bill".

The motion was adopted.

Clause 260, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

"The clauses 261 and 262 stand part of the Bill".

The motion was adopted.

Clauses 261 and 262 were added to the Bill.

Mr. Deputy-Speaker: Now, I come to clause 263. There is amendment No. 512 by **Shri C. R. Iyyunni**. Does the hon. Member want to press it? I think the hon. Member's point has been answered. Before renewal takes place, they usually send a notice informing the people concerned that such and such a gentleman is willing to stand. What is the good of wasting a vote over a gentleman who is not willing to stand? Some people may get disgusted and retire in favour of other hon. Members.

Shri C. R. Iyyunni: As a matter of fact, such a thing does not happen.

Mr. Deputy-Speaker: The world is much bigger.

Shri C. R. Iyyunni: For instance, somebody may say he is not willing to stand. For instance, a Member of Parliament may say that he does not want to stand. But such a thing never happens either in a bank or in a co-operative society.

Mr. Deputy-Speaker: Unfortunately, the world is much bigger than our small experience. There are a number of cases where that also occurs. Anyhow, I leave it to the hon. Member. I am not the judge here. Does the hon. Member want me to put amendment No. 512 to vote?

Shri C. R. Iyyunni: I am not pressing amendment No. 512. I am pressing only amendment No. 513 to clause 264.

Mr. Deputy-Speaker: Then, I shall put clause 263 to vote.

The question is:

"That clause 263 stand part of the Bill."

The motion was adopted.

Clause 263 was added to the Bill.

Mr. Deputy-Speaker: The question is:

Page 139—

for clause 264, substitute:

"264. Notwithstanding anything contained in this Act or the articles of association, a company may, in a general meeting, appoint directors according to the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise:

Provided that a resolution to that effect, a notice of which, has been given to the company before 21 days of the meeting, is passed in the general meeting by a majority of votes in person or proxy".

The motion was negatived.

Shri K. K. Basu: We want amendment No. 227 also to be put to vote.

Mr. Deputy-Speaker: Is that amendment in the name of the hon. Member, Shri K. K. Basu?

Shri K. K. Basu: No. It is in the name of Shri N. P. Nathwani.

Mr. Deputy-Speaker: Does the hon. Member, Shri N. P. Nathwani, want to press it?

Shri N. P. Nathwani: I am not pressing that amendment.

Shri K. K. Basu: We shall not give leave to withdraw that amendment.

Mr. Deputy-Speaker: Has the hon. Member, Shri N. P. Nathwani, leave of the House to withdraw his amendment No. 227?

Some Hon. Members: No.

Mr. Deputy-Speaker: Then, I shall have to put it to vote.

The question is:

Page 139—

(i) line 20—

Omit "Option to"

(ii) line 22—

for "may" substitute "shall".

Those in favour will say 'Aye'.

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those against will say 'No'.

Some Hon. Members: No

Mr. Deputy-Speaker: The 'Noes' have it.....

Shri K. K. Basu: The 'Ayes' have it.

Mr. Deputy-Speaker: Hon. Members who are in favour may kindly stand in their seats.

Shri K. K. Basu: It is only 2-25 P.M. now. You cannot put it to vote now.

Mr. Deputy-Speaker: Does the hon. Member seriously contend that just one voice will be equal to that of the rest?

Shri K. K. Basu: We are going to divide on this issue. So, let this be put off.

Mr. Deputy-Speaker: Even then, I need not call a division. It is always open to me to call or not to call a division. Anyhow, I will postpone the voting on amendment No. 227 until 2-30 P.M., as also the voting on clause 264.

Mr. Deputy-Speaker: I now come to clause 265. There is one amendment to this clause. I take it that it is not pressed.

The question is:

"That clause 265 stand part of the Bill".

The motion was adopted.

Clause 265 was added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 140, line 37—

for "managing director" substitute "managing or whole-time director".

The motion was adopted.

Shri C. D. Deshmukh: There is another amendment to this clause, namely amendment No. 763 by Shri K. K. Basu.

Mr. Deputy-Speaker: The question is:

Page 140—

omit lines 45 and 46.

The motion was adopted.

Mr. Deputy-Speaker: I take it that the other amendment to this clause is not pressed.

The question is:

"That clause 266, as amended, stand part of the Bill."

The motion was adopted.

*Clause 266**, as amended, was added to the Bill.*

*In parts (b) (i) and (ii) of sub-clause (i) of clause 261, the word "or", was added at the end as patent error under the direction of the Speaker.

**In view of the amendment to sub-clause (a) of clause 266 adopted by the House, the brackets and figure "(1)", occurring in clause 266 were omitted as patent error under the direction of the Speaker.

Mr. Deputy-Speaker: The question is:

Page 141, line 5,—

for "managing director" substitute "managing or whole-time director".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 267, as amended, stand part of the Bill."

The motion was adopted.

Clause 267, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

Page 141, line 16—

for "managing director" substitute "managing or whole-time director".

The motion was adopted.

Pandit Thakur Das Bhargava: I would like amendment No. 867 to be put to vote.

Mr. Deputy-Speaker: It is not in the list. However, it may be treated as moved.

The question is:

Page 141, lines 19 to 21—

for "shall not have any effect unless approved by the Central Government: and shall become void if, and in so far as, it is disapproved by that Government" substitute: "shall become void if it is disapproved by the Government for reasons mentioned in section 266 or section 273 relating to directors."

The motion was adopted.

Mr. Deputy-Speaker: I take it that the other amendment to this clause is not pressed.

The question is:

"That clause 268, as amended, stand part of the Bill."

The motion was adopted.

Clause 268, as amended, was added to the Bill

Mr. Deputy-Speaker: I take it that the amendment to clause 269 is not pressed. There are no amendments to clauses 270 to 272. So, I shall put all these clauses together.

The question is:

"That clauses 269 to 272 stand part of the Bill."

The motion was adopted.

Clauses 269 to 272 were added to the Bill

Mr. Deputy-Speaker: The question is:

Page 142—

after line 9 insert:

"272A. Prohibition of appointment of tax-evaders as directors. —(1) No person who has been found guilty by any Court of Tribunal or other competent authority of evading any tax payable by him, shall be appointed as a director of any company.

(2) Any person, on being found guilty as aforesaid shall forthwith vacate the office of a director.

(3) In the case of a person who has been found guilty as aforesaid before the commencement of this Act, the provisions of subsection (2) shall apply as if he had been found guilty as aforesaid at the date of commencement of this Act.

(4) This section shall apply notwithstanding any want of jurisdiction in the Court of Tribunal on account of any technical defect in its constitution or composition."

The motion was negatived.

Mr. Deputy-Speaker: Now, we come to clause 273.

Shri Sadhan Gupta: This is to stand over.

Mr. Deputy-Speaker: Clause 273 will stand over. We shall take up clause 274.

Shri M. S. Gurupadaswamy: I have got amendment No. 102.

Mr. Deputy-Speaker: Need I put it to vote?

Shri M. S. Gurupadaswamy: Yes.

Mr. Deputy-Speaker: The question is:

Page 143, line 5—

for "twenty companies" substitute "ten companies".

The motion was negatived.

Mr. Deputy-Speaker: I take it that the amendment to clause 275 is not pressed. There are no amendments to clauses 276 to 278. So, I shall put all these clauses together to vote.

The question is:

"That clauses 274 to 278 stand part of the Bill".

The motion was adopted.

Clauses 274 to 278 were added to the Bill.

Mr. Deputy-Speaker: The question is:

Page 144, line 42,

for "completed" substitute "attained".

The motion was adopted.

Shri U. M. Trivedi: I would like my amendment No. 518 to be put to vote.

Mr. Deputy-Speaker: The question is:

Page 144, line 31—

for "sixty-five years" substitute "seventy years".

The motion was negatived.

Mr. Deputy-Speaker: I take it that the other amendments to this clause are not pressed.

The question is:

The motion was negatived.
stand part of the Bill".

The motion was adopted.

Clause 279, as amended, was added to the Bill

Mr. Deputy-Speaker: I take it that the amendments to clauses 280 to 282 are not pressed.

The question is:

"That clauses 280 to 282 stand part of the Bill".

The motion was adopted.

Clauses 280 to 282 were added to the Bill.

Mr. Deputy-Speaker: The question is:

Page 147, line 2—

after "director" insert "(not being a director appointed by the Central Government in pursuance of section 407)".

The motion was adopted.

Mr. Deputy-Speaker: I take it that the other amendments to clause 283 are not pressed.

The question is:

"That clause 283, as amended, stand part of the Bill".

The motion was adopted.

Clause 283, as amended, was added to the Bill.

Mr. Deputy-Speaker: There is amendment No. 232 seeking to introduce a new clause. I take it that it is not pressed.

It is now 2-30; therefore, Shri Nathwani's amendment can be put in

a full House like this. The question is:

Page 139—

(i) line 20—

omit "Option to".

(ii) line 22—

for "may" substitute, "shall".

Those who are for the amendment will say "Aye".

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those who are against the amendment will say "No".

Some Hon. Members: "No".

Mr. Deputy-Speaker: The "Noes" have it.

Some Hon. Members: The "Ayes" have it.

Mr. Deputy-Speaker: The "Ayes" will stand up.

Shri K. K. Basu: It is a question of policy. We would request you to have the bell rung and order a division.

Mr. Deputy-Speaker: I would like to make one point clear. If I ring the bell it is only for the purpose of getting all hon. Members to the House. On that ground I am not going to divide the house, if from the voices I find that it is not necessary for me to divide the House. I am asking the bell to be rung on that special understanding. It is the duty of the whips of each Party to ensure the presence of its Party members. I am aware that some time back merely to avoid a division being called, hon. Members went on sitting in the House. Therefore, it is the duty of each Member to be in the House, and

the duty of the Whip of each Party to ensure the presence of its members. For that alone I am not going to act as their agent to get their members. I am quite willing to ring the bell to give them an opportunity to come. If, however, I am not able to judge from the voice, I will ask them to stand in their seats.

The bell is being rung.

Order, order, I shall put amendment No. 227 to the vote of the House.

The substance of this is that there is an option of electing directors by the principle of proportional representation by a system of cumulative voting instead of the present practice of majority. Instead of its being optional, they want to make it compulsory. That is the sum and substance of the amendment.

Shri U. M. Trivedi: May I raise a point of order? You had put it whether Shri Nathwani had the leave of the House to withdraw his amendment and that was the question before the House. Before that is decided this amendment cannot be put.

Mr. Deputy-Speaker: The hon. Member will read the rules once again. The rules say that whenever leave is opposed even by a single individual Member, the motion shall be put to the vote of the House.

The question is:

Page 139—

(i) line 20—

omit "Option to "

(ii) line 22—

for "may" substitute "shall".

The Lok Sabha divided: Ayes 16; Noes 107.

AYES

Division No. 3

Amjad Ali, Shri
Basu, Shri K. K.
Chatterjee, Shri Tushar
Chowdhury, Shri C.R.
Chowdhury, Shri N. B.
Gopalan, Shri A. K.

Gupta, Shri Sadhan
Gurupadaswamy, Shri M. S.
Mehta, Shri Asoka
More, Shri S.S.
Mukerjee, Shri H. N.
Randaman Singh, Shri

Rao, Dr. Rama
Rao, Shri P. Subba
Shastri, Shri R. R.
Veeraswamy Shri

[2-38 P.M.]

[Mr. Deputy-Speaker]

NOES

Abdus Sattar, Shri
 Agarawal, Shri H. L.
 Altekar, Shri
 Azad, Shri Bhagwat Jha
 Balasubramaniam, Shri
 Banerjee, Shri
 Bansal, Shri
 Barman, Shri
 Bhagat, Shri B. R.
 Bhargava, Pandit Thakur Dass
 Bhatt, Shri C.
 Bheekha Bhai, Shri
 Bidari, Shri
 Birbal Singh, Shri
 Bogawat Shri
 Brajeshwar Prasad, Shri
 Chandrasekhar, Shrimati
 Charak, Th. Lakshman Singh
 Chaturvedi, Shri
 Chavda, Shri
 Chettiar, Shri T. S. A.
 Das, Dr. M. M.
 Das, Shri B. K.
 Das, Shri K. K.
 Das, Shri N. T.
 Das Shri Ram Dhani
 Datar, Shri
 Deshmukh, Shri C. D.
 Deshpande, Shri G. H.
 Cholakia, Shri
 Dhusiya, Shri
 Digambar Singh, Shri
 Dube, Shri Mulchand
 Dube, Shri U. S.
 Dubey, Shri R. G.
 Dwivedi, Shri M. L.

Escharan, Shri I.
 Gadgil, Shri
 Gopi Ram, Shri
 Gounder, Shri K. P.
 Hem Raj, Shri
 Hembrom, Shri
 Hyder Hussain, Ch.
 Iyyunni, Shri C. R.
 Jastav-vir, Dr.
 Jayashri, Shrimati
 Jhunjhunwala, Shri
 Jogeswar Singh, Shri L.
 Joshi, Shri Jethalal
 Joshi, Shri Krishnacharya
 Joshi, Shri M. D.
 Joshi, Shri N. L.
 Jwala Prasad, Shri
 Kasliwal, Shri
 Katham, Shri
 Khedkar, Shri G. B.
 Krishna Chandra, Shri
 Kureel, Shri P. L.
 Lotan Ram, Shri
 Malliah, Shri U. S.
 Malviya, Pandit C. N.
 Mehta, Shri Balwant Sinha
 Mehta, Shri J. R.
 Mishra, Shri L. N.
 More, Shri K. L.
 Muhammed Shafice, Ch.
 Muthukrishnan, Shri
 Nair, Shri C. K.
 Nehru, Shrimati Uma
 Nevatia, Shri
 Pande, Shri C. D.
 Pannalal, Shri

Parikh, Shri S. G.
 Pataskar, Shri
 Patel, Shri Rajeshwar
 Prabhakar, Shri Naval
 Radha Raman, Shri
 Ram Shankar Lal, Shri
 Ramaswamy, Shri P.
 Ramaswamy, Shri S. V.
 Rane, Shri
 Reddy, Shri Janardhan
 Sahu, Shri Rameshwar
 Sarmah, Shri Debeswar
 Sewal, Shri A. R.
 Shah, Shri Raichandbhai
 Sharma, Shri D. C.
 Siddananjappa, Shri
 Singh, Shri D. N.
 Singh, Shri H. P.
 Singhal, Shri T. N.
 Singhal, Shri S. C.
 Sinha, Shri S.
 Snatak, Shri
 Somani, Shri G. D.
 Sunder Lal, Shri
 Suriya Prasad, Shri
 Telikar, Shri
 Tewari, Sardar R. B. S.
 Thimmaiah, Shri
 Trivedi, Shri U. M.
 Tulsiadas, Shri
 Ulkey, Shri
 Upadaya Shri Shiva Daya
 Vaishnav, Shri H. G.
 Varma, Shri B. R.
 Varma, Shri Manikya Lal

The motion was negatived.

Shri K. K. Basu: Abstentions should be recorded.

Mr. Deputy-Speaker: The hon. Member finds that having been defeated, there should be some other procedure. It is not the practice here.

The other amendments to clause 264 are not pressed.

The question is:

"That clause 264 stand part of the Bill".

The motion was adopted.

Clause 264 was added to the Bill.

Mr. Deputy-Speaker: Now except clause 273, which has been allowed to

stand over, all the clauses in this group have been passed.

Now, before we take up non-official business, let me say this. A suggestion was made that regarding the other group of clauses relating to managing agents etc., about 11 hours or so have been allotted, and it may be necessary to divide them into groups. Is it necessary to divide them into two or more groups? One group, as suggested by the Finance Minister, may be relating to the managing agents, and the other may be about secretaries and treasurers and so on. Hon. Members will kindly consider this suggestion.

Shri M. C. Shah: From clauses 234 to 322, and thereafter 323 to 377.

Mr. Deputy-Speaker: Tomorrow we have 3½ hours upto 3-30 P.M.

Shri M. C. Shah: Thereafter, we will have 1½ hours.

Mr. Deputy-Speaker: The matter will come up whether today or tomorrow. Hon. Members will kindly consider and see whether those clauses can be split up into convenient groups—two or three—and inform the House tomorrow.

PUNISHMENT FOR ADULTERATION OF FOODSTUFFS BILL

Shri Jhunjhunwala (Bhagalpur Central): I beg to move for leave to withdraw the Bill to provide for punishment of those found guilty of adulteration of foodstuffs, in view of the fact that a Bill has already been brought before the House and passed.

Mr. Deputy-Speaker: The question is:

"That leave be granted to withdraw the Bill to provide for punishment of those found guilty of adulteration of foodstuffs".

The motion was adopted.

MOTOR TRANSPORT LABOUR BILL

Shri A. K. Gopalan: (Cannanore): I beg to move for leave to introduce a Bill to regulate the conditions of motor transport workers.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to regulate the conditions of motor transport workers".

The motion was adopted.

Shri A. K. Gopalan: I introduce the Bill.

PREVENTION OF JUVENILE VAGRANCY AND BEGGING BILL

Mr. Deputy-Speaker: The House will now resume further consideration of the following motion moved by Shri M. L. Dwivedi on the 19th August 1955:

"That the Bill to make provision for the prevention of juvenile vagrancy and begging, be taken into consideration".

Out of 1½ hours allotted for the discussion of the Bill, 31 minutes were taken on the 19th August, leaving a balance of 59 minutes for its further consideration. Dr. Rama Rao may now continue his speech.

We have started about quarter to three and we go up to quarter to four. The hon. Member in charge of the Bill would like to have 15 minutes for his reply. Then, we have three-quarters of an hour. Hon. Members would kindly have an idea of the time and restrict their speeches.

Dr. Rama Rao (Kakinada): On the last occasion I was referring to the responsibility of the State with regard to children, particularly orphans. Unfortunately, in spite of the socialistic pattern being our idea, we are neglecting our children to a very great extent which is shown by the fact that with the exception of one or two States, none of the States have a state-owned or state-managed orphanage institutions which are government aided. I was referring to the fact that the care of orphans in particular and children in general as the first responsibility of the State—almost a first charge on the State. Unfortunately, in spite of our sympathy for children we are doing very little for the care of orphans. Something is being done for juvenile offenders; something is being done for the handicapped, the dumb and other children—all this ought to be done—something is being done even for wild life and as long as children do not become wild it looks as though we do not care for them. So, I appeal to the Government to start orphanages of their own in areas where there is central responsi-