

Mr. Deputy-Speaker: When a day is decided on this, there will be a debate.

LEAVE OF ABSENCE

Mr. Deputy-Speaker: I have to inform the hon. Members that I have received the following letter from Shri A. K. Basu:—

"For reasons of health I have to be in Switzerland for a month or two. I would, therefore, request you to be kind enough to obtain the leave of the House for my absence during the forthcoming Session of the House."

Is it the pleasure of the House that permission be granted to Shri A. K. Basu for remaining absent from all meetings of the House during this Session?

Leave was granted.

PAPERS LAID ON THE TABLE

TARIFF COMMISSION REPORT ON RETENTION PRICES OF TATA STEEL AND GOVERNMENT RESOLUTION THEREON

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I beg to lay on the Table a copy of each of the following papers under sub-section (2) of Section 18 of the Tariff Commission Act, 1951:—

- (i) Report of the Tariff Commission on the fair retention prices of steel produced by the Tata Iron & Steel Co. Ltd. (1953);
- (ii) Ministry of Commerce and Industry Resolution No. SC(A)-2 (96)/52, dated 20th July, 1953 [Placed in the Library. See No. IV R 159(22).]

COLLECTION OF STATISTICS BILL —concl'd.

Mr. Deputy-Speaker: The House will resume consideration of the motion moved on the 5th August, viz.,

"The Bill to facilitate the collection of statistics of certain kinds

relating to industries, trade and commerce be taken into consideration."

Shri N. C. Chatterjee (Hooghly): Sir, on the eve of India's Independence Day I ought to remind you that most of the foreign firms in India were expecting that some concrete steps would be taken by the Government to hasten the pace of Indianisation both in the commercial and industrial field as well as in other sectors of national life. After all, Sir, independent India demanded that the country's nationals should have an adequate place in all organisations controlling their economic life and development. Indeed, we know that many foreign firms had reconciled themselves to this position and they promoted many of their Indian executives to senior cadres. But, Sir, for some reason, some inscrutable reason, I must say the Government of India has not been very watchful, and as watchful as the circumstances warranted, and that made the foreign firms feel somewhat complacent. The result has been that from complacency there has been a drift against progressive Indianisation. And, as I gave you some facts, there has been a neglect of our nationals in foreign firms. As a consequence, there have been good many complaints against discrimination. Ultimately, New Delhi has been energised into action by the volume of complaints.

How far the charge of deliberate discrimination and victimisation is correct can only be realized if proper data and statistics are collected. The Government is stating in the Statement of Objects and Reasons:

"Though Government can exert pressure to make certain firms submit returns, it is expedient that Government should be armed with powers to compel all concerns (including Managing Agency firms) engaged in (a) trade and commerce with foreign countries, (b) inter-State trade and commerce, (c) trading firms or Corpora-

[Shri N. C. Chatterjee]

tions.....and (d) stock exchanges, to furnish such information."

I think Government should be given this power, and this power should be exercised and used properly, and the charges of victimisation, discrimination on racial grounds etc., should be gone into and redressed. But they cannot be redressed unless you get the requisite data, the requisite facts.

After a few observations I made yesterday, some hon. Members expressed to me their amazement that I was supporting this Government measure where extraordinary powers have been given to the executive and they reminded me that such extraordinary powers were often abused. I need not be reminded that statutes like the Preventive Detention Act have been abused—and I am one of the victims of that statute and of extraordinary powers contained therein. I need not be reminded by anybody. We should be very careful that these extraordinary powers should not be abused and they should not be conferred on the executive in an unrestrained manner, yet at the same time I feel that the time has come when such powers should be given. Of course, we realize the danger of clothing the executive Government with unrestrained power.

I have gone through some of the amendments sponsored by Pandit Thakur Das Bhargava and other friends, and I think they are worthy of serious consideration. Pandit Thakur Das Bhargava has said in one amendment that power should not be given also to ask questions necessary for obtaining any information required to be furnished under the Act. He has asked for the omission of that. I don't know why he asks for the omission. I think that it is proper that power should be given to ask questions. Mr. V. P. Nayar has suggested that power of inspection and taking copies of relevant records should be taken. Pandit Thakur Das Bhargava

has said that instead of asking questions, powers should be given to seize records and documents that contain the information required. If the Minister thinks that such power is needed, this Parliament should not be very reluctant to give that power, though such powers may be abused, even flagrantly abused. It may be an engine of oppression and torture, it may be utilized for other purposes. But true patriotism demands that national interests should transcend all sectional, party or group interests, and therefore, although we know that extraordinary powers have been abused and regrettable things have happened, and that we should be careful, still we support it as in the actual working we find that the Government could not get the requisite data. We have heard the statement of the hon. Minister that some of the firms refused to respond. They did not answer the questionnaire, and we know that the questionnaire was answered by others in such a way as to make the information absolutely hopeless or abortive. Therefore, the power should be given. Desperate diseases sometimes require desperate remedies. India has been raising her voice against the racial policy of South Africa, thundering against Dr. Malan's Government, but unfortunately, racial discrimination is going on in this country. There are certain commercial enclaves who think they are still the vestiges of British imperialism. They should be told that the writ of this Parliament will run in Clive Street and every corner of India; that the writ of the Government functioning now under the authority of this Parliament will also run throughout India and nobody can snap his finger at them. We should not tolerate any commercial enclave behaving in a manner derogatory to our self-interest and national prestige.

It is not a question of pounds, shillings and pence or rupees, annas and pies. The Indian executives have been telling repeatedly that they are not

motivated by the desire to secure a few rupees more by the revision of their pay and allowances, although this may incidentally be the result of the redressing of their grievances. They do not mind if their salaries were even reduced, provided the salaries of their superior officers, the foreigners, were also reduced to the same level. It is a question of self-respect and national interest. Most of our key industries are still in the hands of foreigners and they are managed by foreigners. It should be easy to visualize what will happen if there is a national crisis or a national emergency. We should, therefore, train up our own nationals in a proper way. The first thing to do is to have a statute like this with proper safeguards and adequate precautions. I think if the powers are judiciously exercised, we shall get the relevant data and we shall be able to deal with the firms in such a way as to promote our national needs.

Shri H. N. Shastri (Kanpur Distt.—Central): I rise to support this motion. The previous speaker has dealt with one important aspect of this Bill. My support to this motion is based on my personal experience as a trade unionist for very many years. I have been connected with a number of Labour Enquiry Committees that have been chiefly entrusted with the task of enquiring into the wages and working conditions of workers in certain industries. In the course of this association I have found that the chief difficulty that these enquiry committees have been faced with has been a reluctance on the part of most of the employers to furnish the requisite data that could be helpful for such enquiry committees.

Then, Sir, as you may be aware, there are industrial disputes that arise from time to time. They come up before Conciliation Boards; they come up before Tribunals and Arbitration Courts. Now, a proper settlement of this question is very greatly impeded for lack of available data.

The difficulties are still greater in the case of private industrial concerns that are free to manipulate their registers and accounts, and instances of such manipulation and gross mismanagement leading even to closure of some concerns have occurred in the past, resulting in unemployment of thousands of workers. Such cases have been brought to light on several occasions in recent years. In view of these considerations, I feel that this is an important piece of legislation that should be put on the statute book. As a matter of fact, the trade union organisations in this country have on many occasions in the past stressed the need for such legislation, and though it is already too late, still I think it will receive the unanimous support of the House.

Before I sit down, I should like to say that any efforts to curtail the powers vested in the Government by this Bill or proposed to be given, by means of amendments like those that have been given notice of by Mr. Thakur Das Bhargava, will undo the very purpose for which this Bill has been introduced. I, therefore, propose that this Bill should be passed in the form in which it has been placed before the House.

Shri S. S. More (Sholapur): Sir, I rise to support the underlying principles of this Bill. But in doing so, with your permission, I would like to point out some of the significant omissions that I perceive in this particular measure.

For instance, in the definition clause, in sub-clause (b), the term 'commercial concern' has been defined, but I fail to understand why private companies have been excluded from the ambit of the definition. I speak subject to correction. The definition as it stands reads:

" 'commercial concern' means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in trade or commerce, and includes....."

[Shri S. S. More.]

Possibly, it may be argued that the latter part of this definition, 'or any other person or body of persons engaged in trade or commerce' will cover all private companies. But when it is possible to define it more explicitly in technical and legal expressions, I think it would be much better to make the definition as comprehensive as possible, even at the risk of being superfluous in the use of expressions.

Industrial and commercial concerns have been mentioned and defined at some length. But may I point out that there may be some companies which may be interested in large scale agriculture? In my part, particularly, there are some companies which grow sugar-cane, convert it into jaggery and sell it on a huge scale. The question is whether such concerns will be covered by any of these definitions. As far as I am able to read it, companies formed for the purpose of carrying on extensive and modern agriculture on a large scale, will not be covered by these definitions. I would refer you particularly to clause 2(b) (ix) which reads 'a rubber, tea, coffee or cinchona plantation'. That means other plantations such as sugar-cane plantations, etc., are excluded. I would request Government to go into this matter carefully, and bring within the scope of this particular legislation even companies or bodies of persons who are carrying on extensive agriculture. In many of these hundreds of workers are employed. Even for the purpose of ensuring the welfare of labour, the information which is sought or designed to be sought under clause 3 of the Bill is very useful, but as the Bill stands, private companies will be excluded. I would request the hon. Minister in charge to look into the matter and include within the scope of this legislation, even agricultural companies.

My next great grievance is regarding the penalty clause. I know that this penalty clause has been borrowed from the Industrial Statistics Act, 1942

(Act XIX of 1942). But it provides so many loopholes, through which the offenders may escape.

Clause 8(a) (ii) reads:

'wilfully furnishes or causes to be furnished any information or return which he knows to be false;'

If he wilfully furnishes, then we should say 'furnishes or causes to be furnished any information or return which he knows to be false', or 'wilfully furnishes or causes to be furnished any information or return which is false'. The terms 'wilfully' and 'which he knows to be false' together are redundant, because in such cases, the guilty intention of the man will have to be proved, and we shall have to prove not only that he was wilfully furnishing that information, but also satisfy that he also knew the information to be false. If he had not known that the particular information which was supplied to Government or the statistical authority was false, then the question of his wilful submission does not arise. I think the wording as it stands only adds to the confusion.

Now, a person may know a certain information to be false, or he may not believe it to be true. I shall just refer to the Representation of the People Act, in section 123 of which corrupt practice has been defined. Sub-section (5) of that section runs thus:

'The publication by a candidate or his agent, or by any other person, with the connivance of the candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true.....'

If something like that were there in this Bill also, then it will be in accord with provisions elsewhere.

Again, take for instance Section 171 (g) of the Indian Penal Code. We find the same expression being used there. Take again, the Press and Registration

of Books Act. In Section 14 of that Act, there is a similar expression.

If identical expressions in such matters are used in different pieces of legislation covering the same mental attitude of the offender, then decisions in one case or under one enactment may be utilised for the purpose of the cases under other enactments. But the wording used here seems to be something strangely out of the common run. I would request the hon. Minister to apply his mind to this question.

Coming to clause 9 'Offences by companies', I must say that this clause passes my comprehension. With your permission, I shall read out the clause as it stands:

"9. Offences by companies.—(1)

If the person guilty of an offence under section 8 is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence."

A company is a corporate body. It is constituted of the directors who are supposed to manage the affairs, and the shareholders who have contributed their capital for the running of the business. Under this clause, not only the persons concerned will be prosecuted and punished but even the company which is a corporate body will be prosecuted and punished. I can understand a civil action lying against a corporate body or a corporate body being made to pay civil damages. But how can a company be prosecuted? At least

my experience is not enough to give me some light on this point. I would like to have clarification of this point. The proviso to the sub-clause will come in handy for many of the fish to escape. A company carrying on manufacturing business on a large scale may have some big persons on the directorate. Under this clause, if false information is supplied by their agent who happens to be the managing agent, or by anybody else, whatever designation they may choose to give him, and if that information is given wilfully, then according to the first part of the sub-clause, all such persons who are concerned with the affairs of the company shall be deemed to be guilty, and they will be prosecuted and punished. But under the proviso, you give them an opportunity to show that the offence was committed without their knowledge.

What will be the effect? Sir, I do not think you will be able to catch all the Directors and particularly the big fish who will be really responsible for supplying false information. Possibly, this particular clause will be utilised for making a scapegoat of some employee and the other big fish, who are really interested in suppressing correct information from Government, will say, "Well, it was done without our knowledge. We never knew about this matter", and they will escape. That should not happen. No employee of the company who has no interest in the affairs or in the profits of the company beyond the salary that he gets should be made the victim of this particular clause. If this proviso is allowed to remain there, they will take advantage of it and somehow manage to wriggle out of the whole awkward situation.

Then we come to sub-clause (2) of this particular clause: 'Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the

[Shri S. S. More]

part of any director, manager, secretary or other officer, such director, manager, secretary or other officer shall also be deemed to be guilty and shall be liable to be proceeded against and punished accordingly'. Why this 'notwithstanding'? Where is the necessity for this separate clause? As a matter of fact, it only repeats what has been stated in sub-clause (1) with some slight difference, because sub-clause (1) already says:

"If the person guilty of an offence under section 8 is a company, every person who at the time the offence was committed was in charge of and was responsible to the company....."

It is only the courts that will adjudicate upon this matter. So if our expressions are not correct and our meaning is not made precise and definite, this confusion in our wording will be taken advantage of and possibly the Minister will have to come back to us saying that as a result of the different judicial pronouncements, this section needs some amendment and we should again amend that. I feel 'notwithstanding' has no meaning here and this whole sub-clause is nothing but a repetition of sub-clause (1). The proviso should be dropped out if Government is advised to that effect, because that will be a good shelter for the real mischief-makers who will be working from behind the curtain and the big fish who are to be netted in this legislation will safely escape.

These are the only suggestions I would make as far as the wording is concerned. I would say that agricultural companies who are practising agriculture—growing sugarcane or other money crop and employing hundreds of employees—should also be brought within the ambit of this legislation, and as far as the penal clauses are concerned, I would make a special request to the Government that they should be very precise so that no loophole may be left in the Bill; because

we, lawyers, are there to find loopholes, and when our legislation is itself giving them loopholes.....

Shri R. K. Chaudhury (Gauhati): Why do you accuse lawyers for nothing?

Shri S. S. More: I am one of those who subject themselves to introspection on occasion.

These are the points on which Government will have to concentrate their attention. I do admit that this is a very important measure. The condition of statistics in this country is bad, as others have said. Our statistical position has to be improved, correct data has to be collected, sifted and analysed so that it may be of some future guidance for us, and for that purpose, this measure must be made lawyer-proof as far as possible.

10 A.M.

Shri Tulsidas (Madras West: I rise also to support this Bill. It is very noteworthy that the Government have now come forward to have the powers to collect statistics and the Statement of Objects and Reasons given here at the back of this Bill shows the reasons behind this legislation. I am sure that the Government have no intention of going beyond the objects and reasons as mentioned in this Bill, and for that purpose, with whatever powers they have clothed themselves now, are more than ample. My friends, Mr. More and Mr. Chatterjee have given something which is entirely not according to the objects and reasons of this Bill. They seem to feel that whenever any legislation is brought forward for any purpose, extraordinary and very wide powers—of whatever nature—must be given to the Government thereby to achieve results. But they forget that the powers which the Government usually get and usually obtain from the Parliament are not generally useful for the purpose for which they are required and they themselves complain more often

than not that the Government have utilised those powers not for the positive purpose but for the negative one. Now, on the one hand and with one voice they say something, and on the other they say something else. I do not know whether they have understood exactly the objects and reasons of this Bill. They are not meant for any purpose other than that of collecting statistics. With regard to statistics, whether it is Governmental agency or whether it is private agency in this country, we are really very backward and want to improve. We want to get statistics in the first instance, whatever it is possible to get, and I do not see any reason why they will not be obtained with these powers, whether these powers are going to be used positively for this purpose or not.

I know, and I am sure the country knows very well, that with the powers the Government have in every legislation, the positive action is never taken. It is always for a negative purpose and used, if I may say so, Sir, with due deference, more for harassment and abuse. I am sorry to use this expression but I would ask the Minister in charge of this Bill as to why, apart from those given in the objects and reasons of this Bill, they want to have the information mentioned in clause 3? Under clause 3 it is said 'any matter.....' Is this legislation for collection of statistics or anything else? Any matter relating to commerce, industry or trade—anything? You want statistics; I do not understand why you say 'any matter'. It is so wide. Any matter means anything—from A to Z.

An Hon. Member: Any matter which is relevant.

Shri Tulsidas: If you see the wording it is only 'any matter'. That is why I would like to have clarification on this point.

Then, Sir, my friend, Mr. More, just now mentioned that because of this clause 9, the companies or the management of the companies will get away

by putting somebody else as scape-goats. Well, perhaps Mr. More has his own personal experience in this respect. He might have put somebody for somebody else's purposes. But surely, in justice and fairness, the person who has committed an offence is responsible and should be punished, and not the persons who are not in the knowledge of it or the persons who do not know anything about it. (Interruption) It is no use saying 'catch hold of every one, whether the person is in the know of it or whether he has any reason to neglect or any reason not to give the truth'.

Shri H. N. Shastri: What about connivance?

Shri Tulsidas: My friend on the left also seems to be of the same view. Well, these are the gentlemen who belong more or less to labour unions. They seem to have a common opinion on this point.

Shri Sarangadhar Das (Dhenkanal—West Cuttack): They are correct.

Shri Tulsidas: I do not know whether it is correct or not. I do not think any one of these gentlemen have any experience of labour themselves. But they seem to represent labour. Sir, we at least know what it is, as a management.

Shri S. S. More: You are right.

Shri Tulsidas: These gentlemen on the right and left do not know what are the conditions of labour because they do not belong to labour. They only look after labour. I am sorry I have to express this view. They have unnecessarily used this.....

Shri Achuthan (Cranganur): He represents the Peasants' and Workers' Party.

Shri Tulsidas: The point at issue is that this legislation is meant for statistics and, as I said in the beginning, the Government has got this measure for the right purpose because in this country statistics are not readily available. They are not properly

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given and they are not properly compiled.

Before I go further, I would like to remind my friend here on this side that there are a number of legislations already on the Statute Book and the Government get the information they want. Over and above those they are again getting powers under this Bill. I would like the Government first to co-ordinate the different departments. If the information has once been given to the Government, then I am sure the Government will not ask for the same information under this legislation. It will really be a duplication of work for the managements. They have already supplied certain information on a particular legislation and then they are asked for the same information on a second legislation and similar information once again on a third legislation. If that is the work to be done, then it is only waste of time. Therefore, I would only request that when they are taking this power under this legislation they should certainly utilise it only for getting information which they have not already got. They should not go on duplicating work because, I am sure, if one department of Government is supplied with a certain information, with a little co-ordination the other departments can supply it. The information should not be asked for more often than is necessary. That is what I would like to point out to the Minister in charge and I hope that that would be followed, particularly in this case, because, otherwise there will be a lot of difficulties and it would be mere wasteful work to give the same information over and over again.

Sir, I would also like to point out that apart from whatever remarks the Labour Union leaders usually make, there is a vicarious liability, it has to be looked into: whether you want to hang a man or not, at least hang the man when he has committed a crime. Even if a man has committed a mur-

der the court does not believe that he is a murderer until he is proved to be so. In this case the accused has to prove his ignorance or innocence. First he is considered guilty and then he has to prove his innocence. This is the other way round.

An Hon. Member: These people are hanged first.

Shri Tulsidas: I say that there should be similar legislation which would affect the Labour Union leaders so that they will have experience of it. This is the point that I would like to make. I would only like clarification on this point. Sir, I commend this Bill.

पंडित ठाकुर दास भागंब (गुडगांव) :

जनाब डिप्टी स्पीकर साहब, न तो मैं किसी कमर्शल कंसर्न (व्यापारिक संस्था) के मैनेजमेंट से टाल्लुक रखता हूँ और न कोई कंपिटेंसिस्ट (पूँजीपति) हूँ कि जो इस बिल से घबराऊँ। न मैं कोई लेबर या ट्रेड यूनियन का रिप्रेजेंटेटिव (प्रतिनिधि) हूँ जो यह चाहूँ कि इस की वजह से किसी मैनेजमेंट पर किसी किस्म का नावाजिब बोझ डाल दिया जाय। मैं तो एक सीधा सादा अपने देश का सिटीजन (नागरिक) हूँ और इसी हैसियत से मैंने इस बिल को पढ़ा है। मैं इस बिल को बड़े जोर से सपोर्ट करता हूँ, क्योंकि मैं यकीन रखता हूँ कि स्टैटिस्टिक्स (सांख्यिकी) किसी भी मुल्क में, किसी भी वेलफेयर स्टेट में इतनी जरूरी और अहम चीज है कि जिस के बिना काम नहीं चल सकता। हमारे देश में स्टैटिस्टिक्स की बहुत कमी है और इसकी वजह से हमारे देश में ठीक नतीजे उन ऐदादी शुमार (सांख्यिकी) से नहीं निकल सकते जो दूसरे मुल्कों में निकलते हैं। इस वास्ते मैं बहुत ऐक्शस (उत्सुक) हूँ कि स्टैटिस्टिक्स के मामले में गवर्नमेंट को पूरे अस्तियारात मिलें और स्टैटिस्टिक्स की हमारे यहां ऐसी

हालत हो कि जिससे सही नतीजे हमारी बैलफेयर स्टेट निकाल सके। चुनावों एक मिसाल जो इस के अन्दर दी गई है, जो आबजैक्ट्स एंड रीजन्स में दी गयी है उससे इस बात की ताईद होती है कि स्टैटिस्टिक्स के बिना ठीक हुए गवर्नमेंट को किसी भी काम के करने में कितनी मुश्किल है।

श्री ऐन० सी० चैटर्जी साहब की स्पीच सुनी है जिससे नतीजा निकलता है कि वह किस क्रम में इस बात से खुश है कि गवर्नमेंट की पालिसी तो सही है, लेकिन उनकी राय में उस पर अमल दुस्त नहीं होता, जब तक कि स्टैटिस्टिक्स उन के पास न हों। मैं उन से इस बात में सहमत ही नहीं, बल्कि गवर्नमेंट की खिदमत में बड़े जोर से अर्ज करना चाहता हूँ कि जहाँ तक स्टैटिस्टिक्स का सवाल है और जहाँ तक उस अहम नुक्ते का सवाल है जिसकी वजह हमारे कामर्स मिनिस्टर साहब ने आबजैक्ट्स एंड रीजन्स (उद्देश्य तथा कारणों) में दी है, मैं उस की तरफ़ ख़ास तवज्जह दिलाना चाहता हूँ। इस में कोई शक नहीं कि यह सवाल कोई रुपये आने का सवाल नहीं है। दरअसल यह नैशनल प्रैस्टीज (राष्ट्रीय प्रतिष्ठा) का सवाल है। यह सवाल इस अम्र (बात) का है कि हमारे लोग यह महसूस न करें कि फारैनर्स (विदेशियों) के मुक़ाबले में हमारे यंगमैन (नौजवान) अच्छी तरह से काम नहीं कर सकते और जब कभी मौक़ा मिले तो फारैनर्स को ज्यादा तनख्वाह दी जाय और हमारे आदमियों को कम तनख्वाह दी जाय। यह नैशनल प्राइड (राष्ट्रीय स्वाभिमान) का सवाल है, नैशनल प्रैस्टीज का सवाल है। साथ ही यह नैशनल सेफ़्टी (सुरक्षा) का भी सवाल है, क्योंकि बहुत सारी की इंडस्ट्रीज फारैनर्स के हाथ में हैं। हमारी गवर्नमेंट इन फारैनर्स के साथ, इन सफ़ेद चमड़े वालों के साथ पहले तो बहुत ज्यादा और उसके बाद अब कम तरजीह

वाला सलूक करती रही है। अब पहले के मुक़ाबले कम तरजीह है, लेकिन ताहम अभी भी तरजीह वाला उन के साथ सलूक है और हमारे लोगों को पूरा मौक़ा हासिल नहीं होता। जब कि एक सफ़ेद खाल वाला आदमी हमारे गवर्नमेंट के या किसी मिनिस्ट्री के डिपार्टमेंट्स में जाता है, तो यह मिनिस्ट्रीज के डिपार्टमेंट्स का क्रसूर है कि अगर वह सफ़ेद मुंह वाला हो तो उस की खातिर तवाज्जह होती सही ज्यादा सुनवाई होती है। जब गवर्नमेंट खुद इस तरह की ऐंटीट्यूड रखती है तो क्या उम्मीद रखी जाय कि फारैनर्स जो इस मुल्क में रहते हैं वह हमारी नैशनल्स को ठीक जगह देंगे और अच्छा सलूक करेंगे।

मैं समझता हूँ कि इस बिल के पास (पारित) होने से यह शिकायत गवर्नमेंट को नहीं रहेगी कि गवर्नमेंट के पास ठीक स्टैटिस्टिक्स न होने की वजह से वह इस मामले में पूरी तवज्जह नहीं दे सकी। मैं चाहता हूँ कि आयन्दा गवर्नमेंट हाउस में यह जवाब न दे सके कि अमल इसलिये नहीं हो रहा है कि उसके पास स्टैटिस्टिक्स नहीं हैं। यह मिसाल गवर्नमेंट के पास मौजूद है। अगर यह मिसाल नहीं होती तो भी मैं बहुत सी मिसालें जानता हूँ कि जिनमें इस तरह का सलूक होता है। लेकिन गवर्नमेंट यही कहती कि हमारे पास स्टैटिस्टिक्स नहीं हैं। इसलिये मैं इस बिल को बहुत जोर से सपोर्ट करता हूँ और चाहता हूँ कि यह बिल पास हो।

इसको सपोर्ट करते हुए यह मैं जरूर महसूस करता हूँ कि "ऐनी मीटर" इस लफ़्ज़ से मामला बहुत काफी वाजह हो जाता है। लेकिन साथ ही यह भी बात है कि इसके अन्दर पहले लफ़्ज़ "स्टैटिस्टिक्स अबाउट ऐनी मीटर" न होते तो जिन मामलों में स्टैटिस्टिक्स नहीं हो सकते वे इसमें नहीं आ सकते। अगर "ऐनी मीटर" न लिखा जाय तो गवर्नमेंट को

[पंडित ठाकुर दास भार्गव]

इसके अन्दर काफी ज्यादा डिटेल् देने पड़ते और पता नहीं वह डिटेल् काफी भी होते या नहीं। इसलिये मैं नहीं घबराता हूँ कि लफ्ज़ "ऐनी मीटर" इतना वाज़ह लिख दिया गया है। मैं तो चाहता हूँ कि गवर्नमेंट इस पर अमल करे और मैं खुश हूँ कि गवर्नमेंट ने इस को रखा है। यही दिक्कत लेबर मैटर्स में भी आई थी और उस में गवर्नमेंट को महसूस करना पड़ा और चन्द मामले दर्ज करने पड़े और बाकी उसमें दाखिल नहीं हो सके, क्योंकि उन्होंने लेबर के बारे में 'ऐनी मीटर' लफ्ज़ पसन्द नहीं किया।

चुनावे एक अमेंडमेंट मेरी इस में है और कई एक अमेंडमेंट दी गयी हैं जिन के बारे में यह बिल साइलेंट (मुग्ध) था। इस वास्ते इस लफ्ज़ "ऐनी मीटर" से मुझे कोई घबराहट नहीं है। मुझे घबराहट है तो एक और चीज़ से है जिस का हवाला हमारे मोअज़िज़ दोस्त श्री एन० सी० चैटर्जी साहब ने दिया और बाद को श्री तुलसीदास किलाचन्द जी ने जिसका हवाला दिया।

[SHRI PATASKAR in the Chair]

जनाब वाला, जब कभी हम किसी गवर्नमेंट को पावर्स देते हैं तो हम चाहते हैं कि गवर्नमेंट को पूरे पावर्स मिलें और हम चाहते हैं कि उन पावर्स का जायज़ इस्तेमाल हो। लेकिन कौन ऐसा शरूस् हाउस में है जिसका तजुर्बा नहीं है कि बहुत से मामलों में गवर्नमेंट जब उन का इस्तेमाल करती है तो बहुत से आफिसर्स ऐसे होते हैं जो कि उन को अब्यूज (दुरुपयोग) करते हैं। तो इस चीज़ को हमें देखना है। इस हाउस में हम पावर्स तो दें, लेकिन ऐसी हालत ज़रूर बना दें कि वे पावर्स अब्यूज न की जायें। मैं चाहता हूँ कि स्टैटिस्टिक्स के बारे में और दूसरी चीज़ों के बारे में पूरी पावर्स गवर्नमेंट को मिलें,

क्योंकि स्टैटिस्टिक्स न होने की वजह से हर एक चीज़ का इन्तज़ाम नहीं किया जा सकता। लेकिन ताहम कौन ऐसा शरूस् है जिसके तजुर्बे में नहीं आया कि चाहे जब गवर्नमेंट के आफसरान इस तरह से सैक्शनस को कंट्रोल करते हैं (धाराओं का अर्थ लगाते हैं) इस तरह से पावर्स का इस्तेमाल करते हैं जिस से कि लोगों के हकूक पर असर पड़ता है। इसलिये जेहां हम चाहते हैं कि गवर्नमेंट की पावर्स पूरे हों, वहां हम यह भी चाहते हैं कि लिबर्टी आफ सबजेक्ट्स (प्रजा की स्वतन्त्रता) में इस तरह से नावाज़िब इंटरफीयरेंस (हस्तक्षेप) न हो। लोगों को यह महसूस न होना चाहिये कि उनके हकूक छीने जा रहे हैं। इस वास्ते हर एक चीज़ में बैलेंस (सन्तुलन) करना पड़ता है, ज्युडीशियल बैलेंस करना पड़ता है कि गवर्नमेंट को इस तरह से पूरे पावर्स दें तो साथ ही इस तरह से रैस्ट्रें (निबन्धित) भी कर दें कि जिस से लोगों की वैगेरीज (दुष्कल्पनाओं) की वजह से खराब असर पैदा न हो सके और उनका बंजा इस्तेमाल न हो सके।

इस वास्ते जब मैं चाहता हूँ कि गवर्नमेंट किसी भी बारे में स्टैटिस्टिक्स के बारे में हुक्म दे, किसी आदमी को हुक्म दे, किसी कर्मशियल एन्ड इंडस्ट्रियल कंसर्न को हुक्म दे कि वह अपने स्टैटिस्टिक्स भेजे और मैं समझता हूँ कि जिनको ऐसा करने का हुक्म मिले, वह उसे मुहैया करे और यह जायज़ हुक्म है और जो शरूस् इसकी तामीज़ नहीं करता, ग़लत तौर पर तामीज़ करता है या इस तरह से तामीज़ करता है ज़िन्दा देश का इंटरैस्ट सर्व (लाभ) नहीं होता है, ऐसे फाल्टी लोगों के लिये हमने इस बिल में पेनाल्टीज़ प्रोवाइड की (अर्थदण्ड का प्रबन्ध किया) है क्योंकि उस हालत में वह मुज़रिन

हैं और उसको सजा दी जायगी। इस सिलसिले में मोरे साहब ने जो तनकीद की है उसको मैं आगे चल कर देखूंगा कि वह कहां तक जायज है। हमें देखना चाहिए कि हमने पेनाल्टीज की दफा में उन अफसरों को क्या पावर्स दी हैं और क्या उनके पास इतनी पावर्स हैं कि वह उनका मिसयूज कर सकें, हमें देखना चाहिये कि हम उन अफसरों को क्या पावर्स देते हैं और आया वह लोगों को खामखा पेनेलाइज कर सकते हैं या नहीं। दफा पांच की रू से स्टैटिस्टिक्स एथारिटी को हमने यह पावर्स दी हैं कि वह किसी भी इंडस्ट्रियल या कर्माशियल कंसर्न से स्टैटिस्टिक्स के बारे में इनफारमेशन (जानकारी) या रिटर्नस दरियाफत कर सकती है, यह पावर्स जो दफा पांच में दी गयी हैं बड़ी बाज और जामे हैं, और इस दफा के अन्दर सारी चीजें मौजूद हैं और वह किसी भी पर्सन (व्यक्ति) या कंसर्न (संस्था) से इस तरह की इनफारमेशन या रिटर्नस मांग सकते हैं, इस सब के वास्ते प्राविजन मौजूद है।

लेकिन जहां तक दफा ६ का ताल्लुक है मुझे यह जरूर तसलीम करना पड़ता है कि उसे देख कर कुछ हैरानी पैदा होती है। दफा ६ जो राइट आफ़ एक्सेस टु रेकार्ड्स आर डाक्यूमेंट्स (अभिलेख तथा दस्तावेज देखने का अधिकार) के मुताल्लिक हैं उसके ऊपर गवर्नमेंट को जरूर फिर से शौर करना पड़ेगा। हम यह जानते हैं कि कई सूरतों में लोग सही स्टैटिस्टिक्स अपने प्राइवेट (निजी) फवाद के खातिर नहीं देना चाहते, खसूसन ऐसी इंडस्ट्रीज जो नाजायज फायदा उठाती हैं और जो अपनी सही कास्ट नहीं बतलाना चाहती, जो अपनी बहुत सी बातें छिपाना चाहती हैं और जिसके कारण कंज्यूमर्स को नुकसान होता है, ऐसी हालतों में मैं चाहता हूँ कि गवर्नमेंट को इस तरह की

पावर हासिल हो जिससे वह उन लोगों से सही स्टैटिस्टिक्स और रिटर्नस् हासिल कर सके, लेकिन मैं अदब से अर्ज करना चाहता हूँ कि जब तक यह न साबित हो जाय कि कोई शस्स या इंडस्ट्रियल कंसर्न दफा पांच के अन्दर जो स्टैटिस्टिक्स और रिटर्नस् उसको दाखिल करने का हुकम दिया गया है, वह उसकी ठीक तरह तामील नहीं करती, सही इत्तिला देने से वह शस्स इंकार करे या ऐसे स्टैटिस्टिक्स दे जिनके ऊपर एतबार न किया जा सके, तभी दफा ६ का इत्लाक होना चाहिए और उस हालत में गवर्नमेंट यह हुकम जारी कर दे कि उस शस्स के घर में या फैक्टरी की प्रीमिसेज में दाखिल हो जाय और वहां जाकर उसके जो रेकार्ड्स और डाक्यूमेंट्स हों उनको देखने की कोशिश करे और सही इत्तिला इकट्ठा करने की गरज से उनसे सवालात पूछे। इसके अलावा मेरी अदब से गुजारिश है कि दूसरी हालतों में स्टैटिस्टिक्स एथारिटी को यह पावर नहीं होनी चाहिये कि वह एक आदमी के घर में या उसकी फैक्टरी में जाकर डाक्यूमेंट्स को तलाश करे और उससे पूछताछ करे, क्योंकि फंडामेंटल राइट्स के मुताबिक हर एक आदमी का घर और उसकी वकिंग प्लेस ऐसे हमलों से मुबर्रा होती है और इस वास्ते यह सेफगार्ड करना बहुत जरूरी है कि कथलेसली दफा ६ का इस्तेमाल न किया जाय, दफा ६ का इस्तेमाल तभी किया जाय जब दफा पांच के मुताबिक कोई शस्स या कर्माशियल कंसर्न अपने रिटर्नस् सही सही दाखिल नहीं करते हैं या इंकार करते हैं। और जैसा मेरे भाई श्री तुलसीदास किलाचन्द ने फरमाया कि कई सूरतों में इस दफा ६ में दी गयी पावर्स को ऐबयूज किया जा सकता है।

स्टैटिस्टिकल एथारिटी को दफा ६ का प्रयोग तभी करना चाहिए जब वह देखे कि

[पंडित ठाकुर दास भार्गव]

ऐसी इनफारमेशन दफा पांच के जरिए उसे नहीं मिल रही है और जिसके न मिलने से पब्लिक इंटरैस्ट को नुकसान पहुंचेगा, तभी उसको दफा ६ के मुताबिक हुकम जारी करना चाहिए कि उस शस्स या कंसर्न की प्रीमिसेज में एक्सेस हासिल करके उसके डाक्यूमेंट्स रिटर्नस् और इनफारमेशन को देखे और इकट्ठा करे और उनसे पूछताछ भी करे। मैं अदब से अर्ज करना चाहता हूं कि दफा ६ की जो बडिंग (शब्द रचना) है, मैं उस का बहुत अच्छी तरह से नहीं समझ सका, उसमें लिखा है :

"The statistics authority or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act....."

सिर्फ एक्सेस का हुकम देने से ही और किसी की प्रीमिसेज में दाखिल होने का राइट देकर ही आपका मकसद हासिल नहीं होता, क्योंकि अगर मौके पर जाकर भी आप को ठीक ठीक इनफारमेशन नहीं मिलती या वह शस्स मौजूद न हो तो क्या किताबें और डाक्यूमेंट्स जो वहां पर मिलेंगी वे बोलेंगी, ऐसी हालत में इस दफा के अन्दर यह चीज साफ होनी चाहिए थी और इसका लाजिकल कौंसीक्वेंस (परिणाम) यह होना चाहिये था कि अगर वहां मौके पर कोई शस्स मौजूद न हो और इनफारमेशन देने वाला न हो तो उन डाक्यूमेंट्स को सीज कर लें और उन डाक्यूमेंट्स से नफारमेश हासिल कर लें किसी को पकड़ना तो हमारा मकसद नहीं है थसल में मैं यह तो इनफारमेशन लेने का है। अगर जवाब देने वाला वहां पर मौजूद

न हो और किताबें और दूसरे में तलब के कागजात वहां पर पड़े हों, और स्टैटिस्टिक्स इस किस्म के हों कि जिनका न आना prejudicial to the public interest (लोगों के हितों को बाधक) हो और नुकसान पहुंचता हो उस सूरत में गवर्नमेंट को चाहिए कि लाजिकली प्रोसीड करना चाहिए और अथारिटीज को अस्तित्व दे कि वह वहां जायें और अगर वहां वह शस्स जो इनफारमेशन दे सकता हो मौजूद न हो, तो वहां मिले हुए डाक्यूमेंट्स और दूसरे कागजात को सीज कर लें और इनफारमेशन और सही सही रिटर्नस् मालूम करने के बाद वह कागजात उनको वापिस कर दिये जायें। इसलिये जनाव वाला जहां हम दफा ६ में यह लफ्ज देखते हैं "shall have access" इसके साथ ही अब तक आप स्टैटिस्टिक्स अथारिटी को यह अस्तित्व न दें कि वह जाकर उन खास हालतों में जिनका मैं पहले जिक्र कर चुका हूं, किसी शस्स के मकान में दाखिल हो सके और उसके डाक्यूमेंट्स और दीगर हिसाब किताब की किताबों को पकड़ सकें उस वक्त तक यह दफा ६ बेमानी हो जाती है। हमें इसके बारे में बिल्कुल साफ होना चाहिए। Ask questions : from whom ? In respect of what ? हमको बिल्कुल साफ अपने विभागों में रखना है, साफ लिखना चाहिए कि किन लोगों का फ़र्ज है कि जवाब दें, किन बातों का जवाब दें और अगर उसका जवाब भी न मिले तो क्या किया जाय, मुझे अदब से अर्ज करना है कि मौजूदा दफा में इसके वास्ते कोई प्राविजन (प्रबन्ध) नहीं है। अगर कोई शस्स मौजूद नहीं है, तो इसमें कोई प्राविजन नहीं है जिस से इनफारमेशन हासिल की जा सके और इसलिए इसका प्राविजन किया जाना जरूरी है

में अर्ज करूंगा कि इसके आगे क्लॉज ८ (२) जो इस तरह है :

"Wilfully furnishes or causes to be furnished any information or return which he knows to be false"

"श्री मोरे साहब ने इसके मुतालिक जो हाउस की तवज्जह दिलाई मैं उनसे एक बात में पूरा इतिफाक करता हूँ कि इस फिलवाकिया "wilfully" लफ्ज की कतई जरूरत नहीं है।

"Furnishes or causes to be furnished" काफी है।

The Minister of Commerce (Shri Karmarkar): What is the meaning of 'filvakiya'?

Shri Tek Chand (Ambala-Simla): As a matter of fact.

पंडित ठाकुर दास भागंब : Wilfully

मेरी अदब से गुजारिश यह है कि :

"If any person furnishes or causes to be furnished." Can he furnish a thing without being willing to furnish it? Can he furnish a thing without doing a thing which has the effect of furnishing?

Wilfully obstructs—it has got some meaning. Furnishes is equally good, as causes to be furnished. Then about the words 'which he knows to be false'.

जहां भी यह अल्फाज है "विहच ही नोज टु बी फाल्स" अगर उस को पता है कि वह झूठ है, और वह उसे फर्निश करे, और उसके बाद "बिलफूली" हट जाय, तो जुर्म तो उतना ही हो गया, जुर्म हो गया उस को झूठ बताने का, लेकिन फिर भी आप उस का ज्यादा कुछ कर नहीं सकते। इस लिये आप को दो चीजें रखनी चाहियें, वरना हर एक आदमी बच जायेगा "विहच ही नोज टु बी फाल्स" इज नाट सफिशिएंट। अगर हम यकीन करते हैं कि यह चीज झूठ है तो बजाय खुद करने के किसी दूसरे आदमी के जरिये फर्निश करा देते 303 PSD.

हैं। यह उतना ही खराब फेल है जितना खराब कि वह फेल जिसे कि हम जानते हैं कि झूठ है। इस लिये मोरे साहब का क्विटिसिज्म बिल्कुल जायज है कि "विहच ही नोज आर बिलीव्ज टु बी फाल्स" जब तक आप 'बिलीव्ज' का लफ्ज नहीं रखते उस वक्त तक यह कानून बेमानी होगा, क्योंकि यह साबित करना होगा कि "ही निउ इट टु बी फाल्स"। जनाब मुलाहिजा फरमाये कि आई० पी० सी० की दफा १९१ और १९३ में यह तीनों चीजें लिखी जाती हैं "विहच ही नोज टु बी फाल्स, आर बिलीव्ज टु बी फाल्स, आर इज नाट बिलीव टु बी टू।" लेकिन मैं अर्ज करता हूँ कि "इज नाट बिलीव टु बी टू।" ज्यादा सल्ट है क्योंकि यह तो स्टेटिस्टिक्स का मामला है, लेकिन जहां तक 'बिलीव्ज' का मामला है यह जरूरी है कि यह लिखा जाय कि "विहच ही नोज आर बिलीव्ज टु बी टू।"

अगली चीज में यह अर्ज करना चाहता हूँ कि कि इस क्लॉज ८ के अन्दर

(b) "impedes the right of access to relevant records or documents or the right of entry conferred by section 6".

हमारी कामर्स मिनिस्ट्री एक नया लफ्ज इस्तेमाल करती है दफा ८ में।

(b) "Impedes the right of access to relevant records or documents or the right of entry conferred by section 6." What is the meaning of it? The wording is "wilfully obstructs" in the section 186 of the Indian Penal Code. I know of many other sections also. What is the meaning of saying "Impedes the right of access"? Under the power given in clause 6 any person can say: this person is authorised to go there and is hereby authorised to have access to the record. If any clerk raises an objection, he is 'impeding' his right of access. Or if some other person says "My master is not here, please do not come", is he 'impeding' the right of access?

This is a new expression in law and would require judicial interpretation. If clause 6 is changed to an extent,

[पंडित ठाकुर दास भार्गव]

this need not come and other words which are in the Indian Penal Code will have to be used.

मैं इसके आगे चल कर जनाब की खिदमत में दफा ९ के ऊपर अर्ज करना चाहता हूँ क्योंकि उस पर बहुत बहस की गई है। दफा ९ में दो विउज एक्सप्रेस की गई (मत प्रदर्शित किये गए) हैं। नम्बर एक मोरे साहब ने एक्सप्रेस की है जिन की राय दफा ९ के हक में है क्योंकि वह इन्डस्ट्रियल कंसर्न्स के मैनेजमेन्ट के सिलसिले में है। दूसरी विउ मेरे लायक दोस्त तुलसीदास किलाचन्द ने जाहिर की है जो फरमाते हैं कि इस की भी मनाही होनी चाहिये कि मडरर (हत्यारे) को भी सजा न दी जाय जब तक कि उस के खिलाफ जुर्म न साबित हो। तो कारखाने दार पर क्यों बार सबूत रखा जावे—मैं अर्ज करना चाहता हूँ कि सेक्शन ९ जो है वह दो कन्फुलिटिंग विउज के बारे में कम्प्रोमाइज प्रोपोजीशन (मध्यम मार्ग) है और वह इस तरह पर है कि जहाँ तक सवाल किसी ऐसे आदमी का है वह इस दफा २ में दर्ज है :

"notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable....."

मेरी समझ में नहीं आया अब तक कि इस चीज से मोरे साहब क्यों नाराज हैं और क्यों इस दफा दो के मुतजाद खयाल फरमाते हैं। इस के अन्दर वह चीज दर्ज है कि जिस के

वास्ते हम हमेशा झगड़ते रहे हैं और वह झगड़ते रहे हैं कि अगर किसी आदमी की कन्सेन्ट से, कनाइवेन्स से या किसी के कहने से या नेगलेक्ट से जुर्म हो तो गो नेगलेक्ट के बहुत कम जुर्म ऐसे बनते हैं जिन में पेनलाइज किया जा सके, बहुत थोड़े जुर्म हैं जिन में नेगलेक्ट की वजह से आदमी को सजा दी जाय, लेकिन ताहम कल्पेबल नेगलेक्ट होता है जिसमें आदमी का फर्ज है कि वह थोड़ा सर्कम्पेक्शन करे।

Shri S. S. More: Sir, I have one difficulty. My friend is an eminent lawyer. I should like to be enlightened on this. How will you prosecute a company and prove that a company, an incorporate body having no physical existence, has committed a particular offence?

पंडित ठाकुर दास भार्गव : I am coming to that. जहाँ तक सवाल इस अर्थ का है, दफा २ है। Moreover, Company is a person and is answerable for an offence.

Shri S. S. More: Sir, I would make a request that he should speak in English. Oftentimes I feel that he is opposing me when as a matter of fact he is supporting me!

पंडित ठाकुर दास भार्गव : मैं इस दरखास्त को मंजूर करने से पहले, अपने लायक दोस्त से जो यह फमति है, यह काउन्टर दरखास्त करूंगा कि उन को कोशिश करनी इसकी चाहिये कि वह मेरी टूटी फूटी हिन्दी को समझ सकें।

Shri S. S. More: We shall join in that, but not here.

Shri A. M. Thomas (Ernakulam): Sir, when he speaks on Bills which are drafted in English it is advisable to speak in English.

पंडित ठाकुर दास भार्गव : मेरे लायक दोस्त को यह दरखास्त मिनिस्ट्री से करना

चाहिये कि बिल हिन्दी में छपा करें—मेरी भी यही शिकायत है कि हिन्दी में बिल नहीं छपा करते—पेशतर इस के कि यह दरखास्त मुझ से की जाय।

Shri Sarangadhar Das: I wish to say a word about this, particularly as he wants the hon. Minister to take note of what he says. Unfortunately the two Ministers concerned are not acquainted with the language he speaks. (*Interruption*).

Mr. Chairman: It is left to the choice of the hon. Member.

Shri S. S. More: With the greatest deference to you, Sir, it is a question of our being able to understand what he is saying.

Mr. Chairman: He is free to use any language he likes and I think he is proceeding in his own way.

Shri S. S. More: We cannot follow.

पंडित ठाकुर दास भार्गव : मुझ को अफ-सोस है कि जो कुछ मैंने कहा उस को मैं इस तरह से अदा नहीं कर सका कि मेरे लायक दोस्त उस को पूरी तरह समझ सकते। लेकिन इसमें कुछ थोड़ा सा कुसूर मेरा है और वह यह कि अपनी स्पीच में मैं बिल्कुल शुद्ध हिन्दी इस्तेमाल नहीं करता हूं। यह तो आदत का सवाल है। हिन्दी में थोड़े से अल्फाज उर्दू के भी होते हैं। लेकिन चूंकि यह आदत का सवाल है, वह कुछ दिनों के अन्दर बदल नहीं सकती। मैं कोशिश करता हूं लेकिन ताहम वक्त लगेगा। इस लिये मैं उस जवान में बोलूंगा जिसमें करमरकर साहब कहते हैं।

श्री करमरकर : मैं अंगरेजी बोलने के लिये नहीं कहता हूं, मैं हिन्दी समझता हूं।

But when he attacks Mr. More's points, he might perhaps speak in English because he does not understand.

Pandit Thakur Das Bhargava: Sir, with your permission I shall now speak in English.

Mr. Chairman: Rather in deference to the wishes of the House.

Pandit Thakur Das Bhargava: I do not want to speak in a language which many of them do not understand, though I will not do so well in English.

Shri S. S. More: You do not know your own capacity.

Pandit Thakur Das Bhargava: I do not know what my friends think about me.

Sir, I was submitting in relation to sub-clause (2) of clause 9 that as a matter of fact this clause does not countenance a state of things to which Mr. More has addressed himself. In the first place, if a person is a consenting party to a crime or if he connives at a crime or even if the offence is committed by an act which is attributable to neglect on the part of a manager or director etc., it is ordinary law that he is held chargeable, and it is presumed that he has committed an offence. There is nothing inherently wrong in this sub-clause (2) which can be complained about. All that Mr. More says is that this is in conflict with the previous words. He says that these words "Notwithstanding anything contained in sub-section (1), where an offence-under this Act has been committed by a company and it is proved.....etc." are in conflict with the previous words. He takes objection to the previous words to which I shall come later when I discuss clause 9(1). But so far as these words are concerned, it would have been better if the words "or is attributable to any neglect on the part of" were dropped. Because it is only in rare cases of neglect that a person commits an offence in the view of the law. Of course under section 304/A neglect is regarded as culpable, but ordinarily it is not. Because in neglect also the mind of the accused does not go with the act and the *mens rea*.

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is absent. Neglect means that the accused does not advert to the act itself. Ordinarily, neglect is not regarded as culpable. Therefore, when it is a matter of neglect it will not be a penal offence. But I will not press this point too much.

In regard to clause 9(1) exception has been taken by Mr. Tulsidas Kilachand that there is an element of vicarious responsibility here. Not only in this but in many other Acts we have found such comparable provisions.

We have found that provisions like this exist and the person in charge of the business of the company is regarded as a person responsible to the Company and to the Government for all practical purposes. It is done with a view to fixing him with liability so that he may do his work with the utmost consideration. The entire liability would be his if the provision to which my friend Mr. More takes exception were not there. Does he want that every person in charge of a company should be held liable even if he is lying ill in a hospital? I hope he does not mean that.

Shri S. S. More: I want that that particular section ought to be recast in such manner that the person is made clearly responsible.

Pandit Thakur Das Bhargava: I can appreciate the meaning of my friend. I took it that he was rather criticising. I am afraid I was wrong. So, Sir, it appears that apart from the manner or the shape of this section my friend is in agreement with the principle of this section. So his argument melts away.

As regards the question of vicarious responsibility, Sir, I would have been quite happy if that was not there. If this "vicarious responsibility" is not put there with this safeguard it may be possible that the company may not be able to work well in the interests of the public and the good work of the company themselves. So it is very

necessary that some responsibility should be cast upon the principal man and in cases where he is not responsible and an offence is done without his knowledge he can very easily escape. We are making innocent persons the scapegoats by asking the management to produce a person who has committed the crime, when he is missing. The Government has improved the law now. Indeed it has made it much more reasonable. In the main, therefore, I support this clause 9.

As regards clause 8 I have already submitted.

In the end, I would submit that we should not look at this in a pedantic way. I am not opposed to this measure in principle but at the same time I wish that due safeguards are given to them so that the freedom of the people is fully secured to them. I might mention a case of vicarious responsibility in which all the directors were hauled up in Meerut. They were subjected to indignities by being sent to jail for hours before the Court of Appeal gave them freedom. They were very respectable people. This attitude that he is a respectable person and, therefore, he should have vicarious responsibility is entirely wrong in principle. What is the use of these fundamental rights if you make a law like this?

I have never felt during all my life that judicial independence is wanting as I feel now. Except in the Supreme Court and the High Courts, in the mofussil it is badly wanting. We find that people are not so independent now as they used to be before. I say it with regret that in our days of *swaraj* we expected that judicial officers will be much more independent but now there is a police raj practically. If this is so then no arbitrary powers should be given to the Government by which the liberty of the people may be put into jeopardy. I, therefore, request the hon. Minister, with all the emphasis at my command, to look into the

matter and agree to give at least to innocent people safeguards in which while they must ensure that the authority is quite safe in the exercise of these rights which we are giving, at the same time it will not be able to inflict any injury on any individual. I am anxious, Sir, that so far as the liberty of the subject is concerned it may be fully safeguarded.

Shri H. N. Mukerjee (Calcutta North-East): I rise to accord my general support to the Bill before the House but I am afraid I must say that the provisions of the Bill suggest our Government's characteristic hesitancy and its lack of a comprehensive approach in regard to the very serious problem of the collection of statistics.

At this stage I propose to confine myself purely to a general discussion of the issues raised by this Bill and I expect that at a subsequent stage of the proceedings attempts would be made, I hope with some success, to tighten up certain of the provisions which have been included in this measure.

I am happy that the Government has realised its lack of authority in the matter of the collection of statistics which came out as a criticism in the instance of the attempt to find out the position by means of a questionnaire on statistics regarding Indian employees in foreign firms. Now in the Statement of Objects and Reasons it is said very rightly that Government ought to be armed with better authority in order that foreign firms, who had been approached earlier for supply of statistics to Government and had not behaved in a way they should have done cannot go on in this way with impunity. This matter has already been referred to by my hon. friend Mr. N. C. Chatterjee, but I would like to repeat that Government's feet of clay were revealed rather unhappily in this instance of the attempt to find out facts about Indian employment in the foreign firms. Now this came out firstly over the questionnaire. The questionnaire, about

which the Bengal Chamber of Commerce (which is dominated by foreign agency) had the presumption to say that fortunately the questionnaire had been "helpfully framed and therefore, they hoped that "this squall will pass over". Actually that squall passed over smoothly. Since these foreign interests were interested, the squall passed over. Even though my hon. friend, the Minister for Commerce and Industry, has occasionally made some very brave speeches about the measures which he is going to take against recalcitrant foreign interests in this country, actually the foreign interests in this country have as good as an assurance that they are going to rule the roost as long as they have the cleverness and the subtlety to cloak their operations in a manner which Government does not wish, or is not capable to penetrate. Sir, this lack of policy which followed the answers, the very inadequate answers which came to the questionnaire supplied by Government, is a matter to which I want to draw the attention of the House and especially of the Government.

Now, Sir, I found on the first day when we met in this session that in answer to a question of Mr T. K. Chaudhuri the Minister for Commerce and Industry stated that there was no "gentlemen's agreement" with any foreign firms regarding an assurance about a proportion of Indian employees being compulsorily appointed. This is a matter to which I wish to draw the attention of the House because this question was agitated in the papers. It was reported that there had been some sort of an understanding. Actually, the hon. Minister for Commerce and Industry made a speech before the Associated Chambers of Commerce last December where it appeared that he had a kind of understanding in mind. He pleaded that at least 50 per cent. of the insurance business and a large percentage of the shipping business of foreign concerns should go to Indian concerns and he had also expressed a hope that these foreigners when they are get-

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ting the treatment which we accord to our own nationals—should act according to the responsibility imposed by this generosity on the part of our Government.

Apart from that, I find that in the *Commerce* of the 30th May, 1953, there was a very specific statement that about 60 of these foreign concerns had given a kind of assurance or come to a gentlemen's agreement that they would try as far as possible to appoint Indian employees for every single vacancy except for such technical jobs as could not be tackled by Indian employees available at the moment. There was thus talk about a gentlemen's agreement. But, I am sure it did not mean very much. Besides, a gentlemen's agreement, if it had been arrived at or not, is not material. I am not at all surprised that this was the upshot of the Government's attempt to find out what exactly was the position as far as Indian employees in foreign firms were concerned. This, I submit, is due to the fact that there is a basic inconsistency in our position. Government did show at one time, as a result of popular pressure, a certain amount of enthusiasm for Indianisation. But, Government has, at the same time, a policy of attracting foreign capital on, unfortunately, the foreigners' own terms. There is this contradiction. If you are going to attract foreign capital on the foreigners' own terms, then, surely you cannot advocate compulsory Indianisation, as far as possible, of executive posts in foreign concerns. I would say that, just as in the sphere of our foreign policy, so here also we are daily being confronted with glaring contradictions. On the one hand, our people, and our Government also sometimes reflecting the desire of our people, say that such and such a course of action ought to be adopted in regard to Egypt, for example, which came up this morning in the Question Hour.

There is the other phenomenon that our Government is bound down by

certain other obligations and commitments in the international sphere which disable our Government from proceeding with the right international policy which it ought to espouse. Actually, in the economic sphere, if we are going to wait for the good pleasure of the foreign capitalists, who would be sending their capital to us to keep us contented and grateful for ever and ever; if we take that attitude towards the foreign capitalists, surely we cannot adopt in regard to them the kind of measure which the country expects the Government to do. But, still I am happy that Government, at any rate, has realised its sense of responsibility in this matter to a limited extent—at least the Statement of Objects and Reasons puts it very clearly that the experience of the attempt to collect statistics from foreign concerns was rather unhappy—and that some attempt is being made through the instrumentality of this Bill to correct this deficiency.

There is one other very general matter to which I wish to make reference, and that is in regard to the collection of statistics. It is a very important subject because we have read in the report of the Planning Commission umpteen times that the work of planning is being hampered and hindered because of the lack of adequate statistics. I think if a statistical effort is made to find out from the report of the Planning Commission the number of times where reference has been made to the inadequacy of our statistics, that would be a most interesting and revealing study indeed. Therefore, I believe that it is very important that Government should try to take this House into confidence regarding the steps which they propose to take about the collection of statistics. I mention this matter because, lately, some very unsavoury controversies have come to light regarding the collection of statistics. We all know about the work of National Sample Survey. When the first report of National Sample Survey was issued

it created quite a sensation, because its estimate of production of foodgrains was greatly in excess of the official estimate which has hitherto held the field. I have got the discrepancy here. For the year 1950-51, the National Sample Survey had computed the total consumption of foodgrains at 60.16 million tons. But, the official figure for production in that year was 48.15 million tons. Excluding gram which was not consumed as human food, it was 44.8 million tons. There was thus a difference of over 35 per cent. This kind of difference created quite a sensation at that time and naturally people made not very graceful comments regarding the position of our present collection of statistics. I have nothing specially to say against the Indian Statistical Institute, which, I am sure, on many occasions, has done very important work. I have nothing against the National Sample Survey as such except that I consider that the work of National Sample Survey has not been followed up in the manner in which it was promised it would be followed up. For example, the question of finding out the margin of error has not been pursued. Unless that question is pursued, we do not really have any valuable conclusions and deductions from the report of National Sample Survey. Actually, the second report of the National Sample Survey is overdue; we do not know what actually is going to happen. In the meantime, a very unsavoury controversy has arisen between the Indian Statistical Institute at Calcutta which was entrusted with the work of this National Sample Survey and the Gokhale Institute of Poona of which Prof. Gadgil is the head. These two organisations, which should have been complementary to each other, which should have co-operated in the task of furnishing materials on the basis of which the enquiry into national income could be completed—the first report on national income came out two years ago and nothing has been heard of it since—are at logger heads. Prof. Gadgil has issued a statement which is extreme-

ly disquieting. I do not want to go into the merits of the matter because we are not in possession of all the facts and we cannot really pronounce any opinion on the merits. But the fact that under governmental auspices there are two statistical institutes at logger heads, that this unsavoury statistical struggle is going on, is something of which we ought to take note specially at the time when a Bill for the collection of statistics is before the House. Prof. Gadgil is extremely critical of the idea underlying and the purposes of National Sample Survey. He has also referred to the different agencies which the Government has in its different departments for the collection of statistics. These different agencies, I am sure, have done very important work and I hope they will continue to do their valuable work. But, a fear has been expressed that there might be an attempt to centralise the collection of statistics in a manner which would not really help the interests of the country as a whole. Prof. Gadgil has gone very far in his reference to this matter. He has talked about the different governmental agencies which carry on routine administrative operations and in the course of such operations, collect statistics. He says that now a sort of an all-purpose national sample survey is going to be undertaken and adds:

"This will necessarily lead it to encroach on sphere after sphere in an extensive imperialist drive."

These words 'imperialist drive' have been used by a very eminent economist who is also something of a statistician. He expresses serious misgivings regarding what is going to happen. I do not want to take sides in this matter, because I am not competent to do so. I have not got all the materials before me. I cannot even make an effort to find out where justice lies. But this is, surely, a matter of very great importance. Our entire economic planning is contingent upon the collection of statistics. Unless the

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collection of statistics is placed upon a really sound basis, nothing really germane to the economic progress in our country will ensue. Therefore, I say that I welcome this measure of Government to tighten up its authority and extend its authority in regard to the collection of statistics from private agencies, firms, companies and so on, Indian as well as foreign. I wish that, as soon as possible, Government brings forward further legislation or at least informs this House regarding what it is actually doing about a comprehensive and accurate collection of statistics in the different departments of our economic life.

Of course, I know, that there would be an assurance given from the Government Benches that something is being done. But, in spite of my very short experience of parliamentary life, these assurances are falling rather flat because they do not seem to be implemented usually by the kind of action which we expect. At any rate, I can do no better than just express my expectation and wish that the Government should come forward with comprehensive statements and comprehensive legislation, if it is so advised, regarding the collection of statistics. I wish the Government does pursue the task, which it had taken up very haltingly when it tried to collect statistics about Indian employees in foreign firms, and try to put into operation this measure before us. I hope also that the House would tighten up particular provisions in such a way that those who want to evade the responsibility of supplying statistics are not allowed to get away with it.

Shri Tek Chand: I rise to support the policy underlying this Bill. There is no denying the fact that statistics are a vital necessity for a growing economy like ours, and that paucity of statistics can lead to unfortunate results. Inaccurate estimates may be harmful. There may be other miscalculations. Therefore, every conceivable power that the Government

should have for the purposes of collecting facts, and eliciting information, should be given to the Government willingly and wholeheartedly. But, the Bill, as in some parts it is worded, requires reconsideration and certain clauses need recasting. So far as the fears expressed by my hon. friend Tulsidasji are concerned, to my mind, these fears are more illusory than real.

In clause 3(a) and 3(b) it is said:—

“(a) any matter relating to any industry or class of industries;

(b) any matter relating to any commercial or industrial concern or class of commercial or industrial concerns and in particular any matter relating to factories”.

He has not examined carefully the words that precede and the words that follow; i.e., “statistics shall be collected on any matter relating to any industry or class of industries”. That is to say, the enquiry is going to be converged to both commercial and industrial concerns. No doubt, that enquiry would span every conceivable branch. That is as it should be. Therefore, it is not that the officer in charge of statistics is going to have a roving enquiry into the private affairs of those who are running the concerns. There is no such thing. Statistics are to cover all those matters which Government consider worthwhile and which have a bearing on the commercial or industrial activities of that particular undertaking. Therefore, clause 3 using the words “any matter” is not as drastic as it is alleged to be. But I have my apprehensions regarding the lucidity of the language involved in the penal clauses, viz. 8, 9 and 10. I am inclined to be in humble agreement with Pandit Thakurdas Bhargava as to what he says about the language “impedes the right of access to records”. In matters of prosecution where precise language is the desi-

deratum it may be difficult either to successfully prosecute the guilty people or you may be prosecuting those who are not to be prosecuted.

There is another matter and that is as to the punishment. The punishment imposed in the case of such offences shall range up to Rs. 500 but in the case of subsequent offence the punishment becomes an additional fine of Rs. 200 for each day during which the offence continues. To my mind it is not in consonance with the principles of penal law. So far as clause 9 is concerned, which is the basic clause for purposes of offences by companies and by others, that needs recasting because it indicates a very serious departure from the well-known canons of criminal jurisprudence. One basic rule of criminal jurisprudence is *Actus non sit Reus, Nisi mens sit rea*, that is no act is considered penal unless it is followed by a guilty intention. Therefore, the guilty man is the one you shall punish; not a negligent man, not a clumsy man, not a careless person. No doubt, there are occasional departures where persons though not guilty in mind, though their intention is not criminal, nevertheless because of the serious exigencies of the action involved, man have to be punished in order that they will be on the alert. There is in such a case, an understandable departure from the basic principle but in this case not only persons are going to be punished who have deliberately departed from the letter of the law but also for their neglect. But, negligent act should not become the subject matter of criminal conviction, this is abhorred by criminal jurisprudence. Therefore, to that extent there appears to be a very serious departure from those well-understood laws, which govern cases of punishment for crimes.

Then again there is another contradiction so far section 9(1) is concerned. It is understandable that you have a right to punish the company.

That is something known and then you are also punishing persons who are responsible to the company for the conduct of the business of the company as well as the company and then it proceeds to say that such a person or the company shall be deemed guilty of the offence and shall be liable to be proceeded against. To that extent I do not find fault with the Bill. But, clause 2 to my mind contradicts what is stated above. That is to say, you are punishing the persons who are responsible to the company in the first part and then you go back again and say "notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been due to negligence on the part of a director, manager, etc. he shall also be deemed to be guilty of that offence. Thus in the earlier part you are going to punish those persons only who are wilfully guilty and in sub-clause (2) you go back on what you have stated in sub-clause (1) and say that for mere negligence as well you are going to punish. I am sure the framers of this Bill if they were to concentrate will be in a position to bring out an improvement whereby the object of the Bill may be incorporated without involving any contradiction. Then again, not only criminal jurisprudence abhors punishing people who are not deliberately, knowingly or intentionally guilty but who are guilty of negligence. But, criminal jurisprudence also abhors punishing people vicariously. To some extent vicarious punishment in the case of crimes may be involved. That is understandable but on the whole if you punish people for no fault of theirs, but for that of some other person my respectful submission is, it will be a serious departure from the well-known and well-understood principles of criminal law. In clause 10, so far as the officers in charge of collecting statistics are concerned, they will be punished only for wilful disclosures. Why should the officers not be punished for

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negligent disclosures? If they are giving out information which they have no right to give, which they ought not to give out, which they are enjoined to keep confidential, in their case, you will punish them only on the rare occasion when you are in a position to establish that they have wilfully disclosed the information. Therefore, if negligence were to be treated as part of an offence for this Bill, then gross negligence or culpable negligence should certainly be made punishable so far as divulging of information improperly by the persons in charge of statistics is concerned. Therefore, in any case, if you include punishment for deliberate acts or for gross negligence, it would be perhaps in the fitness of things to include officers among persons liable to punishment. With these remarks, I support the general principle underlying the Bill.

Shri Joachim Alva (Kanara): This is but the beginning, beginning in the sense that rupees 160 crore approximately are remitted every year from the gross earnings of foreign firms in India.

I raised the matter of the foreign firms in the Provisional Parliament of India and I blacklisted 13 mighty firms. I may even mention them by name without any difficulty—Firestone, General Motors, Bird & Co., Andrew Yule & Co., J. Walter Thompson; the others I cannot remember today—and at that time when I raised this matter on this floor, not one journal in India dared to publish any particulars of my speech, the reason being that the entire Indian press is under the hegemony of the foreign firms, of the rupees five crore of advertising that goes down the gullets of the Indian journals, and the only paper that dared to publish my speech was my own paper, the *FORUM*, with the result that three foreign firms—especially Firestone, I make bold to say, and Imperial Chemicals—which till then advertised in my paper, cut out their advertising. I make no

bones about it, but I want to say that the Indian press which was noted for its patriotism, character and guts, at the worst period of our history under the British, could not stand up to foreign firms where rupees, annas and pies were concerned—I mean even leading journals which have led public opinion in this country. As long as Indian advertisers, as long as Indian businessmen do not come into their own, as long as they feel that their duty is absolved with spending half a crore every year, as long as Lever Brothers which rules half the world, which rules Nigeria, Africa and other countries, and which is trying to raise its head in this country, and perhaps might become another East India Company, is permitted to spend rupees 70 lakh in advertisement and raise its mighty head to the detriment of our own soap concerns, we have no future.

I said we have made a beginning because the Government of India was still groping in the dark. They did not know how to proceed in the matter. After all, they had to proceed cautiously. After all, they have to be armed with powers. The Government of India is seeking foreign aid, foreign capital, and does not want to get a bad name abroad that it is out to expropriate foreign firms, though there is a good bulk of opinion in this country wanting to confiscate foreign capital. As I said, rupees 160 crore are exported out of this land every year. But what about the Indians employed in those firms? The Government of India is seeking powers, to have those powers in its armoury, and the powers are merely statistical, merely informative. We want to know how many young men are employed in those firms. Our young men go to England, America, Germany, get training in scientific and other technical subjects and come back without being able to find a job of dignity when the Government avenues are perhaps closed. This subject of foreign firms is going to be very, very important. No other party in

India gained more by partition of the land than these foreign firms. Perhaps, foreign firms gained the most. They strode India like a Colossus, went out to Pakistan and opened branches. Even as it is, I blame the Commerce and Industries Minister if, as the rumour goes, Lever Brothers has been given permission to open another factory which is to the detriment of small factories, which will be wiped out and will go to the wall—not because we do not take bath. The Hindus are noted for keeping the sanctity and cleanliness of their bodies, and they had their baths with or without soap, with or without soapnut. So, we do not want Lux or other things to be strewn into our land so that the money may go out of our land.

I remember when I went down to Calcutta after I raised the matter of foreign firms. I visited Bird & Co. I just went and saw their board and was shocked to see there were nearly 200 foreign names, and hardly two or three Indians. One of them was a Knight of the British Empire and retired I.C.S. mah. Bird & Co., and Andrew Yule & Co., are the remnants of the East India Company on the banks of the river Hooghly. The empire of the British may have been washed away after Independence, but their economic policy does not show any signs of decay and continues as strong as ever.

The Government of India has done the right thing; the enterprising Commerce Minister and the Minister of State have started well. They wanted statistics, and they were able to get information from 1,200 firms. These firms sent out information as to how many of our young men were there now, how many old Indian hands who have spent all their days, 30, 35 or 40 years, who have been placed at the end of their careers on a salary of Rs. 1,000. As against that, 1,300 foreign firms have not supplied any information. They say: "We refuse to supply information. You do what you like. We shall blackmail you into submission".

And this is how our Government goes on.

Take Burmah-Shell. In Paris they have a branch, and I am told the French people told them: "Look here. You have got the Shell Company. You may do whatever you like in South East Asia. Here, the French Government will guarantee your profit; the French Government will guarantee the security of your concern, and beyond that we shall not allow you to employ a single non-Frenchman in your company", whilst in India, the whole of Burmah-Shell, Caltex or any other foreign firm, from top to bottom, in posts carrying over Rs. 1,000, is strewn with foreigners.

When I raised the matter in the Provisional Parliament of India, I fixed the sum of Rs. 1,500. As a test for employment of Indian executives. It is easy to give a man up to Rs. 1,000 when he is retiring after 30—40 years of service. How many Indians are there with that salary in foreign firms? If there are not enough Indian executives in foreign firms which collect rupees two or rupees three crore net profit every year, then it is high time the Government of India should ask how many Indian employees they have at the top. Unfortunately, this morning I did not get a chance, though I wanted to ask the Prime Minister how we could forget Egypt, which suffered for decades because Britain prized the Suez and kept Egypt in bondage so that India may be firmly kept for them. You cannot have a foreign firm in Egypt without Egyptian employees at the top, or without fifty-one per cent. capital of their own, while we are still making a beginning in our land. And if our Government and Ministers are making a beginning, let us give them all the power at our command, let us give a long rope to all these foreign firms to hang themselves, so that sooner or later our young men who have picked up technical knowledge in America, Europe, Germany, Soviet Russia or

[Shri Joachim Alva]

Czechoslovakia or anywhere in any part of the world, may be ready to take up these factories whenever that day comes, may be ten or fifteen years hence, when everyone of these factories shall have to be owned, manned and run by Indians only without an iota of money going out of this land. We have allowed the draining of our national wealth at the rate of rupees 150 crore or even rupees 200 crore every year to go into the treasury chests of European, American and British businessmen, and today the East cries that there shall be a halt. We now know how to run aeroplanes. If our young men can run aeroplanes with safety, ability and diligence, why not we run electric engines or the mighty wheels of any other industry? The secrets of these industries were not known to us. Our great indigenous industries like Dacca Muslin in which we pride ourselves have been ruined by the East India Company. Our domestic, village and cottage industries never got a chance. These foreign industrialists have sat on the apex, at the top of the world, ruining our population, without giving employment to our young men who are trained, who have aptitude, who have knowledge, and who have got the desire and aspiration to run these industries. Today, this Government of India, in a free and independent India, are still trying to please public opinion, whether in the United States or in Britain, and we have gone to the farthest extent in pleasing the foreigners and foreign businessmen. I still know how foreigners come and say, "Oh, you should always know what foreign business means; you will have to come to our country and see how foreign business runs." They refuse to see through our own spectacles, and understand through our own minds. I say, with all the sincerity at my command that this matter of the foreign firms is integrated closely with our economy, as I said on a former occasion on the floor of the House. If by chance, we are thrust in times of crisis or war, then every foreigner in our land will be a saboteur, a fifth

columnist, acting against the security and economic strength of our land. Today, the Government of India are seeking to arm themselves with the minimum, ordinary powers by which foreign companies or firms shall be compelled to give information as to how many Indians they have got. This is merely a thin end of the wedge; we cannot go ahead. Unless we have got light in darkness, we cannot hope to clear our house of the mess. Therefore, I must tell the hon. Minister of Commerce, what you want to arm with by the right arm, do not give away by the other hand. I mean what I say, because when one firm, the Godrejs, who have been known to make strong, impregnable safes are launching on an enterprise to manufacture our own typewriters in our own country, do not give away the advantages, by, on the other hand, allowing foreign firms such as the Remington Company to build up a Remington factory in India. What you secure by the right hand will be washed away by the counter-motion of the other hand. Similarly also in the case of many of our industrial products, if we allow them to be built up in our own land, then by giving free import licences for the same products, you destroy advantages secured by the first method.

These are very important considerations. We shall set our goal ahead. Let us know what our objectives are. Our hands should be clean and above suspicion. Above all, we must clearly know the methods we are adopting, though they may be slow, and may take a long time to yield fruit. Thus we shall build up an effective economy of our own.

Shri Nanadas (Ongole—Reserved—Sch. Castes): Though the Bill before the House is a half-hearted one and restricted in its scope, still I am in agreement with my hon. friends Mr. Mukerjee and Mr. Alva, in welcoming it as far as it goes. It is an established fact that statistics will help to make a scientific study of all problems, and

to have a correct understanding of social and economic problems affecting the people, and thus help to formulate correct administrative policies of state.

I entirely agree with the hon. Minister of Commerce, that the smooth running of the official machinery increasingly depends on an adequate supply of up-to-date statistics, and in a social welfare state, where the Government control and regulate the national economy and many other needs of the people, statistical data are quite essential. But I doubt very much whether this Government are really controlling and regulating our national economy, or whether only a few monopolist capitalists and industrialists are controlling it. The running of the community through its institution of Government and business depends very much on statistical information. It is much more so in our country where industrial production and business management have become concentrated in fewer hands, and the Government's intervention has become an inevitable necessity to plan our economic life.

Planning is the order of the day, and without statistics, planning is inconceivable. Therefore, we must have adequate and upto-date statistical information on important subjects like national economy, trade, industrial and agricultural production, wages, earnings, housing, employment, unemployment, etc. On all these vital topics, accurate and upto-date information is necessary. But our present Bill is only a restricted one, and there is no provision in it which will enable us to get such information. The collection and publication of statistical data is largely the function of Government, and more so in a welfare state. But what is the position of our Government's storehouse of official statistics? Can we get full information on all these topics, from the statistical data published by our Government? Can we get accurate information on subjects like trade, industrial and agricultural production, public finance, vital statis-

tics, agricultural statistics, etc.? We shall see presently what kind of statistical data we have on these various subjects that I have mentioned.

The estimates of our Five Year Plan are mere rough estimates, based on guesses and inadequate and scattered data. For instance, on page 14, paragraph 9 of the Five Year Plan, it is stated:

"Very little information is available on the rate of investment and on the trends in national economy in India in the last few decades."

Please note the word 'decades'. The paragraph continues:

"Rough estimates are based on scattered data....."

Again on page 326, paragraph 5, we find

"The information available on the subject of existing small scale industries is extremely meagre."

Mr. Chairman: May I bring it to the notice of the hon. Member that this Bill is intended to facilitate the collection of statistics? Whatever lacunae there may be in the previous statistical data need not be referred to, while considering this Bill.

Shri Nanadas: I am just pointing out the necessity of having comprehensive statistics and adequate and upto-date information on the various subjects. Often the information that is furnished is not recent enough and so does not throw light on the problem.

Again on page 380, paragraph 2, it is stated:

"Exploration of mineral resources has not been thorough or complete in most cases, and the present estimates are rough guesses."

On page 521, paragraph 102, we find:

"The collection and compilation of vital statistical data are defective in completeness and accuracy."

[Shri Nanadas]

On page 650, paragraph 3, we find:

"There have been no attempts so far for collecting statistical material on employment and unemployment."

"There are many such instances of lack of statistical data, which we find as we go through the pages of the Five Year Plan.

The position, therefore, of our official statistics is very meagre, and not up to date. Nobody can deny the need to collect accurate and up to date statistical data on each and every subject that affects the economic and social conditions of our people. Why should not the Government come forward with a comprehensive Bill designed to achieve this object? Why should they come only with a half-hearted measure? I fail to understand the objectives of the Government, in bringing forward this half-hearted measure.

What purpose is it going to serve? What is the definite programme that Government have for collecting and publishing statistics regularly from year to year on industry and commerce? It is not made clear in the Bill. These are the things on which I seek clarification from the hon. Minister. In the Statement of Objects and Reasons it is stated that it is expedient that Government should be armed with powers to compel all concerns engaged in industry and commerce to furnish statistical information, but it is not stated whether the Government have decided to collect and publish statistics regularly. The Government have not taken the responsibility for this purpose and it is also not clear from the Bill how far it will help us to get complete and accurate data with regard to industrial and commercial undertakings. It is not made clear in the Bill whether the statistics mentioned in the Bill are required for regular collection and publication. There should have been a provision in the Bill for fixing respon-

sibility on the Central and State Governments for the regular collection of statistics, but we find none in the Bill. It is left to the sweet will of the Governments concerned. There should also have been a provision in the Bill for the constitution of a Committee consisting of officials, Members of Parliament and experts so that this Committee can see to the proper implementation of the provisions of the Bill and also recommend to the Government collection of proper statistics with regard to other subjects.

Anyhow, though it is a half-hearted measure, in concurrence with the previous speakers, I support the Bill subject to the amendments moved by me, Mr. Nayar and Mr. Bhargava.

Shri A. K. Dutt (Calcutta South-West): Sir, I am thankful to you for giving me an opportunity to say a few words on this Bill. I support this Bill. The object of the Bill as stated is:

"Recently, in order to assess the extent to which foreign owned and controlled firms engaged Indians and foreign nationals, a notification calling upon all undertakings to furnish the statistics was issued in all important English daily newspapers all over India. The response to the notification has not, however, been very satisfactory. Though Government can exert pressure to make certain firms submit returns, it is expedient that Government should be armed with powers to compel all concerns....."

The object is no doubt laudable. Although it is a rather belated one, it is not too late. If the Government proceed in right earnest, they can give some redress to the people. I am coming from a constituency which comprises a part of Calcutta and its suburbs. There are a number of middle class educated people there. They want to serve and do any work going about in search for service. They

come in hundreds to us expecting that we being in Government, would be able to give them some help. But our power is limited. The Bengal Government also cannot do anything. They are too full with the refugee problem. The result is that they are getting no redress from Government quarters. There is the other alternative: they can get employment in private enterprise—commercial and industrial. In Calcutta, it is a notorious fact that most of the private enterprises are controlled by foreign owners, with a sprinkling of Marwaris, Punjabis or Bengalis. But the fact is that these foreign owners control the Calcutta market and regulate the business relations. To satisfy them, these Indian owners merely follow their policy and want to be in their good books. The result is, as my friend has just now said, that we find in the list of officers of Martin & Burn a number of foreign names. After Independence, it was expected that we would get some redress in this matter. In the beginning it was noticed that there was an attempt to Indianise the services. But that attitude has already changed. It is no longer the policy of these firms in Calcutta, both Indian and foreign, to Indianise their staff. That explains the non-co-operative attitude to submitting returns. The result is disastrous. The people going around for service are getting frustrated without getting service. This is a dangerous situation which has arisen in Calcutta and the genesis of the recent Calcutta disturbances can be traced in this. I hope the Government will not end their duty with merely getting the statistical returns but implement the object of it. We must not allow foreign firms to practise a racial discrimination policy on Indian soil.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, I beg to move:

"That the question be now put."

Shri Sarangadhar Das: No, Sir. I have been standing up and sitting

down the whole morning. No one from this party has spoken.

An Hon. Member: No question of party.

Shri Sarangadhar Das: There is the question of party.

Mr. Chairman: Order, order. I have been watching the discussion ever since I came to the Chair and I did allow a certain amount of latitude so far as the foreign firms and others are concerned, because indirectly that matter comes up. But so far as the question of facilitating the collection of statistics is concerned, I think everybody is agreed. Under the circumstances, I think it should be kept before everybody's view whether it is desirable to continue this discussion longer as, especially, on the main point there is not likely to be much difference. However, I will allow the hon. Member to speak, if he wants to speak something new, and then I will put the question.

Shri Sarangadhar Das: This is new. I never say anything stale.

I am very glad to support the Bill. It is belated and that is what I wish to speak of. I remember in 1947 when we attained our independence, foreign firms began to pack up, sell their interests to Indian capitalists and go away to England, back home. And there were cases of Indianisation also. I am rather surprised that this Government have come to realise now how this situation has changed since 1949; they have realised this too late. It is because of the weak-kneed policy of this Government that some of the interests which had gone back home to England returned in 1949. When they saw our Government was weak-kneed, they began to ride rough-shod over the Indian employees in their concerns. The injustice done to the nationals of this country on the soil of this country came to a head last year when there was so much agitation in Calcutta, and then the Government had to issue that notification

[Shri Sarangadhar Das]

wanting figures from firms as to how many Indian employees they had under different categories.

This is a situation that would not be tolerated in any other free country. Many years ago I had lived in America where British capital was building up American industry. It was all British capital but the brains that were working those firms were all native American and not Britishers imported from England. Although belated, this weak-kneed Government is getting a little strength in its knees and that is because of so much criticism all over the country, and I hope now that statistics will be secured by the operation of this Act. It must be enforced properly so that the Government will have proper knowledge of what is happening in these firms. When I mention foreign firms, I do not want the House to understand that I am anti-foreign and against foreign interests. As long as the law is there and the Government allows foreigners to come and operate here and as long as it is necessary for us that the foreign firms should be here because of their technical knowledge, and, in some cases, because of the huge capital in certain industries, I am not against foreign firms and I do not discriminate. I am glad to know that in this Bill there is no discrimination. I mention foreign firms because the thing has come to the surface last year and because it is mentioned in the Aims and Objects of this Bill.

I will also say about the Indian firms where the managing agents' or directors' sons, brothers and other relations who may not be fit for the jobs are employed while duly qualified persons are not employed or duly qualified persons are replaced by the relations of the managing agents or the directors

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes): Is

control of employment envisaged in the Bill?

Shri Sarangadhar Das: My dear friend will know when he works in some industry. I have worked in an industry and I know how qualified technical men are replaced by the relations of the managing agents or of the directors or the proprietors. By collecting proper statistics these things will be known to the Government and then they will find ways and means of stopping these cases of nepotism, because as an ex-industrial technologist I can say from my experience that Indian industry suffers to a large extent because of this nepotism on the part of the managing agents, proprietors and directors of companies. Therefore, when you get statistics, you should get them not only from the foreign firms but also from Indian firms because guilty ones may be there also.

There is another thing that I wish to mention. This is not a complete Bill. I don't know how it has been left out. I see here in clause 2, sub-clause (ix), 'a rubber, tea, coffee or cinchona plantation'. In this generation of ours, there are all kinds of plantations of one thousand acres and 500 acres that are growing up. For instance, many of the sugar factories in India have plantations of their own anywhere between 500 acres and 5,000 acres. I do not know why such plantations are not included in this subsection. They also employ a large number of unskilled and skilled labourers and technical men and it is necessary to find out whether labour is being properly treated or not, whether the technical men are getting all the facilities or not and whether in place of Indians there are European technical men. I, therefore, suggest that this sub-clause (ix) may be rewritten to include such other plantations as are growing up besides rubber, tea, coffee and cinchona, which have been here for several decades.

As far as the fear of some of the capitalist interests is concerned. I do not see any objection to "any matter" relating to any industry or class of industries which has been dealt with at length by other speakers; I do not want to say very much about them. At the same time, I see no danger there of any one to be treated badly without any reason or without any ground.

As far as vicarious punishment is concerned, I want to say something from my own experience. It is very necessary because of my experience that in the case of limited companies or private limited companies the managing agents must be held responsible and not only the manager. I have been a manager in several concerns years ago where I was a scapegoat for anything that happened. The proprietors, the Indian proprietors have told me, "Well we have got to go on; as managers you must be hand-cuffed if something goes wrong with regard to the Factories Act or the Workmen's Compensation Act." It is well known that a manager is employed, is given a salary simply to answer all the purposes of the Factories Act, the Workmen's Compensation Act etc. It may be that due to the negligence of the managing agents any accident takes place in the factory and the manager is held responsible. He is hauled up in court and is punished. Therefore the provision of holding the directors and the managing agents responsible when the company is delinquent in not supplying the statistics is quite correct.

Shri Satya Narayan Sinha: Sir, I beg to move:

"That the question be now put."

Mr. Chairman: The question is:

"That the question be now put."

The motion was adopted.

Shri Karmarkar: I confess that it will not be possible for me, nor is it necessary, to cover all the minute

points made during the course of the general discussion. For my own instruction—since this Bill is connected with statistics—I have tried to make a statistical collection on the discussion of this Bill.

I find that the time taken on this measure at this stage was about two hours and fifteen minutes; the number of speakers was eleven; the number of points, big and small, not less than 30; points which need, in my humble opinion, to be replied to at the present moment, 10; broad groupings would be three. Out of respect for my hon. friends, I would not give the number of points which, in my humble opinion, are irrelevant. The total number of amendments tabled is 28. Amendments necessary, in our opinion, nil. That is the brief statistical position regarding the discussion on the Bill.

Now, coming to the points, I was rather dismayed by an observation—I hope it was casual—by one of my hon. friends sitting over there, that the need for statistics has now disappeared. He asked: "What is the purpose of this Bill?" I was dismayed, because I thought that the Bill allowed of no doubt whatever. The purpose of economic statistics is the development of proper economic conclusions. That is the sole purpose.

Then, there was another small incidental complaint made. Why can't we undertake to publish the data? Government publishes whatever matter it considers relevant. In a case of this kind, under the old Industrial Statistics Act, as also under this Act, when we invite various concerns to give information which is of a confidential nature, any attempt at publication, would naturally militate against the very purpose of the Act. With the consent of the parties it may be possible to publish information which we consider necessary. But I wish the House approves the broad and general purpose of this measure and that is exactly an extension of the provisions of the old Act.

[Shri Karmarkar]

I was in one respect disappointed. What I was expecting to listen to this morning was a sort of review of what Government have been able to do by way of statistical information, especially in the field of economics, and possible measures to improve our methods. For instance, we have reasons to be gratified on this side of the House: our overseas trade statistics are fairly satisfactory. Then again, under the Industrial Statistics Act we have been compiling and publishing in a general manner monthly publications regarding industrial statistics. To our mind it is fairly satisfactory. I was looking forward, since we are including commerce and trade in the purview of this Bill and making it a fairly comprehensive measure, to suggestions as to how we might possibly improve our work. I say I am disappointed, because on that rather vital point, the light that has been thrown during the course of the discussions—I mean no disrespect whatever to hon. Members who have spoken—has been nil, though certain points have been made which in my opinion do not require elaborate discussion. Perhaps owing to the fact that in the Statement of Objects and Reasons we made an incidental reference to our attempt at gathering information regarding foreign concerns in India, I note that about one-third of the time has been taken on foreign concerns operating in India.

One of my hon. friends said that is the main purpose of the Bill. I should say, without any offence to him, that he makes a very great mistake if he considers that the whole purpose of the statistics we collect is simply to invite our own attention to one problem, namely foreign concerns in India. Now, the purpose of statistics, as I said in my observations at the commencement, is that no economic conclusions can be said to be sound unless we have proper economic statistics. To mention an example, as I said, in the United States, there are weekly statistics published regarding retail trade, retail shops, how much

out-turn, how much purchases and things like that. A publication like that, if it were possible in our country, would be an extremely useful thing; but it would be very difficult in our country. The general purpose of this Bill is not designed to cover only one aspect of proper utilisation of such statistics, but to cover, as much as possible, the whole field of industry and trade. I will not dilate on that point because I find that there is general consensus of opinion regarding the necessity of collection of such statistical information.

Then, again, alluding to the point very briefly—because silence on this point might be misunderstood—there has been a lot said about foreign concerns in India. My esteemed senior colleague, the Minister of Commerce and Industry, thought seriously about this problem, and though we had no legal powers as such we invited all the concerns to give us information connected with the employment of nationals *versus* non-nationals. I am happy to say that a large number of companies concerned saw reason and supplied us the information. We tried also in other proper ways, effective ways, to see that other concerns also gave us the information. By and large the results have been satisfactory, as far as collection of information is concerned, though not the conclusions reached. That was not really a very major problem, though it was unsatisfactory to note that a small percentage of concerns did not give us the necessary information. We, on this side of the House, do not share the difference expressed on the other side of the House.

Shri Sarangadhar Das: The Statement of Objects and Reasons says that "it was not very satisfactory". What the hon. Minister says now does not tally with it.

Shri Karmarkar: Unsatisfactory to the extent to which the firms did not comply. We want complete informa-

tion. Even if 10 per cent. did not send information, it was absolutely unsatisfactory from the statistical point of view. I do not like the House to be under the impression that our attempt in that direction was absolutely defeated,—that we had in fact feet of clay. I heard the hon. Member saying that at least now the Government is strong. I would put it just the other way. It has been strong all the while, all these years. I am very happy that my hon. friend has been discovering now at least wisdom and truth.

Shri Sarangadhar Das: The Government has been in power; you could have had it five years back.

Shri Karmarkar: At the present moment my time is limited. I am prepared to listen to him and speak to him as long as he likes, and I am afraid he will not be the better of the two in speaking and listening.

Now, I come to the important points. I said I will not dilate on this point of foreign firms. I am quite sure that foreign concerns which are affected by the measure know our opinion in this matter fully well; I am quite sure that they will have noted also the sentiments expressed in this House. It is quite obvious that where we allowed foreign capital to come in, or foreign interests to come in, we have done it after due deliberation. It is not as if Government follows an erratic policy; it has followed a steady policy, and sometimes makes reservations in its policy, as it chose to make in the case of the recent oil refinery projects. Roughly and broadly the policy has been stated very clearly in the Prime Minister's statement. Wherever we consider foreign capital or foreign interests' participation helpful in the interests of the country, we permit it; but we have a major voice, or a major share in such participation, unless the matter is so unimportant, or so insignificant, that it does not matter if the foreigner has his own way in respect of capital. But by and large, cover-

ing the whole major field, our policy has been to subject every item of foreign participation to vigorous scrutiny. Of course, we do not agree with that school of thought: "Hands off all foreign interests." We do consider it proper, in the present state of economic progress of the country, not only to permit, but in some cases, to invite foreign capital, not on their terms—the House will appreciate—but on our terms. So far as our policy regarding foreign participation is concerned, I think the House will find very little reason to disagree with it, unless it accepts the doctrinaire view of certain hon. Members opposite that whatever is foreign must be kept out excepting, of course, foreign ideology. Our policy has been clear in this regard, namely that we have in no way discriminated in permitting foreign capital. Opinions might differ in a particular case. Wisdom also may lie elsewhere. I do not say that all our decisions are sacrosanct and free from error. No government can say that. But we have tried to see that foreign participation has come on justified and justifiable grounds.

Having said that, I do not think I need dilate on the points made in respect of foreign concerns. I think the House is well aware that we are definitely of the opinion that when a foreign concern comes to India, in their own interests and in the national interests it will be good for them to have as large a number of Indian personnel as possible, unless the employment of foreign personnel is unavoidable for technical or other reasons. That has been our opinion and that has been the way in which we have tried to exercise our influence. The House has the same opinion, as it has expressed, though in intensity it might vary.

Coming to the several points, I would sub-divide the points under three principal groupings. One point of view is that the Bill is too wide in respect of its purpose as also its application. We have been castigated

[Shri Karmarkar]

for taking powers to have information on any matter. With all respect to my hon. friend I tried to analyse and devise for myself any alternative definition. The only alternative definition I was prepared to offer to my hon. friend Pandit Thakur Das Bhargava was that instead of putting in "any matter" we might put "such matters as in the opinion of Government are necessary for collecting information". And I was almost sure he would accept it. But my misery was that in substance it was not different. "Such matters as in the opinion of Government are necessary for collecting information" is the same as "any matter". So I am at a loss to know and I am waiting for some light on this point.....

Pandit Thakur Das Bhargava: It could not have been otherwise. I supported you in this matter.

Shri Karmarkar: I am very sorry. He so vigorously supported me that for a moment I misunderstood that he was opposing me! I accept the correction. But regarding that matter we have to be given the discretion in respect of the matters on which we want information. We are not going to ask for the number of children a manager or a director has—unless it is related to industries, trade or commerce! All that will be irrelevant. We do not want the power to be unlimited; at the same time to me it is impossible to define in what respect we will have to ask for information.

Then there was a point or two made by my friend, Mr. More. He was worrying about the word "willfully". I think it might be good for me and the House if I just hurriedly refer to the provisions which are related either to the offence or the penalty section of the Bill. For instance, must has been said about clause 9. Hon. Members are well aware that this is not the first time that we are taking powers and imposing penalties of this kind.

We have done this in the case of the Forward Contracts Act and the rest. Taking clause 9 by itself, what do I find? It is a very logical section. In the case of a company there may be sometimes an attempt at evading responsibility. A dummy manager may be put. He may be given Rs. 500 or Rs. 300 and told "your job is to take any penalty that may come, you may supply false information, but if you are in trouble this is your compensation". In order to prevent such a dummy man being made responsible we have said that if a person guilty of an offence under section 8 is a company "every person who at the time the offence was committed was in charge of, and was responsible to, the company" shall be liable. So whenever an offence has been committed by a company, we hold the man who is primarily responsible as liable for that offence. He cannot say; "look here, I am responsible technically, but so-and-so is really responsible." He cannot escape that way.

There was a difficulty about how a company could be punished. The penalty is a fine, and a company could well be fined. We do not want a company to escape the liability on account of offences committed on behalf of the company. Company may be a non-person in the popular sense. Still it has a responsibility.

Pandit Thakur Das Bhargava: Company is a legal 'person'.

12 Noon

Shri Karmarkar: Yes, and it could be punished. That is the scheme of clause 9(1). So the person ostensibly responsible will be responsible for the offence. If he proves that the offence was committed without his knowledge, an innocent manager will not be penalised. But the burden is cast on him. It is not upon us to prove that he has no knowledge. The burden is cast on him, so that in case of injustice it is obviated. If he proves that the offence

was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence, suppose he leaves headquarters and asks the next man to take the greatest possible care and finds that an offence is committed, if he proves that it was without his knowledge and that he had exercised all due diligence, he should not be responsible. That is, so far as the person who at the moment was in charge and was responsible to the company is concerned, he cannot escape the liability.

Sub-clause (2) makes a definite provision: "Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved—that has to be proved by us—"that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company"—the attribution should be direct, there should be neglect and the commission of the offence should be the direct result of that neglect, it is not due to any fault but due to neglect and that neglect should have resulted in the commission of the offence—then "such director, manager, secretary or other officer shall also be deemed to be guilty". The House may note the difference between this and sub-clause (1). Sub-clause (1) *prima facie* makes the person in charge responsible. Sub-clause (2) also wants to bring within the purview all such persons who are directly cognizant of any offence being committed or whose neglect has resulted in the commission of the offence and, therefore, who are also responsible. That is to say, it enlarges the sphere of responsibility. That is a scheme which has been well understood and which the House has accepted in earlier enactments. The distinction between the two is not only logical but absolutely necessary if all the persons connected with the breach of this law are to be brought within the purview of this measure.

There have been one or two attempts to dilute or strengthen the provision in sub-clause (a) of clause 8. Sub-clause (a)(i) says "wilfully refuses or without lawful excuse neglects to furnish such information or return as may be required under this Act". There the emphasis is on the word "wilfully" refuses or neglects to furnish. And then sub-clause (a)(ii) says "wilfully furnishes or causes to be furnished any information or return which he knows to be false". There has been an amendment tabled to change it to "which he has reasons to believe is false". Suppose an information is really not false but he has reasons to believe it is false. Should he not also be made responsible? If information which is really correct but which he believes to be false—I mean it leads us rather to absurdities.

Pandit Thakur Das Bhargava: It is both false, and false to his knowledge and belief. If it is true, no prosecution is possible.

Shri Karmarkar: We thought this provision was sufficient, and still feel so; the words are "wilfully furnishes or causes to be furnished any information or return which he knows to be false". He must know it is false and he must wilfully furnish it. Of course, my hon. friend Pandit Bhargava is a better guide on penal matters.....

Pandit Thakur Das Bhargava: "Reason to believe" is wider.

Shri Karmarkar: That is why we do not want to make it wider. We have accepted the mere belief to be false; we have said he must know it is false. We have experience of the Industrial Statistics Act, and till experience proves that a widening of the responsibility is necessary we felt that the Act might be just what it is. So I won't dilate again on that point regarding penal clauses.

Now, as I said earlier, there are points which could be replied but

[Shri Karmarkar]

there are not many that could really be replied at this time. I very much appreciate the general support given to the measure. I am happy to know that the House very much realises the importance of this measure and as time goes on the House will see that very useful use is made of the various powers taken under this Act.

Mr. Chairman: The question is:

"That the Bill to facilitate the collection of statistics of certain kinds relating to industries, trade and commerce, be taken into consideration."

The motion was adopted.

Clause 2.—(Definitions)

Shri S. V. Ramaswamy (Salem): I beg to move:

In page 1, line 14, after "public" insert "or private".

"Public limited company" and "co-operative societies" have been mentioned in sub-clause (b) but in order to make it clear I suggest that private limited companies also should be included. In a way, private limited companies are covered by this provisions because "commercial" may mean a public limited company or a co-operative society or any other person or body of persons engaged in trade or commerce. We could have left the definition to read "a firm or any person or body of persons". In that case there might be a doubt. So we have specifically included co-operative societies. My suggestion is that we must include private limited companies also specifically. Of course, under the Indian Companies Act a private limited company will come under a commercial concern but we can make it absolutely clear.

Mr. Chairman: Amendment moved:

In page 1, line 14, after "public" insert "or private".

As the definition now stands, the hon. Member will find that the words

"commercial concern" include everything.

Shri S. V. Ramaswamy: My suggestion is that we should make it more comprehensive so that there may be no loophole.

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

Shri Karmarkar: No, Sir.

Shri S. V. Ramaswamy: In that case I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Shri S. V. Ramaswamy: My next amendment is No. 6.

Mr. Chairman: Is there any difference between "firm" and "partnership"? I do not think he wishes to move it.

Shri S. V. Ramaswamy: No, Sir. I would like to say a few words on my next amendment which reads thus:

In page 2, after line 8, insert:

"(xii) any company engaged in the distribution of goods imported from abroad or produced within the country."

By this amendment I want to add another category to the list included in the Bill. There are certain firms which deal only with the distribution of goods either imported from abroad or produced within the country. Statistics relating to such firms are also very vital and these firms are also big concerns employing a large number of men and investing a large amount of capital. I would submit that in order to complete the statistical picture it would be necessary to get at the facts from these distributing firms or concerns engaged in the distributing trade alone. I don't think Government will find any difficulty in doing this. At present such firms are not included.

Shri Karmarkar: We shall carefully consider my hon. friend's suggestion. I think we can take action under sub-clause (xi) even against such concerns. If later on we find that it is necessary to include them in a distinct category we shall do it. Our difficulty in the matter is this. "Commercial concern" includes all kinds of concerns including those referred to by my hon. friend. There may be a doubt whether the concern engaged in advertising can be included in the category of concerns engaged in the distribution of goods. Regarding companies of that type there might be possible doubt.

Shri S. V. Ramaswamy: I still feel that the definition is not complete. However, I now proceed to my next amendment. Clause 2(d) says:

"'Industrial concern' means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in the manufacture....."

There are also firms which deal in the assembling, bundling and packing of the goods and I want that we should make this definition more complete so as to include them also. Therefore, I beg to move:

In page 2, line 13, after "manufacture," insert:

"assembling, packing."

Shri Karmarkar: We do not consider it necessary. There is no harm in accepting it, so I accept it.

Mr. Chairman: The question is:

In page 2, line 13, after "manufacture," insert:

"assembling, packing,"

The motion was adopted.

Mr. Chairman: The question is:

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

The motion was adopted.

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

Clause 3.— (collection of statistics)

Amendment made: In page 2, after line 44, insert:

"(xii) labour turnover;

(xiii) trade unions."

—[Shri Karmarkar]

Mr. Chairman: The question is:

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

The motion was adopted.

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

Clause 4 was added to the Bill.

Clause 5.— Power of statistics authority, etc.)

Shri Nanadas: I beg to move:

In page 3, line 24, after "any other person" insert "with access to sources of information".

Shri Karmarkar: We think that this amendment is not necessary because the statistical authority can be depended upon to use his discretion properly. It is not likely to serve a notice on a person who has no access to sources of information. This is redundant.

Shri Nanadas: Does the hon. Minister mean any other person having access to sources of information?

Shri Karmarkar: Yes, that is so.

Shri Nanadas: I do not press my amendment.

Mr. Chairman: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6.— Right of access to records etc.)

Shri K. C. Sodhia (Sagar): I leave it to the Government to accept my

[Shri K. C. Sodhia]

amendment or reject it. The amendment is self-explanatory and I do not think it is necessary to plead much about it.

Shri Karmarkar: Our hon. friend has been very generous to leave it to us. But, we think it is not necessary. We are happy that he is not pressing it.

Mr. Chairman: Then, Pandit Thakur Das Bhargava.

Shri S. V. Ramaswamy: I have an amendment. Sir. It is No. 11. It comes earlier.

Mr. Chairman: I shall take up the amendments in the order here.

Pandit Thakur Das Bhargava: I have got many amendments: numbers 21, 23, 25 and 26.

Mr. Chairman: I would like to dispose of every amendment individually. If he wants, he may move amendment No 21.

Pandit Thakur Das Bhargava: I have already submitted the grounds on which I wanted the hon. Minister to reconsider this aspect of the case. I am unfortunate because in his recital of the items, he has not thought it fit to include it as one of the major objections. In fact, while replying to the debate, he perhaps forgot to include it. He did not deal with this argument at all. I am one of those who support this Bill. I would rather like to give to the Government all the powers which are necessary. But, at the same time, I wanted some safeguards to be introduced in this Bill. There are two safeguards which I want to be inserted in this clause. According to me clause 6 should come into operation only after a notice has been given and the notice has not been complied with. If the notice is complied with, the information is obtained by the statistical authority. If notice is given and nobody comes forward to give that information, then and then alone should recourse be had to clause

6. Otherwise, when the purpose is served by giving the notice, and information is obtained, I do not see any reason why the drastic provision contained in clause 6 should be resorted to. This is the first point that I want to place for the consideration of the hon. Minister. Only in cases where there is no compliance with a notice, clause 6 should be resorted to.

I want a further safeguard. I do not want that in respect of each and every matter recourse should be had by the statistical authority to this drastic remedy. I would like that the statistical authority should be given the discretion to see whether the withholding of such information would be prejudicial to public interests. Only after he is satisfied with that, can he issue an order which is in the nature of a search order, which is in the nature of an order against a person who is withholding information. Clause 6 says:

"The statistics authority or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or documents.....etc."

Suppose the person in possession of such statistics does not allow the statistics authority to enter the house, what happens? Even if permission is given and no questions are answered, what happens? The records are there. There is no provision for inspection of the records. There is no provision for the seizing of the records and taking them away and utilising them. As I said, the very purpose of the statistics authority to get the return is frustrated by the fact that no such provision exists. Therefore, I wanted that there should be some provision by virtue of which the statistics authority after getting entry and after having complied with the two safeguards, may seize the records, and after taking notes or inspecting them, may return them to the persons concerned. It may be that the

records are destroyed after the inspection, but no copies have been taken. Difficulties may arise in actual practice, and the very object of this rule may be frustrated. Similarly, even if the person gets into the place and asks some questions and they are not answered, the same thing happens, and the purpose is not served. Therefore, I want two things to be done. In the first instance, the statistics authority should not have recourse to these powers without satisfying himself that the withholding of such information will be prejudicial to the public interests and secondly, first of all, notice should be given. This is a very serious matter. Ordinarily this question will not arise. I can understand many circumstances in which a person may be able to harass an industrial concern or a commercial concern or any private concern. The difficulty is that our experiences in life are different. I know that if the hon. Minister or the Deputy Minister had this matter in his hands such a contingency would never arise. It is not for them that I am making these submissions. After all, who is the statistics authority? That authority may be a big person and he may not have recourse to this clause 6. The statistics authority may authorise any person to exercise this power and we do not know how these persons would exercise this power. I am against giving any arbitrary powers to any person whether respectable or not, whether good or bad. I would like those powers to be hedged in by these safeguards. When there is occasion for the use of this power it should be used effectively. What is the use of having a power when you cannot use it effectively?

With your permission Sir, I may say a word about amendment No. 26 also. I do not want to take the time of the House by putting another argument at a later stage. In this amendment, I have further indicated that in cases where the statistics authority or a person authorised by him enters the house to search his documents, returns, or papers that may be very confiden-

tial to him, for which provision has subsequently been made—such information cannot even be divulged by the officer concerned—the provisions of the Criminal Procedure Code relating to entries, searches and seizure may automatically apply. These safeguards must be there. Two respectable persons should be present; there should be an inventory. These are the ordinary safeguards which have to be taken in regard to every document. Even now, if a search warrant is issued by a district magistrate, these safeguards are provided. I am anxious that so far as we are making laws, we must see that the rights and freedom of the individual are not unduly interfered with. I would respectfully beg of the hon. Minister in charge of this Bill to consider this matter in all its aspects and kindly see that he agree to putting in these two or three safeguards which are as a matter of fact, not very harmful. They do not interfere with the right or authority of the statistics authority. At the same time, they safeguard the rights of the people in general. I would like to know the reactions of the hon. Minister before I move this amendment.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I am afraid, my hon. friend having seen the seamy-side of life thinks that every provision of this nature is going to be used as it were in a fiscal measure. I think my hon. friend would be right if this were a taxation measure and if we had put in similar provisions in regard to right of access. This is a very innocuous measure. It is rather difficult to prove public interests at every stage. After all, it is in the public interests that statistics should be collected and collated. The very object of this measure is in the public interest. If a man refused to give information, it is really difficult to take an isolated refusal and prove it in a court of law that it is prejudicial to public interests. Secondly, the statistics authority may be an ordinary person having nothing to do with a magistrate or criminal law or the

[Shri T. T. Krishnamachari]

police. He merely asks for information. There is no question of notice in a case like this. There is a general obligation on the part of these firms to send periodical reports. They have got to send monthly returns or weekly returns. Non-compliance with a notice is not there. Because the man does not send the return, the officer walks into that place and asks him, "Why don't you send it?" Or if the return is not properly worded, he asks, "Can I have a look into your records?" The whole idea of this particular section is to facilitate the compilation of statistics which are reasonably accurate. If, on the other hand, as I said, this were a fiscal measure, all the safeguards that my hon. friend has in mind ought to be put in. It is not so.

My hon. friend, Mr. Ramaswamy, has a lawyer's mentality in this trade. It is not a good mentality. I have very great respect for lawyers. I have worked with them and I think it is a very necessary evil society has to put up with. It is not a good mentality—the lawyer mentality. Where that mentality should not be brought, if it is brought, it is a real harm. My hon. friend has been a barrister for several years—20 to 25 years—and has not yet learnt the lessons he has suffered at the hands of people merely because he is not good. His institution is not a good one. Normally, people would do without lawyers. Even if a politician does not agree with people, people would do without contact with Ministers. That is by the way. I think the fears that my hon. friend Mr. Thakurdas Bhargava has in mind are completely baseless. This is not anything new but it merely copies the analogies even of the Industrial Statistics Act. In regard to that, this Act has been in operation. I have not heard of any instance of any particular provision having been abused and it is not intended to abuse either. It is merely a question of getting information as statistical data. It is not one to go to a court involving any legal

complications. You cannot afford to send a notice in order to protect your own interests. It exists there to collect statistics. I beg of my hon. friend not to press this amendment. If it happens, he can depend upon me. He will be here and I will be here for some time. I do not think there will be any need for any hon. Member to find fault with me or my Ministry in regard to this matter.

Pandit Thakur Das Bhargava: As the hon. Minister has said in respect of these cases, it is quite true that I look to the society and it is on account of that I have to inform you that many officers including innocent-looking officers who are armed with powers misuse them. If my hon. friend assures me that nothing is going to happen I may not plead for the above by sticking to my views. I know that he is not against lawyers as he is said to be. Lawyers are not such a bad lot. I do submit that his expression about lawyers is not so happy as it ought to have been but this is beside the point. I do not want to reply in that vein and I submit it is unnecessary to press my amendment any further in view of what has fallen from the hon. Minister.

Shri V. P. Nayar (Chirayinkil): I beg to move:

(i) In page 3, line 36, for "at" substitute "and search at".

(ii) In page 3, line 38, after "may" insert "inspect or take copies of relevant records and".

I move these amendments because I think that the Government should have more power to tackle the situation. While I was reading the Statement of Objects and Reasons I was amused when I found that the hon. Minister of Commerce and Industry has for the first time confessed the weakness of the Government. Just a year before we heard him in this House saying that he had the overall

control of all foreign investors in the country. This is what he said then. I am reading from the debates on the 17th of June, 1952:—

“So long as we have complete control over them, I am sure that this Government has complete control over every industry, whether owned by foreigners or Indians. It does not do us any harm.”

So, now Sir, here is an instance in which the hon. the Commerce Minister takes a different attitude altogether, sees the question from a different angle and confesses before us that he has been powerless in the matter of foreign investors. I certainly appreciate his present candour. I wish that when we provide for certain powers we should also provide for powers by which this law can be administered in as effective a manner as it is necessary. Sir, without the necessary powers the whole clause becomes absolutely useless. There are similar provisions in the Income-Tax Act also. If you look at section 38 of the Income-Tax Act you will find that there is the power to call for any information. Very recently one of the highly placed officials of the Income-Tax Department told me that without the power of entering for making a search, the power of calling for information will serve no useful purpose to the Income-Tax Department. Here is a case in which the law provides that an officer who wants to collect statistics can enter any premises. Why should he go there? Unless you have the power to search, I fear that this clause will not have any effect. I hope that the hon. Minister of Commerce will certainly agree with this power if he really wants to administer the Act with any measure of success. That is why I have moved this amendment and the hon. Minister will understand my position and I hope will agree to this amendment.

There is also another amendment.

Shri T. T. Krishnamachari: May I interrupt my hon. friend. I should like to mention a few words before I accept the amendment. We are prepared to accept the amendment but there may be slight variations in it.

Shri V. P. Nayar: Are you accepting my first amendment?

Shri T. T. Krishnamachari: No, I will accept the second amendment provided you make a slight alteration.

Mr. Chairman: He is going to accept Amendment No. 24 if “or” is put instead of “and”.

Shri V. P. Nayar: That may not be sufficient, Sir. He wants only either of these, not the two together. I do not understand why an alternative should be provided for.

Shri T. T. Krishnamachari: I merely stated that if the hon. Member's amendment reads: “inspect or take copies of relevant records or ask questions”, i.e., instead of “and” he puts “or”. I can accept it.

Shri V. P. Nayar: That would mean inspecting or taking copies or in the alternative, doing some other thing.

Shri A. M. Thomas: In the context it will be both.

Shri V. P. Nayar: That is not my position, anyway. If only there is “and” both can be done. If it is “or” it can only mean either this or that.

Shri Karmarkar: We and the hon. Member accept the position in substance, there is only a little grammatical difficulty. The power of “inspection” is there. The power to take copies is there. The power to put questions is there. Any one or all of these may be done as is relevant to the position.

Shri V. P. Nayar: I will make my position more clear. I have some personal experience about this. I was once an officer who had something to do with the Prevention of Hoarding

[Shri V. P. Nayar]

and Profiteering Act. At that time when I was having power to ask any questions and to take copies, I did not have the power to search. I may give one instance where this was absolutely necessary. I entered a premises and asked for and got some papers and also initialled them because I had no power to seize or take copies. Then a week after, I found that my superior officer had gone to the same shop—I forbear to mention the name of the shop and the place—and took away that record which I had initialled. I could not take copy of that also. Subsequently, it turned out that the whole case revolved on this particular document which all my efforts could not produce in the Court. So, sometimes it is necessary. It is not a question of either putting questions or taking a document. Sometimes you have to put questions and also to take documents. That is why I want 'and' should be retained instead of "or".

Shri Karmarkar: Our officers will surely be more efficient than the officers mentioned. And I think this is the verdict given to us by grammar and law, that when we say "or" it does not alter the meaning. The meaning is either to take any one or all of them. It is quite clear.

Mr. Chairman: So far as Amendment No. 24 is concerned, the position is that with the change from "and" to "or" it is accepted. It is more comprehensive.

Shri Karmarkar: That strengthens his amendment.

Mr. Chairman: So I will put his second amendment in the altered form.

The question is:

"In page 3, line 38, after "may" insert "inspect or take copies of relevant records or documents or".

The motion was adopted.

Mr. Chairman: With respect to amendment No. 22, which has been

moved by Mr. V. P. Nayar, I think that is not accepted.

Shri Karmarkar: That is not acceptable.

Shri V. P. Nayar: I submit that it is not enough to say that it is not accepted. Let us have the reasons also.

Shri Karmarkar: The reason is that the clause already gives power to the statistical authority to have access to any relevant records or documents in possession of any person. It is only to have access that he has been given power to enter any premises. Beyond that we think that this power is unnecessary; it has been found to be unnecessary by previous experience. If it is found to be necessary in the case of any recalcitrant instances, we shall surely come back to the House. At the moment, we are advised—and we think we are properly advised—that the power of search is not necessary. My esteemed colleague has made it clear that we do not want to be penal in this matter.

Shri V. P. Nayar: May I explain my position a bit further? This becomes more necessary in view of the subsequent penal clause. There it is stated that if the information is found to be wrong, a particular punishment is prescribed. What is the means of finding out whether the information furnished is wrong? Will mere venture into the realm of astrology be enough? You have to place your hands on the relevant records, and you won't get them unless you make a search.

Shri Karmarkar: I think it is better to wait and see whether it is astrology or practical administration. We shall come back to the House if it is necessary.

Mr. Chairman: The question is:

In page 3, line 36, for "a" substitute "and search at".

The motion was negatived.

Shri U. M. Trivedi (Chittor): On a point of order. I would like to know whether Pandit Thakur Das Bhargava has got the right to withdraw the amendment he had moved without the leave of the House?

Pandit Thakur Das Bhargava: I only wanted to know the reaction of the hon. Minister, and after hearing him, I said I am not moving my amendment.

Mr. Chairman: The position is clear. He did not move the amendment. He wanted to ascertain the views of the hon. Minister in charge before moving, and after his views were ascertained, he chose not to move it. That is the position.

I do not know what is the position of hon. Member, Mr. Ramaswamy, in regard to Amendment No. 43.

Shri S. V. Ramaswamy: I am moving so that I may state what I want to say. It is not a question of assurance. It is a question of framing the Act itself. We have got to provide against the abuse of power by officers whenever there is a case. What is the provision?

Mr. Chairman: If the hon. Member wants, let him move it. The hon. Member should make up his mind. I take it that the hon. Member does not want to move it.

Then, there is another amendment by Pandit Thakur Das Bhargava. I think he does not want to move it.

The question is:

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

The motion was adopted.

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

Clause 7.—(Restriction on publication etc.)

Shri Nanadas: I beg to move:

In page 3, line 47, add at the end

"except in cases when such

publication might be made if, in the view of the appropriate Government, it is so required."

The object of the Bill is to collect statistical data. When the Government collect such data, with regard to any industry or concern, then they become the property of Government, and so the Government need not take the permission of the owner of the firm or his agent to publish such records. Moreover, the public also has got an interest in such statistical data, because it is not a private affair, but it concerns the economic and social conditions of the people and the workers employed or the customers interested in those undertakings. They have all got a right to know these data regarding any particular concern. It is quite essential that the Government should have power to publish such data without the permission of the owner or his agent.

Shri Karmarkar: I regret we are not in a position to accept this amendment for the obvious reason that firstly the clause itself limits the action, i.e., any information regarding any particular industry or commercial concern is needed only for the purpose of general conclusions. If general conclusions are reached, based on these data in a cumulative manner, then there is nothing to prevent us from publishing those conclusions, as we have been publishing under the Industrial Statistics Act. Supposing we have a particular concern, and the owner of that concern gives the information in confidence, and we publish those data, in respect of that particular concern, then, we think it will be a deterrent factor in respect of correct information. Nor is it necessary for our purpose, since the information is required only for making general use of it. We have no interest in publishing the information given in confidence in respect of any particular concern. So, we oppose the amendment.

Shri Nanadas: I press the amendment because these concerns are commercial and industrial undertakings.

[**Shri Nanadas**]

Collection of data in respect of these concerns is not a personal affair like the census where the individual has got any special interest, and he has to keep to himself some secrets, which he would not like to be published in his own interests. But here it is a business concern; it is not a confidential thing. That being the case, I feel that data regarding such industries must be made available to the public, and the Government must have power to publish the data whenever required. Sir, I press my amendment.

Mr. Chairman: The question is:

In page 3, line 47, add at the end

"except in cases when such publication might be made, if in the view of the appropriate Government it is so required."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8.—(Penalties).

Mr. Chairman: There is an amendment in the name of Mr. S. V. Ramaswamy.

Shri S. V. Ramaswamy: I am not moving it.

Mr. Chairman: There is one amendment in the name of Mr. Jhulan Sinha. The hon. Member is absent.

Next, there are the amendments of Pandit Thakur Das Bhargava.

Pandit Thakur Das Bhargava: I am not moving the first amendment standing in my name; as for the second amendment, I would like to know the view of the hon. Minister in charge of the Bill.

Shri U. M. Trivedi: We are all handicapped by your not moving the amendment.

Pandit Thakur Das Bhargava: My second amendment seeks to omit lines 19 to 21 on page 4, which contain the explanation:

"In respect of false information, return or answer the offence shall be deemed to continue within the meaning of this section until true information or a true return or answer has been given or made."

If it is a civil affair, then I shall not object to such an explanation as this.

But in criminal law, when an offence has been committed, then the mere fact that subsequently the man chooses to do better does not condone that offence. When it is determined that an offence has been committed and he chooses to give another return, my humble submission is that, as the offence has already been committed according to the section, there is no reason why a subsequent better return should condone that offence. In practice, it may happen that if a person has been challaned for having...

Shri T. T. Krishnamachari: May I interrupt my hon. friend? I am prepared to accept the amendment.

Amendment made: In page 4, omit lines 19 to 21.

—[*Pandit Thakur Das Bhargava*].

Shri Nanadas: There is another amendment of mine, Sir, No. 19.

Mr. Chairman: Does the hon. Member want to move it?

Shri Nanadas: Yes, Sir.

I beg to move:

In page 4, line 16, for "five hundred rupees" substitute "two thousand rupees or imprisonment for a term which may extend to six months or both".

This amendment is regarding the penalty clause. Statistics concerning industry, business and also labour conditions are very important and if anybody gives false information or refuses to give information regarding these things, it will materially alter the statistical data and, subsequently, depending upon these incorrect statisti-

cal data the Government have to formulate certain policies; thereby, ultimately, we will have wrong policies and the people in general will have to suffer because of these wrong policies. So to have adequate and accurate statistical data, it is quite essential that the firms or concerns must give correct information regarding each and everything in that industry or business concern. For this purpose, it is necessary that there must be deterrent punishment and hence I suggest instead of Rs. 500 there must be a fine of Rs. 2,000 and also imprisonment for a term which may extend to six months or both. Otherwise, if there is no provision for imprisonment, it matters very little for a rich man to pay Rs. 500; he can very easily pay off these Rs. 500, thus postponing submission of the required returns.

I also want to refer in this connection to the penalty under clause 10. Simply for disclosing information with regard to these statistics otherwise than in execution of duties the man is made punishable with imprisonment for a term which may extend to six months. So this is also a very important item—collection of statistics. Therefore, I suggest there must be provision for imprisonment and also the fine imposed must be sufficiently high.

Shri Karmarkar: Sir, we are not in a position to accept this amendment. Our intention is not to view any violation of the provisions of this Act to be so serious as to warrant imprisonment or such a large fine. As my hon. friend will know, it has been provided that in such cases in the case of a continuing offence, that is in the case of continued recalcitrancy, to submit the correct information, he will be subject to a further fine of Rs. 200 every day. So, if the man continues committing the offence of not supplying the information for 10 days, my hon. friend's intention would have been fulfilled. It does not make any difference and it is not necessary to have an unnecessarily deterrent punishment.

He has also referred to the stringency of clause 10. Because the holding of confidential information is a very important thing, naturally the punishment which has to be imposed on those entrusted with the collection of confidential information in case they part with it has to be a heavy one. So an earlier fine of Rs. 500 and a fine of Rs. 200 per day for a continuing offence is sufficient for the purposes for which it is intended.

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

Mr. Deputy-Speaker: I am putting the amendment standing in the name of H. N. Mukerji and others moved by Shri Nanadas.

The question is—

In page 4, line 16, for "five hundred rupees" substitute "two thousand rupees or imprisonment for a term which may extend to six months or both."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

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

Clause 9 was added to the Bill.

Clause 10.—(Penalty for improper disclosure).

Shri S. V. Ramaswamy: I beg to move:

In page 5, line 2, for "six months" substitute "two years".

This is a penalty for improper disclosure of information or returns. These officers are in a great judiciary capacity and, having come to know about the affairs of the Company, if they wilfully disclose it, it is a very serious matter. It might lead to the collapse of the company even if they disclose it. Therefore, my respectful submission is that the penalty that has been thought of it not sufficient. After

[Shri S. V. Ramaswamy]

all, six months would make it only a summons case. I want to make it a first class offence so that it may be triable by a first class magistrate. I suggest that two years should be substituted for six months and one thousand rupees should be raised to two thousand rupees, so that a deterrent punishment may be imposed in case there is divulgence of secret information got at after a search. Otherwise if the fear of deterrent punishment is not there, any statistical officer might nonchalantly disclose very valuable information which will affect the very life of a big firm or company. I think there must be that fear for the statistical officer that if he transgresses the bounds he will meet with severe punishment. I submit it is a very reasonable amendment and I hope the Government will find its way to accept it.

Shri Karmarkar: In our opinion six months is sufficiently deterrent, and one thousand rupees fine. So, it is not necessary to make it unnecessarily more deterrent than what it is. If we find it necessary we shall come back to the House.

Shri S. V. Ramaswamy: If it is raised to two years and two thousand rupees it does not mean that the magistrate should always impose that punishment.

Mr. Deputy-Speaker: The officer will not collect statistics because he will be afraid. I am not competent to speak from the Chair.

Shri U. M. Trivedi: He would be afraid of even six months.

Shri S. V. Ramaswamy: Then, I do not press my amendment.

1 P.M.

Mr. Deputy-Speaker: There are no amendments to clauses 10, 11, 12, and 13.

The question is:

"That clauses 10 to 13 stand part of the Bill."

The motion was adopted.

Clauses 10 to 13 were added to the Bill.

Clause 14.—(Power to make rules).

Shri S. V. Ramaswamy: I, beg to move:

In page 5, after line 31, insert

"(3) Any rules framed under this section shall be submitted to Parliament."

I would not like to include the words "before publication in the official Gazette."

Shri T. T. Krishnamachari: I can give an assurance that all rules made under this Act by the Central Government will be placed on the Table of the House. But this clause gives certain powers to the Provincial Governments. I cannot give an assurance on their behalf. I would be grateful if the hon. Member will accept my assurance so far as the Central Government is concerned and drops the idea of putting a statutory obligation on the State Governments. So far as the Central Government is concerned, we have made it a rule to place all rules we make on the Table of the House. As the Chair is aware, there is a Committee which looks after the question of rule making powers of Government. So, we can do nothing without placing them on the Table of the House, whether there is a provision to that effect or not. So far as the Provincial Governments are concerned, I would rather like to leave them alone. That is why I request my hon. friend not to press his amendment.

Shri S. V. Ramaswamy: The hon. Minister has given an assurance for the Central Government. But what about the States? Are the persons in the States to suffer simply because the Central Government cannot ask them to place the rules before their legislatures? If it is a statutory provision, it becomes obligatory on the Provincial Governments; we need not leave it to the discretion of the States. What we are doing here must be applicable to all.

Shri Karmarkar: How can we say in this Act that the Provincial Government should lay the rules before their legislatures. We shall lay it on the Table of Parliament. For the rest he will have to take the trouble of referring to the Gazette.

Pandit Thakur Das Bhargava: I do not see any reason why we cannot make a provision to that effect.

Mr. Deputy-Speaker: When we clothe the Provincial Governments with these powers, we can equally lay some obligations on them. So, the question is:

In page 5, after line 31 insert

"(3) All rules made under this section shall be laid, as soon as may be, before Parliament, or, as the case may be, before the appropriate State legislatures."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

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

Clause 15.— (Repeal).

Shri Karmarkar: I beg to move:

In page 5, for clause 15 substitute

"15. Repeal.—The Industrial Statistics Act, 1942 (XIX of 1942) and the Hyderabad Collection of Statistics Act (No. 17 of 1957 Fasli), are hereby repealed."

Sir, we wanted to make it clear that we are repealing the Hyderabad Act also because under the old Industrial Disputes Act they were authorised.

Mr. Deputy-Speaker: The question is:

In page 5, for clause 15 substitute

"15. Repeal.—The Industrial Statistics Act, 1942 (XIX of 1942) and the Hyderabad Collection of Statistics Act (No. 17 of 1957 Fasli), are hereby repealed."

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The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 15, as amended, stand part of the Bill."

The motion was adopted.

Clause 15, as amended, was added to the Bill.

Clause 1.— (Short title etc.)

Amendment made: In page 1, line 3, for "1952" substitute "1953"

—[Shri T. T. Krishnamachari].

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

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

The Title and the Enacting Formula were added to the Bill.

Shri Karmarkar: I beg to move:

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

Mr. Deputy-Speaker: Motion moved:

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

Shri R. K. Chaudhury: I hope the hon. Members of the House will excuse me for delaying their lunch by a few minutes. I wanted to congratulate the hon. Minister for the Bill which will be passed almost in accordance with his desire. He went to the length of putting the burden of proof on the accused and the House has without a murmur and without an amendment accepted clause 9 of the Bill.

But what I wanted to say was this. Having this new weapon in the armoury of the Ministry I hope they will not allow it to rust. I hope they will sincerely and seriously work out the provisions of this Bill.

I think it will be appalling for the hon. Ministers to learn that in the

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numerous tea estates in Assam which supply practically sixty per cent. of the tea exported out of India, there are very few employees from Assam itself. If you look into the conditions in the agency houses in Calcutta, if you look into the number of tea testers in Calcutta, you will find that there are only a few Indians—not to speak of people from Assam—among the tea testers. That is practically the preserve of Europeans and Anglo-Indians even now. And then if you see the agency houses you will find that amongst the employees very few are Indians.

As soon as this legislation is enforced I hope the Government will seriously call upon these tea estates to give statistics about the number of employees they have and how many of them actually are Indians or local people. That is all that I have to say

Shri Raghavachari (Penukonda): I only wish to observe one point. I confess to a sense of disappointment when I look at the time and energy spent over this enactment only for collecting statistics. We all know that foreign firms have a preference to employ foreigners only with a few Indians. So far the position had been that there was no machinery even to collect such statistics. Through this Bill we are only providing for the collection of statistics. But apart from statistics being collected it is necessary to take some further action to see that foreign firms employ more and more of Indians; otherwise, all this will not be of much help to us. I am sure that there is no difference of opinion on this point, namely that Government should have in its armoury this weapon so that it may collect statistics, but if further steps are not taken, then there is very little purpose served by this sort of enactment. If all the agitation for a number of years has been only to enable the Government to think of having this weapon only to collect statistics, then I should think that a lot of effort has been taken for no purpose. My submission is that steps

should be taken to induce foreign companies to employ more and more Indians.

Then there is another very small point which I wish to urge. We are vesting certain new powers which are liable to be used in a way which might prejudicially affect certain companies. That is another thing on which the Ministry has to take care. Utmost care should be taken to avoid such a use of this enactment. More than that I expect that the hon. Minister will bring a comprehensive enactment next time which will be really of some use.

Shri Karmarkar: Though we missed our hon. friend Mr. Rohini Kumar Chaudhury yesterday, I am very glad that he is present today and has invited our attention again to another of his pet subjects, viz., tea. This question of employment of Indian nationals and non-Indians in commercial concerns is one of the many subjects that will be the subject of statistics. As I said earlier we miss the whole purpose of this Bill if we simply imagine that it is meant for one specific purpose. This question is a big one. In the present context of things the real purpose of the collection of statistics is larger than merely dealing with one single problem, however big it may be. If the powers under this Bill are properly exercised, the information that is going to be collected is going to form the foundation of our economic thought. I am very happy to see that both the hon. Members who have spoken during the third reading have stressed this point. My hon. friend and I had many discussions over this Bill and these discussions have proved very helpful in elucidating many points. Statistics are a basic necessity, and, of course, I agree that Government should pursue the question of their collection in regard to every aspect of the industry. In fact, if hon. Members were to find the industrial statistics published already by the Government, they would certainly, I venture to say, congratulate the Government on the proper use that

they have made of the earlier enactment.

Dr. Suresh Chandra (Aurangabad): But are they reliable?

Shri Karmarkar: Yes. In fact, I should humbly say that the industrial statistics published by the Government have been a matter of very good study for me and for many of my hon. friends who have wanted to study. Government will surely make proper use of this measure. I do not want to waste

any more time of the House. I very much appreciate the suggestions made by the two hon. Members.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

The House then adjourned till a Quarter Past Eight of the Clock on Friday, the 7th August, 1953.
