LEGISLATIVE CONTROL: MINISTERIAL RESPONSIBILITY
Legislative Control

The public sector has brought many problems in its wake, the most important being that of legislative control over public enterprises. A public enterprise is constituted in the national interest and as such, is accountable to the nation as a whole. Parliament being the guardian of national interest, it is necessary that a public enterprise is made accountable to it in some form or another. Parliament should be in a position to satisfy itself that the policies followed by a public undertaking are promoting the ends of public interests underlying its incorporation.

Secondly, it is the public funds that are utilized for financing a public enterprise, and, therefore, Parliament should have some control to ensure that the public funds are spent in a proper manner.

Another reason for the necessity of Parliamentary control over the working of public enterprises is the absence of any personal stake of those in charge of the undertakings, in their success. The personal fortunes of the management and the performance of the undertakings have no correlation of any kind in the public sector. So Parliament has to supervise the working of these undertakings from the point of view of efficiency.

As mentioned earlier, there are various forms of management of public enterprises. It is the autonomous
public enterprises which pose a real problem in regard to the legislative control. The legislative control over departmentally managed public undertakings is almost complete. Though it is true that the autonomous public undertakings like the public corporation and the joint stock company are not accountable to the legislature to the extent of a department, certain devices are in operation in this country which make them answerable to the legislature in an indirect manner. These are:

1. questions to the Minister;
2. discussion on annual reports of the undertaking;
3. half-an-hour discussion;
4. motion for adjournment;
5. discussion on matters of urgent public importance;
6. calling attention of the House to matters of urgent public importance;
7. moving resolutions;
8. discussion on the report of an Enquiry Committee;
9. discussion on the amendment of the establishing act;
10. general discussion on the budget; and
11. discussion on President's address.

Needless to add that these devices are in vogue in countries like the U.K., France, etc., where there is a parliamentary system of government. In fact, these devices have been borrowed by this country mostly from
the British model. It is necessary to examine the working of these devices in India from the point of view of legislative control over autonomous public enterprises:

(1) Questions

The question-hour is an important aspect of the working of any legislature in a parliamentary democracy. It offers an opportunity to the members to question the ministers concerned about the working of public undertakings in the country. In the U.K., questions pertaining only to the general policy of a public undertaking can be put to the minister concerned. It is for the Speaker to admit a particular question. If, however, the Minister considers it to be one dealing with the day-to-day working, he refuses to answer it and the question is lost.

Questions have been a very effective technique of Parliamentary control as far as India is concerned. The question elicits both valuable information as well as certain assurances for action from the Minister. It has always enabled the Members, particularly of the Opposition, to voice their grievances against the policies and working of a particular public undertaking. In its turn, the Government gets an opportunity to explain its own stand on important issues concerned with a particular undertaking. Further, it gets an opportunity
to feel the public sentiments as reflected on the questions asked, and it is possible for the Government to make suitable changes in its policy.

Like the usual questions, the questions asked about the public undertakings in Parliament can be broadly classified as follows:

(a) Starred Questions: These require oral answers from the Minister;
(b) Unstarred Questions: In this case a written reply is given to the Member;
(c) Short-Notice Question: It is asked about a matter of urgent public importance;
(d) Supplementary Question: It is asked after the major question with the permission of the Speaker. The supplementary is obviously related to the major question.

The Members put various kinds of questions mentioned above, both about the policy matters as well as the day-to-day working of the autonomous public undertaking. To decide the admissibility of a particular question is a difficult task indeed. Certain principles are followed by the Lok Sabha Secretariat in this respect. These are:

(i) Where a question (a) relates to a matter of
policy, or (b) refers to an act or omission of an act on the part of a Minister, or (c) raises a matter of public interest, although on the face of it, it may pertain to a matter of day-to-day administration, it is already admitted for oral answer;

(ii) A question which calls for information of statistical or descriptive nature is generally admitted for written answer;

(iii) Questions which specifically relate to day-to-day administration and tend to throw work on the Minister and the undertaking incommensurate with the results to be obtained therefrom, are generally not admitted.

Sometimes a question about the day-to-day working is admitted if the Speaker thinks that a point of principle or a matter of public importance is involved. There are instances where such questions have been admitted by the Speaker in the Lok Sabha.

These principles are scrupulously followed by the Speaker while admitting the questions. There have been many occasions when the Speaker has reminded the Members not to put questions of day-to-day matters about the autonomous public undertakings. Disallowing a particular question in 1950 the Speaker observed:

"...This House should make it a point, so far as is possible, not to interfere with the autonomy of such Authorities, and questions will be justifiable only
if there is something very exceptional to be urged or to be known.

"There is the question of maintaining the balance between the authority of this House and the freedom of internal autonomy of the institutions which have been granted that autonomy. I do not mean to maintain the proposition that even though this House is sovereign it cannot enquire into certain details. It has certainly got the right to enquire into any detail. But then for the purpose of exercising that jurisdiction we must have the balance as to how far we should interfere with the autonomy of those bodies. That is the principal point to be borne in mind." 1

On another occasion the Speaker stated:

"But my reaction is that the House is entitled to have all information that is reasonably necessary and just to judge whether the administration of a particular corporation, which is autonomous, is being carried on properly or not. But, it ought not to enter into details so as to interfere with the autonomy of the particular corporation. The point is to what extent it can be reasonable to have the details of the working of the corporation. If a question is tabled and some prima facie case is made out which shows that it must be enquired into in financial interests, then it will be for the Speaker to see whether the question should be allowed or not..." 2

There have been, however, many occasions when the Ministers have answered questions about the day-to-day working of these undertakings.

Most of the Members feel that the Speaker has been quite liberal in allowing certain questions about the working of public undertakings, but it is the Minister concerned who tries to be evasive. They have complained that the attitude of the Minister has been not to give full and satisfactory answers. On many occasions Members

1 'Parliamentary Debate', 8th April 1950, pp.1386-87.
2 'Lok Sabha Debates', 16th November 1953.
have sought ruling from the Speaker. But, as it is for the Minister to decide whether to answer a particular question or not, the Speaker could do very little in the matter. The general feeling of dissatisfaction among the members was properly sensed by the Speaker of the first Lok Sabha, Mr. Mavalankar, and he favoured the formation of a special parliamentary committee for public undertakings, in a letter to the Prime Minister.

(2) Annual Reports

The annual reports of the undertakings in the public sector provide a very useful means of the accountability of these undertakings to the legislature. It is the most important device as far as the legislative control over the public enterprises is concerned. It is on the basis of these reports that important debates take place in the legislature.

The undertaking presents a review of its working for a particular financial period in the report and submits it to the Minister. It is the duty of the Minister to lay it on the table of the House. The annual report gives the undertaking an opportunity to explain and justify its policy and show the results of the working of its various aspects. It is the main source through which the government, the members of the legislature and the people come to know about the working of the undertaking.

In the U.K., these reports are important in another respect as they contain ministerial directives. The debates in the Parliament in the U.K. take place on the basis of
the annual reports. According to many critics, these debates have been disappointing.

In India all the undertakings in the public sector are required to submit annual reports, on their working, to the legislature concerned. As a legislative control over the working of the departmental undertaking is quite adequate, it is not necessary to go into the details of the submission of their reports.

The public corporations belonging to the Central Government are supposed to present their annual report to the Minister concerned, which are laid before the Parliament. The debates are based on these reports. The provisions regarding the submission of these reports are not uniform. Their form and the subjects to be included in them are largely determined by the Minister concerned. In some cases the Act lays down in details as to how a particular undertaking should submit its report. For example, Section 45 of the Damodar Valley Corporation Act describes that the report should give a true and faithful account of the activities of the Corporation with special reference to certain items. (The list contains about eleven items). Such provision, enumerating particular items to be included in the annual report, is not found in case of other public corporations.

In case of Rehabilitation Finance Administration, Section 18 of Act prescribes that the Administration should submit a six-monthly report to the Government. This is
the only case where the submission of the report is required twice a year.

As regards the companies in the public sector, there was no such provision till 1956. It was severely criticised by the Members of Parliament that it came in the way of ensuring proper Parliamentary control over their working. Subsequently, the Central Government made necessary provisions in the Companies Act, 1956. Section 639 of the Act requires that the Central Government shall cause an annual report on the working and affairs of each of the Government companies to be prepared and laid before both the Houses of Parliament, together with a copy of audit report and any comments upon or supplement to the audit report, made by the Comptroller and Auditor-General of India. When a State Government is a Member of such company, similar reports shall be placed by the State Government before the State Legislature. Thus, since 1956 there is no distinction between a public corporation and a company as regards the submission of the reports to the legislature concerned.

The provisions of the Road Transport Corporations Act, 1950, in this respect, are quite clear. Section 35(1) of the Act states that every Corporation shall furnish to the State Government such returns, statistics, accounts and other information with respect to its property or activities or in regard to any proposed scheme, as the
State Government may from time to time require. Section 35(2) states that, without prejudice to the provisions of Sub-section (1), the Corporation shall, as soon as possible, after the end of each financial year, submit to the Central and the State Governments a report on the exercise and performance by it of its powers and duties under the Act during that year and on its policy and programme.

The form of the report to be submitted by the Corporation, however, is not prescribed in the provisions. It seems that the state governments are supposed to lay down the form of such reports according to their requirements. Curiously enough the Bombay State Transport Corporation Rules, 1952, as framed by the Bombay Government, are silent over this important point. No form has been prescribed for the submission of the annual report of the Bombay State Road Transport Corporation.

The discussion on the annual report of the public corporations and joint stock companies takes place at the allotted time in both the Houses of Parliament. It is observed that the level of the discussion is not satisfactory, and very often the Members, instead of focussing their attention on broad policies either of a particular undertaking or of the public sector in general, lost themselves in minute details. Members show more
interest in the constituency matters related to a particular undertaking.

There is a general complaint from the Members that the time allotted for such discussions is very inadequate. Time and again they have brought this fact to the notice of the Speaker; but the Speaker is really helpless in the matter as the everincreasing nature of work claiming attention of Parliament does not allow the allotment of any more time. The Members are also not satisfied with the way in which the reports are submitted to the House. In majority of cases they are voluminous. The Members have neither time nor patience to go through them. It is also pointed out that sometimes there is no pertinent information on relevant points. Some of the sensational scandals in the history of public undertakings in this country could never be traced through these reports; so many of the Members harbouring a feeling that the reports are a clever attempt at window-dressing. Thus the report is not a mirror-like representation of the working of the undertaking.

A few Members take keen interest in the discussion on the reports of the public undertakings, and concern themselves with broad policy matters of a particular undertaking or public sector in general. It is these Members that offer constructive suggestions, from time to time, regarding the working of the undertaking.
Contrary to the debates in the House of Commons, those in the Indian Parliament are never acrimonious on the merits and demerits of nationalization and public enterprises. Barring Jan Sangh, there is a general agreement on the programme of nationalization in principle; as the strength of the Jan Sangh in the Parliament is quite insignificant. The three major parties recognized as All-India parties by the Election Commission, viz., the Congress, the Communist, and the Praja-Socialist, strongly support the programme of expansion of the public sector. The Loka Sabha or the Rajya Sabha are not so sharply divided in this respect as the Conservatives and the Labourites in the British House of Commons. This, however, does not mean that the working of the public sector is free from any criticism. Far from it.

Realizing the importance of the annual reports from the point of view of parliamentary control, the Estimates Committee dealt with the subject in one of its reports.

1 First Lok Sabha - Jan Sangh 4.
Second Lok Sabha - Jan Sangh 4.
Since 1962, the Swatantra Party is represented in the Lok Sabha, which is opposed to the public sector.

2 Estimates Committee (1959-60) - Seventy-third Report: 'Preparation of Budget Estimates of Public Undertakings and Presentation of their Annual Reports and Accounts to Parliament.'
It observed that the existing arrangements of keeping the Parliament posted about the working of the undertakings were neither adequate nor satisfactory as they did not present a comprehensive picture. The information as provided by these reports was also not given in time. There was no uniformity in regard to the submission of the annual reports and accounts.

The Committee observed:

"Since these reports are a valuable device of informing Parliament and public about their operations and financial conditions, it is essential that Parliament should be seized of these reports within the least possible time after the expiry of the financial year."

It added that in the United States there was a time limit of six-and-a-half months within which such reports were required to be presented to the Congress after the end of the fiscal year. Similar provision should be made here as well.

The Committee also recommended that the accounts and reports for the previous year of all the public undertakings should be laid before the Parliament before the general budget for the following year was presented. It also advocated to bring out a consolidated volume containing the budget, performance programme statement, etc. for the use of the House at the time of the discussion of the general budget.

The Committee pointed out the need for more elaborate and informative reports. It observed:
"Parliament is not interested merely in the rate of dividend declared by the public undertakings, but it is also concerned with various aspects of their working such as their physical and financial programme, productivity, cost of production, price structure, employment trends, labour relations, organizational changes, etc. In evolving a common pattern for the reports, all these aspects may be kept in view. Pending the preparation of common pattern, all the undertakings may be advised to describe in their reports their programme and achievements in greater detail; the industrial undertakings may indicate in their reports inter alia their unit cost of production, the rate of output per man or per unit of capital employed, and the other undertakings also may be encouraged to indicate, where possible, similar coefficients of efficiency appropriate to their business."

Finally the Committee asked the Government to initiate a study of such reports from other countries and evolve a common pattern for the benefit of Parliament.

The observations of the Estimates Committee Committee make it quite clear that Parliament in general is not satisfied with the reports of the public undertakings of this country, and they would welcome the improvements on the lines suggested by the Committee.

(3) Half-hour discussion

This is another device through which the Members can discuss the working of the public undertakings, though in a limited manner.

A Member who is not satisfied with the answer given by the Minister, can request for half-hour discussion, if the matter is of sufficient public importance the decision resting with the Speaker. The Member has to make a short statement about the matter, and the Minister has to
reply. The discussion has a limited purpose. For only certain aspects of the working of the undertaking can be discussed. The Members have made use of this device, though very rarely. There have been only two instances of this kind.

Similar procedure has to be followed for short discussions on matters of urgent public importance. However, there has been no such instance, as far as the working of any autonomous public undertaking is concerned.

(4) Motion for adjournment

A Member can move for adjournment of the business of the House to discuss the working of a particular aspect of an undertaking which is a matter of great public importance. This device has been very rarely used by the Members.

(5) Motion

A motion may be introduced, with the consent of the Speaker, for the discussion of one definite issue of recent occurrence in the affairs of an undertaking. A day or a part of a day is allotted for such discussion.

Such motions have been introduced in the Parliament and Members have availed themselves of this opportunity to discuss the working of a particular enterprise. A motion regarding the Report of Air Transport Enquiry Com-
and was followed by discussion. In December 1956, a motion regarding the modification of Life Insurance Corporation Rules was introduced in the House for discussion. Two other motions regarding the investment policy of the Life Insurance Corporation were introduced; one on the 9th December 1957, and the other on the 28th November 1958.

(6) Resolutions

A discussion may take place on a resolution which may be in the form of a declaration of opinion, or recommendation; it may be in the form so as to record either the approval or disapproval by the House of an act of policy of Government; or to convey a message or urge or request an action or call attention to a matter for consideration by Government, etc. The Members can also move amendments to the original resolution.

The House has made use of this device on a number of occasions. There have been resolutions both on the broad aspects of public sector, and on particular enterprises. In February 1948 a resolution regarding the socialist economy for India, was moved in the then Constituent Assembly of India. Another important resolution regarding parliamentary control of public corporations, was moved by Dr. Lanka Sundaram on 10th December 1963. A resolution regarding the appointment of a statutory
body to control and supervise Government industrial undertakings was moved by Mr. K. S. Raghavachari on 3rd December 1954. On 25th February 1955, a resolution regarding the setting-up of a corporation for broadcasting was moved by Mr. Jugal Kishore. Another important resolution in this respect was that of Mr. G. D. Somani urging the Government to appoint a committee on industrial and commercial State undertakings. It was moved in March 1956.

(7) Discussion on Enquiry Reports

The Government has a power to appoint a committee to enquire into the affairs of an undertaking, and its report can be discussed when laid before the House. This device has been used by the Members of Parliament. Some of the instances are: (i) Report of the Damodar Valley Corporation Enquiry Committee (1952-53); (ii) Report of the Industrial Finance Corporation Enquiry Committee (1952); (iii) Report of Justice M. C. Chagla, Chairman of the Commission of Enquiry into the affairs of the Life Insurance Corporation of India (1958); and (iv) Vivian Bose Commission: Report of the Life Insurance Corporation Enquiry (1958).

A member can also call attention of a Minister to any matter of urgent public importance, and the Minister may make a brief statement or ask for time to make a statement. In February 1956, a Member had called attention of the Minister to the non-cooperation movement by the
employees of the Life Insurance Corporation.

In addition to the above-mentioned devices, the working of the public enterprises can be discussed on the following occasions (i) general discussion on the budget (ii) discussion on the President's address and (iii) discussion on the amendment of the establishing act of a public undertaking.

These occasions have been utilized by the Members of Parliament to review the working of public undertakings from time to time.

Committees

The Parliament exercises control over public enterprises through its two important committees—Estimates Committee and Public Accounts Committee.

The Estimates Committee suggests economies in expenditure. It ensures, within the framework of policy laid down by the Government and the House, that minimum expenditure needed for fulfilling the objectives is incurred. It has to recommend economies, improvements, and administrative reforms consistent with the policies underlying the estimates; examine whether the money is well laid out within the limits of the policy implied in the estimates; and suggest the form for presenting estimates to the Parliament.

The committee can appoint sub-committees with powers
of the undivided committee, to examine matters that may be referred to them. The reports of the committee are in the form of recommendations to government. The latter may accept the recommendations or give reasons for not accepting them. In case the committee reaffirms its recommendation, the final decision rests with the Parliament. No formal debate takes place on these reports. They are referred to at the time of general discussion on the budget, or while discussing the estimates.

From the very beginning, the Estimates Committee has paid much attention to public undertakings, but it has no sufficient time to cope with their increasing number. It was felt that the nature of examination of public enterprises should be different from that of the departmental estimates, and a sub-committee was appointed, in 1956, to examine the working of certain enterprises as well as the organizational and other problems of public undertakings in general. It has submitted two special reports: (1) "Preparation of Budget Estimates of Public Undertakings and Presentation of their Annual Reports and Accounts to Parliament"; and (2) "Public Undertakings—Form and Organization". Earlier, the Estimates Committee, too, had submitted a report: "Organization and Administration of Nationalized Industrial Undertakings". A detailed account of the reports submitted by the Estimates Committee and its Sub-Committee has been given in Appendix 'B'.

The Public Accounts Committee exercises control over the financial aspects of public undertakings. It sees that (1) the moneys shown in the accounts as having been disbursed, were legally available for and applicable to the service or purpose to which they have been applied or charged; (2) the expenditure conforms to the authority which governs it; and (3) every reappropriation has been made in accordance with the provisions in this behalf under rules framed by the competent authority.

It also examines, in the light of the report of the Comptroller and Auditor-General, the statement of accounts showing the income and expenditure of State corporations, trading and manufacturing schemes together with the balance sheets and statements of profit and loss accounts, prepared under the provisions of the statutory rules; the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the Comptroller and Auditor-General, either under the directions of the President or by a statute of Parliament; and considers the report of the Comptroller and Auditor-General in cases where the President may have required him to conduct an audit of any receipts or to examine the accounts of stores and stocks.

As the review is generally based on the material furnished by the Comptroller and Auditor-General, the latter usually attends the meetings of the Committee to
provide assistance.

The report of the Committee is submitted to the Parliament. The recommendations contained in these reports are generally accepted by the Government. In case some of the recommendations are not acceptable, the Government has to give reasons for the inability to accept this recommendation. Any difference of opinion between the Government and the Committee regarding the acceptance of certain recommendations is supposed to be resolved by Parliament.

Since its inception, the Committee has examined the financial aspects of the working of the departmental as well as autonomous public undertakings of the Central Government. It has pointed out many financial irregularities in the working and made useful suggestions. It even constituted study groups for intensive study; its work in this field is really commendable. A list of the public undertakings reviewed by the Committee is given in Appendix 'C'.

However, this work of the Committee is criticized as post-mortem, because once the money is spent in an unsatisfactory manner, it is lost for ever. Though there is truth in this argument, the reports of the Committee serve a useful purpose in their own way. As the late Mr. Navalankar has said:
"The very fact of consciousness, that there is someone who will scrutinize what has been done, is a great check on the slackness or negligence.... of the executive. The examination, if it is carried out, thus leads to general efficiency of the administration. The examination by the Committee may also be useful as a guide for both future estimates and future policies." 1

The two Committees of Parliament, within their own limits, have really done a pioneering work in the field of public undertakings. In the absence of similar work by any other agency, its value is all the more enhanced. The main point, however, is the Parliamentary control of public undertakings as exercised through these Committees, and it can be safely concluded that by providing reports for discussion in the Parliament, the two Committees have proved to be an effective device of parliamentary control over various undertakings in the public sector. Their reports have facilitated the Members of Parliament to understand the intricate working of the State undertakings, and have enabled them to make their own contribution.

Parliamentary Committee for State Undertakings

The widespread concern for legislative control over public enterprises has resulted in various suggestions, the most important being that of a special committee of the legislature to review the working of public enterprises in the country. In fact, the United Kingdom had already

1 'Speeches and Writings' by G.V.Kavalankar, p. 79.
put this idea into practice in 1965. So it has not merely remained an academic suggestion.

Suggestions analogous to that of a parliamentary committee for public enterprises were put forward as early as 1946. But the Labour Government was not in favour of such a committee on the grounds that it would affect the autonomy and the working of the undertakings.

The Conservative Government which assumed power in 1951, however, picked up the threads left by their predecessors in this matter. A special committee (Select Committee) was appointed to consider the general problem of the accountability of public enterprises to Parliament. After a careful scrutiny of the evidence given by various important persons concerned, including the Chairmen of various public corporations, the Committee submitted its report in 1963. The most important but equally controversial suggestion was the establishment of a Special Select Committee for Nationalised Industries.

This came as a surprise, because the general trend of evidence that came before the Committee was against the formation of a Parliamentary Committee. Noted among those who opposed the formation of such a Committee were Lord Reith of the British Broadcasting Corporation, Mr. Herbert Morrison, and Sir Geoffrey Heyworth of the National Coal Board. Only Lord Hercomb, Chairman of the British Transport Commission, supported the idea.
The Government accepted the recommendations of the committee with some modifications regarding the scope of the proposed committee, its composition and the staff required. The first Committee was appointed in 1955. But soon after its establishment the Committee found that with such narrow terms of reference and inadequate staff at its disposal, it would not be in a position to serve any useful purpose.

This led the Prime Minister, Sir Anthony Eden, to announce that the Government would review the whole question afresh and would set up another committee with new and wider terms of reference to examine the reports and accounts of the nationalized industries established by statutes, controlling boards of which are appointed by Ministers and annual receipts of which are not wholly or mainly derived from moneys provided by Parliament or advanced by the Exchequer.

Mr. R. A. Butler, Chancellor of the Exchequer, who introduced the motion in the House of Commons for the appointment of the committee, stated that unlike the previous committee, the proposed committee would not be
debarred from discussing certain matters by a series of specific prohibitions. At the same time he emphasized that the committee should not look into the day-to-day administration of the undertaking. He added that the committee can legitimately look into the following matters:

(a) Financial aspects of the operations of the undertaking;

(b) Working of the undertaking with reference to managerial efficiency and devolution of authority within the undertaking;

(c) Problems of recruitment and training of technical and managerial staff;

(d) The relations with consumer councils, the people and other industries;

(e) The unremunerative responsibilities of the boards.

The Committee was appointed in 1956. Since then it has produced some useful reports.
Such special committees of Parliament for reviewing the working of public undertakings are not found in any other country. There is only one system which comes nearer the British model. It is in vogue in Canada. There are special committees of Parliament for the various undertakings belonging to the Federal Government. There is, however, no single committee of Parliament to review the working of all the public undertakings in that country. There are special committees for particular undertakings only. The Sessional Committee for Railways and Shipping annually reviews the reports, budgets and auditors' reports of Canadian National Railways, Trans-Canada Airlines, etc. There is a Special Committee for Broadcasting, and a Standing Committee for Banking and Commerce.

The question of setting up a special committee of Parliament for public undertakings in this country has been occupying an important place in all the discussions related to the public sector. Its efficacy and relative merits and demerits have been discussed from time to time in the context of the legislative control over the State undertakings.

In 1953 there was a special debate in the Lok-Sabha on the issue of setting up a special committee of Parliament. Dr. Lankasunderam, an Independent Member from the South, suggested the creation of a Parliamentary
committee to look into the working of the public undertakings. It was, he argued, quite necessary in view of the inadequacy of existing arrangements for Parliamentary control over the undertakings in the public sector. The functions of the two important Committees of Parliament, viz. the Estimates Committee and the Public Accounts Committee, were of a specialized nature and limited in character. Though the two Committees have made a very valuable contribution in this respect, the specialized nature of their functions did not allow them to cover all the important aspects of the working of the State enterprises. The review of the Public Accounts Committee is in the nature of a postmortem and so it is of little use to throw any light on the current policies and problems. Further the examination of the Public Accounts Committee is only from the angle of treasury and administrative control. Hence the necessity of a separate committee for public undertakings.

The establishment of such a committee would facilitate the understanding of the Parliament about the working of various public enterprises. This would enhance the level of the questions and the debates. The Parliament would be in a position to guide the Minister as regards the policy of the various undertakings on the basis of such valuable information provided
by the proposed committee. Some of the Members also cited the example of the Select Committee of the House of Commons in the U.K. and its recommendations regarding the formation of a Parliamentary committee for public enterprises. It was suggested that the proposed committee would restrict itself to broad policy matters of the undertaking, and would not bother to go into the day-to-day details of the working.

The proposal for such a committee was not without any critics in the Lok Sabha. Those who opposed the move expressed some misgivings about its role. They argued that the committee would interfere in the day-to-day working of the undertaking, affecting the managerial initiative.

The Government was not favourably inclined towards the formation of such a committee. Shri C. D. Deshmukh, the then Finance Minister, thought that there was a possibility of Parliament going too far and losing itself in the details of the working of the public enterprises, which was not desirable. He argued that it was not necessary for the Parliament to be informed from day-to-day and session to session as to how a particular concern was managed. As an alternative to the proposal, he suggested that a separate body should be formed with the combination of the Public Accounts Committee and the Estimates Committee for the purpose.
These remarks of the Finance Minister make it clear that
the Government was not in a mood to accept the proposal.

The discussion of the problem, however, did not
end there. The subject was again taken up in the de-
bates on the Life Insurance Corporation Bill in 1956.
This time it was Mr. Ashok Mehta, prominent leader of the
Praja-Socialist Party who spoke at great length about
the necessity of setting up such a committee. He argued
that it would not be possible for any Member of the
House to make a certain inquiry into the management and
working of the State undertakings without the assistance
of an official like the Comptroller and Auditor-General.
The proposed Standing Committee with necessary staff
would go a long way to meet this difficulty. On the
basis of the information from the Committee the Members
of the House would be better equipped on the various
aspects of management of the undertakings. He opposed
the idea that the Estimates Committee and the Public
Accounts Committee should be assigned similar kind of
work in this respect; as the two Committees were already
overburdened, it would be unfair to saddle them with
additional responsibilities. So there was a need for
a separate committee for the purpose. Mr. Mehta asked
the Government as to why they had been observing silence
on such important matter when Dr. Lankasunderam had
inroached the subject as early as 1953.
Perhaps as a result of a direct query from Mr. Ashok Mehta, the statement made by the then Finance Minister, Mr. C. D. Deshmukh, was very explicit. He made it clear that personally he was in favour of such a committee, thereby implying that he had failed to carry the whole Cabinet with him. He added that if the balance of opinion was strongly in favour of setting up such a committee, it was for the House to take a decision.

The statements of the Finance Minister made it clear that the Government had given up its earlier stand and was more amenable to the establishment of a Parliamentary committee. It is also possible that the setting up of such a committee in the U.K. in 1936 would have made some change in the approach of the Central Government.

Taking his clue from the debates of the Parliament, the late Mr. Mavalankar, the then Speaker of the Lok Sabha, wrote a letter to the Prime Minister wherein he again opened the subject and added his own observations. The letter says:

"During the recent debate in the House on Parliamentary control over autonomous and semi-autonomous corporations, etc., there was a general feeling that a Standing Parliamentary Committee might be appointed to see from time to time how these corporations, etc., were working and to make suggestions for improvement. ....... It appears that the Finance Minister was agreeable in principle to the appointment of such a committee.

"..... The Rules Committee have suggested that there is no harm if a separate committee is appointed with
limited functions, such as to examine reports and the
working of such bodies ... The proposed committee will
not go into the problems of day-to-day administration
of such corporations, but would only consider questions
of policy and their working broadly.

"It is conceded that Parliament should have suffi­
cient control over such bodies. The question is only
how it should be ensured. To my mind, asking questions
or raising discussions on such bodies is neither desir­
able nor practicable. The corporations must be left
free in their day-to-day administration and Ministers
should not be called upon to answer to detailed questions
or discussions in the House except on such occasions
when questions of some general policy have to be raised
or discussed. It is also clear that the Estimates and
the Public Accounts Committees are already overburdened
with the work assigned to them and find very little time
to go into the working of corporations. I have also
other practical difficulties. Members are tabling a
large number of questions, resolutions and giving notices
of discussions relating to these corporations. At present
they are disallowed on the plea that as these corpora­
tions have their own constitutions and have a certain
amount of autonomy, various Ministers are not directly
concerned with detailed aspects of the matter and,
therefore, they should not be called upon to answer
them in the House. A large number of notices are, there­
fore, disallowed and this is causing an unavoidable dis­
satisfaction among the Members. A via media has to be
found whereby Members are made to feel that their legi­
timate grievances are not being throttled and there are
being throttled and there are safeguards from the
Parliamentary point of view.

"As the matter has cropped up several times in the
House and there is a feeling about it, I see no harm
in agreeing to the recommendations of the Rules Committee
for the constitution of a separate committee on autono­
mous bodies.... The committee will, of course, work
under my directions and it will be my effort to see that
they do not stray beyond the functions assigned to them,
or cause day-to-day interference." 7

The letter speaks for itself and needs no comments.
It conveys the sense of general dissatisfaction prevalent
among the Members about the existing devices of Parliamentary control over public enterprises.

The letter addressed by the Speaker had considerable influence on the Members of the Government and they started thinking in terms of setting up such a committee. The episode of the Life Insurance Corporation regarding its investment policy and the enquiry that followed, further raised the question of the adequacy of the existing modes of Parliamentary control over public enterprises. The affairs of the Life Insurance Corporation served as a portent regarding the shortcomings of the Parliamentary machinery in this respect. The Government also seriously thought of examining the existing modes, and if possible, to supplement them with additional safeguards.

As a sequel to this line of thinking, Mr. Nehru, the Leader of the Congress Parliamentary Party, appointed a sub-committee in April 1958 to consider the question of Parliamentary supervision over State undertakings. The Sub-Committee of the Congress Parliamentary Party was constituted under the Chairmanship of Mr. V. K. Krishna Menon, the then Defence Minister. The other Members of the Committee were: Messrs. Phiroz Gandhi, Mahavir Tyagi, P. Subbarayon, N. G. Ranga, T. N. Singh, H. C. Dasappa, Jasavantrai Mehta, R. R. Morarka and N. C. Kasliwal. Mr. Phiroz Gandhi was solely responsible for
Mr. Mahavir Tyagi was a Deputy Minister in the Defence Ministry for some time. Dr. P. Subbarayon was the then Minister for Transport and Communications. Dr. H. C. Dasappa was the Chairman of the Public Accounts Committee of the preceding Lok Sabha, and Mr. R. R. Morarka was a leading industrialist of the country. The remaining were the senior Members of Parliament. Thus the composition of the Committee was well balanced.

Though nothing can be said against the composition of the Committee, it was not proper on the part of the Government to consider such an important issue mainly from the Party angle. As a sequel to an increasing demand from the Members of Parliament to set up a special committee of the House for public undertakings, it would have been in the fitness of things to appoint a committee of the Members of Parliament themselves. The House of Commons in the U.K. had already done so. There was no need for the Government to consider the question merely from the Party angle, which only resulted in the appointment of the Sub-Committee of the Congress Parliamentary Party. This denied the association of some important Members from the Opposition Parties, who could have made a very valuable contribution.

The terms of reference of the Committee were to consider various types of State-owned corporations.
companies, etc., and suggest how a broad supervision by Parliament could be maintained over their administration, without any interference in their day-to-day activities.

The Committee in their Report made the following observations regarding the accountability of public enterprises:

"... A Committee of Parliament should be established in regard to companies.

"The members of such a committee will be elected by Parliament much in the same way as the Public Accounts Committee and the Estimates Committee are elected. These two Committees, therefore, will cease to perform their present functions in regard to the working of the concerns that come under the proposed Committee.

"We look forward to the situation where this Committee, while by no means being an expert committee [such is not the intention], would be a well-informed committee, informed of all the circumstances in which the concerns function. The purpose of our recommendation would be adversely affected if either the Committee of Parliament becomes imbued with the feeling that it is a fault-finding body or that it is a Super Board of Management. At the same time, there cannot be any fettering of its judgement and the expression of its views in good Parliamentary traditions. The Committee would also, no doubt, bear in mind that any public expressions of views which are intended to correct errors or to provide greater incentives in respect of any concern or all of them are not of such character as would have the opposite result of lowering the concern in public estimation, or affect our credit or capacity to be well regarded abroad."

Thus the authors of the Report, while recommending the formation of Parliamentary committee for public undertakings, are also aware of the fact that the proposed

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Committee will have to function with utmost regard for the autonomy of the undertakings. That is why they have put in a word of caution.

With the recommendations of the Report of the Sub-Committee, there has been a general feeling in the Congress Party itself that the proposed committee should be set up without any loss of time. But the same eagerness was not shown at the Government level and no steps were taken in this direction during last two years.

Without going into the details of the polemical discussion about the merits and demerits of a Parliamentary committee for public undertakings, it can be said that such a committee should be set up without much delay, at least on an experimental basis. The Select Committee of House of Commons for this purpose has attained very good reputation. Even persons like Herbert Morrison who vehemently opposed the idea of such a committee, have recently admitted that it was not so harmful either to the parliamentary traditions or to the autonomy of the undertakings. Thus the working of the Committee in the U.K. has put to rest many of the doubts of its erstwhile opponents. So, when there is a general feeling of dissatisfaction over the present modes of parliamentary control in this country, it would be desirable to give a fair trial to the Committee as soon as possible. The details of the composition, powers and staff requirements of the proposed committee could be decided by Parliament itself.
The Bombay Legislature and the Corporation

The question of Legislative control over the Bombay State Road Transport Corporation is very important. The undertaking was run as a Government department for the first year and so the control of the Bombay Legislature over its working was quite adequate. In 1949, however, the undertaking was reconstituted as a statutory public corporation enjoying certain powers and autonomy. Since then the problem has assumed greater importance.

The forms of Legislative control in the case of the Corporation are similar to those as obtained in the Parliament. These are: questions; discussion on annual reports; motion for adjournment; half-an-hour discussion; discussion on matters of public importance; resolutions; calling attention to matters of public importance; general discussion on the budget; and discussion on Governor's address. A review of the proceedings of the Legislature, however, makes clear that, unlike the Members of Parliament, the Members of the State Legislature have made considerable use of only two devices. These are: (a) questions and (b) discussions on the annual reports of the Corporation. The operation of these two devices has been discussed in the following pages:

(a) Questions

Many Members ask questions about the working of
the public enterprises in the State. The questions pertaining to the working of the Bombay State Road Transport Corporation evoke perhaps the greatest interest possibly because of its public utility nature and its close association with the common man.

In the initial period, the undertaking was run as a department of the Government. Naturally it came under the purview of the Legislature and questions were asked in the House both on policy matters as well as day-to-day matters. No distinction was observed between the two in answering the questions.

In 1949, the working of the undertaking was entrusted to a statutory corporation. In principle, the Minister was supposed to answer questions on broad policy matters and not on its day-to-day working. However, the distinction was never observed by the Minister in practice. On many occasions he answered questions which were clearly related to day-to-day administration of the Corporation. For instance, the Deputy Minister in charge of the Corporation answered the questions seeking information about the tenure of each Divisional Controller of a particular Division and the number of employees dismissed during the tenure of each of them. Instances of this kind can be multiplied. Perhaps it was a deliberate policy followed by the Government not to observe the distinction between the policy matters
and the day-to-day management so far as the questions were concerned, possibly because it was a pioneering experiment in the field of public undertaking in the State, and because there were many misgivings about this experiment, both in the Legislature and outside. The criticism of some of the lapses on the part of the Corporation, in the initial stages, was not without a sting. Naturally, the Government, on its part, wanted to avoid the misunderstanding that it was keeping the Legislature in the dark about the affairs of the undertaking by refusing to answer certain questions. It might have thought that the Members would realise, of their own accord, the implications of the form of public corporation and would observe the distinction between the policy matters and the day-to-day administration while putting the questions to the Minister.

The Speaker also allowed such questions and left it for the Government to decide whether to answer them or not. During the first five years there was not a single instance of the Minister's refusal to answer a particular question on the ground that it pertained to the day-to-day management of the undertaking. In fact serious attempt was made by the Minister and the Deputy Minister to answer every question in detail. However, this issue of distinction was referred to by the Speaker, for the first time in the House, in March 1953.
discussion on the budget, some Members of the Opposition alleged that Government was keeping the House in the dark about the working of the Corporation. Replying to this, Mr. Babubhai Patel, Deputy Minister in charge of the Corporation, stated that it was the continuous endeavour of the Government to keep the House posted about every detail of the working of the Undertaking. He observed:

"As we know, questions are being asked in this House about the working of the Corporation and the minutest details are supplied by the Government. Only the other day I replied to a lengthy question... as to the fare charged by the Corporation, the number of persons employed in a particular division, how many people have been retrenched, etc. So such minutest details are asked for and replied to." 1

At this point the Speaker intervened to state:

"Up till now certain questions were allowed to be asked in the House, but since recently the Chair has been disallowing such questions. If, however, it is the intention of Government that such questions should be allowed, the Chair will take notice of it." 2

The Deputy Minister, however, did not indicate the point of view of the Government regarding the admissibility of certain questions in the House. In fact there is no single statement made by the Minister or the Deputy Minister disapproving questions pertaining to the day-to-day administration of the Corporation; nor have they expressed their inability to answer such questions.

1 Bombay Legislative Assembly Debates, 5th March 1953, page 782.
2 Ibid.
In September 1963, the admissibility of certain questions again came up for clarification at the time of question hour, when one Opposition Member sought information about a very minor detail of the day-to-day working. Before the Minister could reply, the Speaker intervened and observed:

"I must point out that these are general details about a statutory organization which is not under the direct control of the Government. If Members go into such details, I am afraid, a stage might come when the Chair will have to see that certain questions are not allowed." 1

The Member concerned withdrew his question. This of course put a check to such questions, but were not totally abandoned. In 1954, the Minister refused to answer such a question. Mr. Morarjee Desai, who was dealing with the question, stated:

"...The S.T. Corporation is an autonomous body and it is proper that matters of policy of the Corporation should be discussed here and questions also can be asked about policy. But as regards questions relating to the internal working of that body, I submit that it is very difficult to get that information. Nor is it a proper policy to go into such questions. Therefore, as regards the internal working of the Corporation, detailed questions need not be asked. As long as we have replied to these questions, they can remain so replied; but in future no supplemearies should be put to them. In future, from the next session, we propose to have a day fixed for having a discussion on the working of these bodies, so that at that time questions relating to these bodies can be discussed and complaints can be brought to the notice of the House." 2

1 Bombay Legislative Assembly Debates, 10th Sept. 1953, pp. 875-878.
2 Bombay Legislative Assembly Debates, March 1954, p. 817.
Mr. Noushir Bharucha, a prominent Member of the Opposition, observed that this was a very important matter and so needed some clarification. If the House was to discuss the administration of the Corporation on a day fixed for the purpose, it would be very difficult to have such discussion without procuring necessary information through questions. Mr. T. S. Jadhav, another leading Member of the Opposition, pointed out that it was necessary to allow the Members to ask supplementaries to the question, implying that such supplementaries might be about the day-to-day administration.

The Speaker observed:

"Members will remember that at the initial stage I had pointed out to them that as the State Transport Corporation is a Corporation established under a statute, it was open to Government to refuse to reply to any questions. I have allowed certain questions to go in because Government chose to answer these questions. But if Government now want to change their policy and do not like to answer such questions they are entitled to do that, and I cannot possibly raise any objection; but if they answer questions they will have to be prepared to answer the supplementary questions because that is only logical. Now that the Chief Minister has stated that the Government want to change their policy, they can, if they want, change their policy now, and if any questions are put on the detailed working of the Corporation, they can say that they will answer those questions. This applies not only to State Transport Corporation, but to all statutory bodies. That is the position.

"The other point raised by Shri Bharucha does not arise at this stage. If and when it arises it will be answered by me." 2

1 The Bombay Legislative Assembly Debates, March 1954: p. 817.

2 Ibid.
The ruling given by the Speaker was accepted by the House and no further clarification was sought by any Member. The Chief Minister who was also in charge of the Corporation concluded that Members desirous of seeking further information about a particular aspect of the undertaking could write to it directly for necessary information. The Government had already instructed the authorities of the Corporation to that effect.

Since then the issue was never raised either by the Government or by the Members in the House. The main reason for the change in the policy of the Government seems to be that it had already made provision to discuss the working of the Corporation on the basis of the annual Administration Report from 1954. So the Government thought it unnecessary to entertain questions about the day-to-day working of the undertaking. The Government also wanted the Members, particularly belonging to the Opposition, to realize that it was not proper to put detailed questions about the day-to-day management. But there was no change in the attitude of most of the Members. In order to discourage this tendency, the Government had to make a formal announcement to that effect.

From then onwards one comes across a few instances of the Minister's refusal to answer certain questions on the ground that they refer to the day-to-day working.
There were no protests by the Members putting such questions, and no clarification from the Speaker was sought in the matter. The Government, however, continued to answer certain questions which were not strictly pertaining to the broad policies of the undertaking. It is obvious that the distinction between the two was not throughout scrupulously followed by the Minister.

A close scrutiny of the questions answered in the House gives an impression that every attempt was made by the Minister to satisfy the Members desirous of seeking information through questions. The practice of refusing to answer certain questions about the day-to-day working was not used to parry certain unwanted questions. On the contrary, there are some instances in which the Minister answered the question amounting to admitting some drawbacks of the undertaking in its day-to-day working. Most of the questions came from the Opposition. There were a few Congress Members who put some questions to the Minister. A majority of the questions were about the operational side of the undertaking, e.g. suspension and resumption of services, irregularity and inadequacy of services, accidents, lack of amenities, overcrowding in the buses, etc.

The second important place was occupied by questions about the staff and labour matters of different kinds. There were some questions about broad policy matters
like capital structure, rate of depreciation, training programme for employees and so on. A few questions smacked of regional bias. Usually the questions asked by Congress Members did not refer to the day-to-day working.

As already mentioned, the Government did not follow the distinction between policy matters and day-to-day matters very scrupulously till 1954. Though the intention behind this was to remove the misunderstanding on the part of the Members that the Government was keeping the House in the dark about the working of the Corporation, this uniform treatment of questions blurred the responsibilities and also the line demarcating the functions of the Board and the Minister. It implies that the Minister accepts certain responsibilities which really do not belong to him. It also misleads the Members of the Legislature in putting many questions which would not have been normally admitted by the House. Government would have done better if it had followed a particular policy consistently right from the beginning.

(b) Discussions on Annual Reports

Like the questions, the discussions on annual reports of the Bombay State Road Transport Corporation have evoked keen interest among the Members of the Legislature. however, no report of the working of the Corporation was
submitted to the House, till 1954 and so the Members had no opportunity to discuss the affairs of the Corporation for the first four years.

The first report, covering the working of the undertaking from April 1948 to March 1952, was laid in the Bombay Legislative Assembly in March 1954. As it was the first occasion to discuss the working of the Corporation on the basis of the report, the Speaker clarified the procedure of discussion. To quote the Speaker:

"...I would like to point out the procedure that will be followed today. The Member in charge, on behalf of Government, will formally move a motion that the working of the Corporation be taken into consideration. Members will be entitled to move amendments to the same and the discussion will take place. At the end of the discussion, the amendments will be put to the House, and in case no amendment is accepted, the matter having been discussed, the debate will come to an end."

The Speaker further added that the Government invested large sums in the Corporation and the working of the undertaking was closely connected with the public. So the Members should be very careful while making any observations which would be taken into consideration at the time of making recommendations to the Corporation. The arguments should be cogent as far as possible.

On a point of information from a Member, whether Members could discuss matters not included in the report,
the speaker observed:

"Yes, That is the position. If Government accepts whatever Members have to say, Government can possibly pass it on to the Corporation as a recommendation or suggestion. It is not like the Estimates Committee's report where discussion is restricted only to the report. General matters could be considered because, after all, this debate will enable Government to know the mind of this House as regards what recommendations they should make. That is why the scope of discussion is wider..."

He also made it clear that the discussion need not be confined only to the contents of the report but could be as broad-based as possible for the benefit of the Government as well as of the Corporation. He looked upon the report as a device for offering legitimate opportunities to the Members, for discussing the working of the organization. The procedure has been followed since then.

The House also accepted the proposal that one day should be provided for such discussion and the time should be allotted to the participants, according to their number.

The first report was discussed in 1954 for a day according to the procedure mentioned in the preceding paragraph. The motion for the discussion was moved by the Deputy Minister in charge of the Bombay State Road Transport Corporation. In all, eleven Members participated in the debate. Out of these, seven belonged to the Opposition parties, and four to the Congress. The Members of the Opposition were very critical of the working of
the organization. They highlighted its drawbacks and rarely mentioned any good features of its working. At times there was an attempt of equating the Government with the Corporation. The Members belonging to the party in power tried to justify the working and policies of the Corporation, though all of them admitted that there is a good deal of scope for improvement. Some of them made a passing reference to certain shortcomings of the State Transport, which were already mentioned by the Opposition. On an average, each Member spoke for about fifteen minutes and the time allotted to each Member appeared to be quite adequate.

The major aspects of the working of the Corporation, which came up for discussion, were: (i) Rate-structure; (ii) Purchasing policy; (iii) Amenities to passengers; (iv) Operational efficiency; (v) Standardization of fleet; (vi) Cost of operation and profits; (vii) Staff structure; and (viii) Labour matters and trade unions.

The problem of rate-structure occupied an important place. All the participants referred to it, and most of them expressed their dissatisfaction about the existing rate structure. It was observed that the rate-structure was very high, and people could not afford it. It was equivalent to the inter-class fare charged by the railways, without the amenities offered by the latter. There
were different rates prevailing in different regions, and this discrimination smacked of linguistic bias. However, the members who supported the policy of the Corporation, pointed out that the rate-structure was not high and it truly reflected the cost of operation and amenities offered.

Many members were equally critical of the purchasing policy of the Corporation. They pointed out that the deals were shady in character and suspicion prevailed all over the State. There was a colossal waste of the spare parts. The consumption figures of fuel were very high and indicated some leakage. The Members of the Communist Party were in agreement with these observations.

As regards the amenities, the Members complained about their inadequacy. They felt that the amenities were not commensurate with the high fares charged by the undertaking. The stand and the waiting rooms were inadequate and there was no provision of shade and water at many places.

The Members were not satisfied with the operational efficiency as well. It was very low. The mechanical conditions of the vehicles were far from satisfactory and the result was frequent breakdowns. The Corporation also suffered from the shortage of vehicles and so could not cope with the increasing traffic. A large number of vehicles was off road due to lack of proper
maintenance and repairs. The problem of inter-terminal passengers was not dealt with satisfactorily. All this was pointed out by every participant. It was felt that the present services should be consolidated and streamlined before undertaking further expansion, or the programme of nationalization of goods transport.

The arrivals and departures of the services were not regular. The popular clamour for starting the services in a particular region could not be taken as an indication of the efficiency of the undertaking. People had no other go.

Yet another aspect which attracted the attention of many participants was that of standardization of fleet. The Members observed that the organization should have followed the policy of standardization from the beginning, as it would have resulted in many advantages like the economy of spares, etc. Some Members considered it to be the greatest blunder which resulted in mounting operational costs.

The cost of operation, as many Members pointed out, was increasing. This was due to the inefficiency of the organization and the heavy overhead costs. The rate of profit was also not very satisfactory as compared with the rate of investment. The Members of the Congress Party, however, observed that the operational costs were rising with the increasing prices, and it
could not be associated with any inefficiency on the part of the organization.

Many Members complained that the organization was overstaffed and the staff structure was top heavy. The administration was extravagant and wasteful in many respects. Though it was promised that the staff from the old operators would be absorbed, only 30 per cent of them have found employment in the organization.

The labour was given bad treatment by the officers and they were not in a position to have collective bargaining. Some Members also pointed out that the management gave discriminating treatment to the labour unions; the Union affiliated to the INTUC got better treatment. The condition of drivers and conductors was far from satisfactory and their hours of work had to be reduced. One Member observed that it was not nationalization but bureaucratization.

A passing reference was made to the delay in the submission of the annual report. Some of the Members suggested that a committee should be appointed to go into the working of the Corporation. One Member wanted the Opposition to be associated with the working of the undertaking. It was also pointed out that the rate of calculation of depreciation was not correct.

The debate came to an end after the Deputy Minister in charge of State Transport gave a reply to the dis-
discussion. He observed that the discussion was very helpful as many Members made useful suggestions. He promised to convey those suggestions to the Corporation and clarified some of the objections raised in the debate.

Thus, by and large, the Members concerned themselves with the broad policies of the organization and there was no mention of any minor details. The level of discussion was quite high, though the element of party spirit was obvious. Only two Members made reference to the local matters which could have been safely avoided in such a discussion. There was only one participant who expressed his suspicion of some linguistic bias in the working of the organization. He was not supported by any other participant.

As it was for the first time, since the inception of the organization, that the Legislature got the opportunity to discuss the working of the organization, the number of participants was large. They took keen interest in the working of the undertaking, and though they were highly critical, they had many concrete suggestions to offer. The broad trend of the discussion indicates that there was a sincere urge on the part of the Members that the working of the semi-government undertaking should improve and the people of the province should benefit by such improvement. No concrete suggestions
were received from the Members of the Congress. Another healthy feature of the discussion, which deserves mention, is that no participant questioned the basic policy of nationalization of road transport.

The discussion of the Annual Report of the Corporation for the year 1953-54 took place in the Bombay Legislative Assembly on 30th and 31st March 1956. About 13 Members participated in the debate, three of whom belonged to the Congress. The debate was carried according to the procedure laid down by the Speaker in the commencing year.

The broad aspects of the working of the Corporation, which figured prominently in the discussion, were almost the same. There were, however, some new aspects which need to be mentioned here:

(1) Monopoly obligations were not carried out by the Corporation;

(2) Low tyre-mileage;

(3) Inadequate intake of backward class people in the recruitment;

(4) Heavy retrenchment on the ground of economy and use of double standards in the economy drive;

(5) Corruption and nepotism in the policy of recruitment;

(6) Undesirable tendency of spending large amounts of money on imposing structures;
Divisional Committees and Advisory Committees are swamped with Congress Members: Opposition Members should be associated with the working of these Committees.

This time the participants, with the possible exception of the Congress Members, were highly critical of the working and policies of the undertaking. As one Member put it, "... the Corporation is one of the worst-managed departments of the government." The same Member also described the report of the Corporation as merely window-dressing.

Another Member described that the Corporation and the Government were collaborating with each other to perpetuate certain malpractices and keep the Legislators in the dark about them.

As usual, the purchasing-policy of the Corporation came under fire. The participants were equally critical of the economy drive of the Corporation, necessitated by its financial position. The retrenchment and the lowering of the pay-scales as a part of the economy-drive were severely criticized.

Many of the participants quoted instances in support of their criticism. This was not done when the first report was discussed in the House. As usual, the Members of the Congress Party tried to defend the policies of the Corporation. They pointed out that most of the
criticism of the Opposition was based on certain prejudices.

As was customary, the discussion came to an end with the reply of the Deputy Minister in charge of the Corporation. While answering the questions, the important points made by him were: The Corporation was thinking of introducing a uniform system of fares all over the State; the Governing Board was not full of Members from the Congress Party, and majority of the Members of the Board had nothing to do with any political party, and the same was true of the Divisional Advisory Committees; the operational efficiency was increasing, though gradually; the tyre mileage was low due to bad roads; sincere efforts were made by the undertaking to offer more jobs to backward class candidates; it was not possible to reduce the existing rate-structure due to increasing level of prices; there was no victimization of any employee for participating in the activities of the unions.

The interest in the affairs of the Corporation was again revived when the Administration Report of the Corporation for 1954-55 came up for discussion before the Bombay Legislative Assembly in October 1956. This time six Members participated in the discussion, all belonging to the Opposition. The general tone of the debate was less critical, in marked contrast with those
on the previous occasions. In fact, a few participants observed that there was considerable improvement in the working of the undertaking.

As usual the purchasing-policy of the Corporation was criticized by most of the Members. It was also mentioned that misappropriation of funds was on the increase. However, there was general satisfaction over the rate of profit as shown in the report. The labour matters figured prominently in the debate. It was observed by some Members that the standing orders regulating the conditions of work were not introduced by the Corporation. A plea was made to improve the conditions of work and to reduce the steering duty of the drivers. Some suggestions were put forward to improve the working of the Works Committee.

One Member expressed satisfaction over the get-up and contents of the report submitted to the House. There was no mention of any particular cases during the debate.

The Deputy Minister in charge of the Corporation replied to the debate at the end. He again stated that it was not possible for the Corporation to reduce the existing fares. He assured the House that the conditions of work and the steering-duty of the drivers were in accordance with the provisions of the Motor Vehicles Act, 1939. The standing orders of the Corporation were
ready and would be introduced soon. He pointed out that there was no victimization of workers on any political ground.

An interesting feature of the discussion on the Report for the year 1955-56 was that only two members participated in it. This utter lack of interest is really very baffling. Even the Deputy Minister expressed surprise. Both the participants belonged to the Opposition. The points raised by them were: overcrowding; indiscriminate purchase of lands by the corporation; purchase of costly machinery for the Central Workshop, which was never put to use; wrong method of budgeting; and undesirable practice of the Corporation not to submit the Accounts and Audit Report along with the Annual Administration Report.

One of the participants expressed his satisfaction for the great pains taken by the Deputy Minister to answer each and every point raised during the discussion.

The new House which came into being as a result of the General Elections in 1957, got the first opportunity to discuss the Administration Report of the Corporation for the year 1956-57, in October 1958. The total number of participants was 15, out of which 10 belonged to the Opposition and five to the Congress. The labour relations got prominence in the discussion.
Most of the Opposition Members observed that the labour was not getting a fair deal from the undertaking. There were many cases of discharge and dismissal, and the policy appeared to be arbitrary. Rigorous disciplinary standards were applied to the lower-class employees, while such standards were absent in the case of top-ranking officials. The pay-scales of Class IV employees were considerably low. The Labour Branch functioned as a part of the Administration Department and so could not discharge its duties impartially.

The Opposition pointed out that discriminatory treatment was given to the unions. The interests of the INTUC were protected while there was victimization of members belonging to the Kamgar Sabha. The office-bearers of the INTUC who were on the Corporation Board, should sever their connections with the union.

Another important point made by the Opposition was that administration of the undertaking was highly bureaucratic and without much government control. The Government, they urged, should answer questions pertaining to day-to-day management of the Corporation; otherwise, the working of the Corporation would continue in the same manner.

The goods transport operations were criticized by both the sides of the House. It was also observed that the recruitment percentage of the backward-class candi-
Mr. C. M. Patel, Deputy Minister in charge of the undertaking, winding up the debate, stated that the progress of the Corporation was satisfactory. The disciplinary actions, he said, were not arbitrary. He attributed the failure of goods transport to unfair practices of private operators. Replying to the charge that the members of the Congress were appointed on the Board, he stressed that business acumen and intelligence were the only two criteria for appointments.

Because of leftist leanings of the Opposition, prominence was given to the labour matters of the undertaking - probably for the first time in the House.

In April 1959, the House discussed the Report for the year 1957-58. There were eighteen participants out of which ten belonged to the Opposition. The labour affairs of the Corporation occupied a prominent place. Most of the Members complained that housing and medical facilities, and other amenities given to the workers were very inadequate. It was pointed out that though the Corporation was making a huge profit, only a fraction of it was spent on the welfare of the labour. Both the Opposition and the Congress were unanimous in condemning the meagre housing facilities offered to the employees. Some Members of the Opposition stated that the undertaking had become merely a profit-
Another point which figured prominently in the debate was the bureaucratic administration of the organization. Obviously this criticism came mainly from the Opposition. They complained that the undertaking had become callous to the needs of the people and favourable treatment was given to the members of the party in power. This was largely due to the attitude of the Government which had made no attempt to associate the Opposition with the working of the Corporation. The indifferent behaviour of the officials was borne out by the ever-increasing number of public complaints.

The goods transport operation was criticized from both the sides of the House. It was observed that the Corporation had failed in this respect. One Congress Member suggested that the scheme of goods transport should be given up.

As usual the rate-structure was criticized by the Opposition. It suggested that as the organization was making a huge profit, some relief should be given to the travelling public by reducing the existing rates. It also pleaded for more amenities to the passengers.

The participants expressed concern over the reported decrease in the earnings and observed that no satisfactory explanation was given in the Report. A reference was also made to some of the malpractices pointed out
by the Audit Report. Most of them pertained to favouritism in giving contracts for road-building, ticket-printing, and advertising. A novel suggestion came from a Congress Member to split up the present Corporation into four regional corporations of the State. He thought that the present operations were too big to be handled by a single corporation.

Summing up the debate the Deputy Minister in charge of the undertaking replied that though the undertaking could not make any claim to perfection, its working was efficient and economical in many respects. He pointed out that when the Corporation was not making much profit, about five years back it was criticized for it. The Members were critical of it because it started making considerable profits. That was rather inconsistent. He thought that in view of the rising prices it would be impossible for the undertaking to cut down the prevailing rates.

The Deputy Minister, unlike his predecessor, did not try to answer each and every point raised by the participants. For example, he made no reference to the charge of meagre housing-programme about which there was unanimity of opinion. Another interesting point by way of contrast was the prominence given by the Members, particularly belonging to the Opposition, to the labour matters. This was because of the peculiar composition
of the House. The Opposition as a whole had pronounced leanings to the left.

The Report for the year 1958-59 was discussed by the Maharashtra Legislative Assembly, in July 1960. Eleven members from the Opposition and five from the Congress took part in the debate. The important points made by the participants were: The workers were treated badly; the Organization was functioning in a bureaucratic manner and so it would be better to run the undertaking as a Government Department; the operational efficiency was deteriorating; there were cases of favouritism in giving contracts for running the canteens and choosing sites for constructions. A novel suggestion came from the Opposition that the Members of the Governing Board should be elected by the House instead of nominated.

The Deputy Minister, Mr. Y. J. Mohite, who replied to the debate, admitted that there was some deterioration in the operational efficiency, and attributed it to ever-increasing operations. He promised to make serious efforts to increase the intake from backward class in the services of the Corporation.

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1 The Bombay State was bifurcated in May 1960 and two unilingual States of Maharashtra and Gujarat were formed. Hence the Report came up for discussion before the Maharashtra Legislative Assembly.
The discussions on the annual reports have provided ample opportunities to the members of Bombay Legislature to review the working of the Corporation and put forth concrete suggestions. The ruling given by the Speaker in the beginning, that members could discuss related matters, not mentioned in the reports, made these discussions broad-based. The reports provided authentic information and necessary statistics for the members to discuss the various aspects in details. This was particularly true of the financial side of the working. But for the information, it would not have been possible for the members to know about the intricate working of this aspect.

One, however, feels that a brief summary of the various aspects of the working of the Undertaking at the end of the report would have gone a long way in enabling the members to understand the working of the Corporation at a glance.

Obviously, the debates were largely influenced by party considerations. The tone of the Opposition was highly critical, with passing references to the good sides of the working. Attitude of the Congress benches was exactly the opposite. There were, however, some instances of a few members of the Party in power joining the Opposition in the criticism of the Corporation.
Another significant feature was that no member, who was also on the Governing Board of the Corporation, ever participated in the debates. This self-imposed restriction could be described as an important healthy precedent.

The time allotted for these discussions appears to be sufficient as there were no complaints about its inadequacy. The discussions usually lasted for a day and, from the number of participants, it can be concluded that each of them got a fair chance to express his views.

Other opportunities to review the working of the Undertaking, though not equally important, were provided on the following occasions:

(i) Discussions on the annual budget;
(ii) Discussions on the reports of the Public Accounts Committee; and
(iii) Discussions on the report of the Estimates Committee.

As discussion on the annual administration reports gave ample opportunity to the members of the Legislature to express their views on the working of the Corporation, they were not so enthusiastic to make use of the opportunities mentioned in the preceding lines.

It can be concluded that the legislative control over the Bombay State Road Transport Corporation appears
to be quite adequate. The attitude taken by the
Minister-in-Charge of the Undertaking plays an important
role in this respect. If he is inclined to take the
House into confidence without withholding important
aspects of the Undertaking from the members, the present
arrangements are quite sufficient to ensure adequate
legislative control.

In view of the satisfactory institutional
arrangements, it is not necessary to establish a special
committee of the Legislature on the lines of the
Standing Committee of Parliament for Nationalized
Industries in the U.K., to review the performance of
the Corporation. The need for the establishment of
such a committee is more at the central level.
The question of ministerial control over public undertakings is very important. That the Minister should have effective control over the public enterprises is never denied. In fact the establishment of the public sector is, in many cases, the off-shoot of the socio-economic philosophy advocated by government. As such, the public sector merely becomes an instrument for the realization of these objectives. Once this is granted, it follows that the Minister should have proper control over the public sector.

The crux of the problem, however, is the degree and nature of such control, particularly in case of autonomous public enterprises. Too much of control will reduce the public corporation and the company to the position of a department with all its drawbacks. It will affect the managerial freedom from the legislative control over the day-to-day administration, and, ultimately, the corporate autonomy. On the other hand, any lack of proper ministerial control will be against the public interest, and the undertaking will be a state within a state.

The ideas regarding the ministerial control over public corporations have undergone considerable changes, particularly after the Second World War. In the U.K., the ministerial control over the public corporations,
established after 1945, has increased considerably. At present the Minister enjoys the most important controlling powers of general nature over the public undertakings. He can give directions as to exercise and performance by the corporation at its function regarding matters affecting the national interest. In addition he has certain powers regarding certain matters of special importance. Certain public corporations like the British Transport Commission, the National Coal Board, the Electricity Board and the Gas Board need prior approval of the Minister concerned when they have to undertake programmes of re-organization or development involving substantial capital outlay. Similar approval is necessary for training, education and research programmes.

One finds similar trend in Canada and France. They too are moving away from the original concept of corporate autonomy and towards development of new organizational arrangements and controls.

Informal Sources of Control

Though the directional power of the Minister has been an effective instrument in exercising control over a nationalized undertaking, it has been realized that there are certain informal sources like discussions, negotiations and pressures which are far more effective. These informal sources are assuming more and more importance.
in the working of the modern public corporations, because the influence can be exercised informally by the Minister without being accountable to Parliament. By giving a formal direction to a public corporation, the Minister commits himself to be accountable to Parliament if the latter so desires. Such is not the case with the exercise of informal influences.

Prof. Hanson has observed that in spite of the clear theoretical distinction that exists between a nationalized industry and a government department, a convention is apparently growing up whereby the relationship between the Government and a Board is as confidential as that between the Minister and his Permanent Secretary.

It is the duty of the Chairman and even the Board as a whole not to allow the Minister to assume certain powers which are not granted to him by law. The Chairman should not let himself to be treated by the Minister as merely a departmental head. Also the Member of the Board should foil all attempts at side-tracking them, and deal with the Chairman as the only spokesman of the undertaking.

The Minister should not undermine the Board's sense of responsibility, while the Board should bear in mind that the Minister is not bound to defend a nationalized undertaking in Parliament unless he is in agreement
with its policies. At the same time he should not be a party to such policies of the undertaking, which he would find difficult to defend in the public. Also the Boards should not take decisions, which they think are wrong, only to please the Ministers. In such a case they should insist on a general direction in writing.

It is necessary that the respective powers of the Ministers and the Boards are made very clear. Here two different issues are involved. One is the nature and extent of government control over public corporations; and the other is the manner of its exercise, i.e. whether the Minister should influence the policies of the undertaking without being accountable to the legislature and the people.

There are different views regarding the degree of government control over public enterprises. There are advocates of complete government control over nationalized undertakings, many of whom are in favour of running them departmentally. Some advocate minimum control over nationalized industries. They point out that if the undertaking is to run strictly on commercial lines, the powers and control of the Minister automatically stand curtailed. His powers are confined to a few political or non-economic policy decisions of the undertaking.
Between these two extreme arguments, there are various shades of suggestions. It is not possible to give any cut-and-dried solution to this problem of the degree of ministerial control over public corporations. Each country has to evolve its own system and devices. Here a brief resume of the changing concepts in respect of government control over public corporations in the U.K. will throw much light on the various aspects of the problem. The post-war developments point out that it would not be possible to go on with the initial concept of keeping the ministerial powers to the minimum. They are bound to increase with the exigencies of modern times, where an overall control over different sectors of the economy is required. At the same time one cannot lose sight of the basic principles involved in creating an institutional device like a public corporation. One of the basic principles is corporate autonomy and managerial freedom. Any degree of ministerial control which denies this is a mockery of the concept of public undertaking. The balance between the ministerial control on the one hand and the corporate autonomy on the other has to be achieved, very carefully, in the light of the experience gained over a period of time. It is the needs and the nature of a particular undertaking and the place enjoyed by it in the economy as a whole...
that determine the degree of ministerial control. A public corporation dealing with heavy industries, or industries connected with vital strategic matters, will demand a greater degree of ministerial control than a utility service undertaking will demand.

Coming to the Indian situation one finds that the concept of the public corporation has not passed through the various phases over a period of time, as regards the ministerial control. Having borrowed the conceptual model from the U.K. and that too after 1947, in many cases, India has followed almost all the basic features of the post-war pattern of the public corporation. There has been, from the beginning, a greater degree of ministerial control over the public corporations in this country.

Generally the ministerial control over autonomous public undertakings is exercised through the following devices:

(1) Power to appoint and dismiss members of the governing board:

Almost all the establishing Acts of the public corporations have given powers to the Minister concerned to appoint the members of the governing boards of the public corporation. He can also dismiss the members on certain grounds. These have been discussed in detail in the
preceding chapter. Same is true of the Articles of Association of the joint stock companies in the Public Sector.

This is a great power through which the Minister can exercise considerable control over the autonomous public undertakings.

(2) Power to appoint some officials of the undertaking:

In some cases the Chief Executive Officer and the Chief Accounts Officer of an autonomous undertaking are appointed by the Minister concerned.

The Road Transport Corporations Act, 1950 provides that the Chief Executive Officer and the Chief Accounts Officer of the Corporation should be appointed by the State Government concerned. This is also a significant provision which enables the Minister to exercise control over the working of the undertaking.

(3) Approval of or veto of specified categories of actions and policies:

In some cases the Minister's approval is necessary for the schemes and the programmes of the undertaking. In case of two Air Corporations, for instance, previous approval of the Government is required to undertake any capital expenditure for the purchase of any immovable property or aircraft, etc. at a cost exceeding Rs. 15 lakhs; to enter into a lease of any immovable property for a period exceeding five years or disposing of any property exceeding Rs. 10 lakhs.
As regards the Hindustan Steel Private Limited, prior approval of the Central Government is required for increase of capital; issue of new shares; reduction of capital; consolidation, division and sub-division of Company's share capital; borrowing of money, issue of bonds, debentures or other securities, etc.; any programme of capital expenditure for an amount exceeding Rs. 40 lakhs; winding up of the Company and appointment of any officer in the grade of Rs. 2,000/- or more per month.

(4) Right to obtain information and reports from the undertaking:

The Minister is empowered to ask for any information regarding the working of the undertaking. Certain statistical returns are to be provided to the Minister by the undertaking from time to time. This device enables the Minister to know the intricacies of its working and thus enhances his control over it.

(5) Power to issue general and specific directions:

As an important device of the ministerial control, the power to issue directions to autonomous public undertakings occupies a unique place. Most of the establishing acts provide for the use of such power. The wording of the provision varies from Act to Act. The important cases wherein no provision has been made to issue directions are: the Industrial Finance Corporation, the Employees' State Insurance Corporation, the State Bank of India, and the Central Warehousing Corporation.
The major public corporations to which the Minister can issue directions are: Damodar Valley Corporation; Life Insurance Corporation; Air India International; Indian Airlines Corporation; National Co-operative Development and Warehousing Board; Rehabilitation Finance Corporation; and Delhi Road Transport Undertaking.

Section 34 of the Road Transport Corporations Act, 1950 empowers the State Government to issue directions to the Corporation. The Section states that the State Government may, after consultation with the Corporation, give to the Corporation general instructions to be followed by the Corporation. Such instructions may include directions relating to the recruitment, conditions of service and training of its employees, wages to be paid to the employees, reserves to be maintained by it and disposal of its profits or stocks.

The Section further observes that the Corporation shall not depart from any general instruction issued by the Government except with the previous permission of the Government.

Though the Minister concerned can issue directions to the undertakings mentioned above, the wording of the provisions is not the same. It makes all the difference as far as the range of issuing directives is concerned. In some cases the Minister can issue directions only in policy matters. In the event of some difference of opinion between the Corporation and the Minister, in determining the policy, the Minister is given the final authority. In other cases,
though the Minister is empowered to issue directions regarding the policy matters, the Act is silent as to the final arbitrator.

In the case of undertakings dealing with transport, the provisions are rather specific. The Air Corporations Act provides for the issue of ministerial directions even for the taking over or suspension of certain services. The Road Transport Corporations Act, 1950, has laid down that after consultation with the Governing Board, the Minister can issue general instructions as well as specific directions regarding recruitment, conditions of service and training, wages, reserves and disposal of profits or stocks, etc. The Delhi Road Transport Authority Act has incorporated almost similar provisions in this respect. Thus one finds that the directive powers of the Ministers concerned in case of Road Transport Corporations, Delhi Road Transport Undertaking and the two Air Transport Corporations are specific in certain respects as compared with the similar provisions of other public corporations.

Among the Transport Corporations Acts, the Road Transport Corporations Act, 1950 presents a unique case. Here the directive powers are specified even as regards recruitment, conditions of service and training, wages, reserves and disposal of profits or stocks. Such specificity of items does not find place in any other Acts. Thus, as far as the Transport Corporations are concerned,
the powers of general directions regarding policy matters coupled with the powers regarding the specified items, make the ministerial control almost complete. At no time has it been made clear as to why these special items were mentioned in the provision regarding the directive powers.

In some cases the financial loss incurred by the Corporation as a result of the implementation of a particular Ministerial directive, is made good by the Government. This is true of the two Air Corporations in the country. If a corporation satisfies the Government that it has suffered losses on a particular activity undertaken because of the ministerial direction, the Government reimburses the Corporation to the extent of the loss. Similar provisions exist in the case of the State Bank of India; they mainly relate to the opening of new branches.

Some such provision should have been included in the Road Transport Corporations Act, 1950. If the ministerial direction asks the corporation to run certain uneconomic routes when the financial position of the corporation is not so satisfactory, the corporation should receive some financial help from the Government.

In the U.K. most of the corporations are supposed to publish the ministerial directions in their annual reports. But no such provision is made in this country. This is a great lacunae as far as the legislative control over public corporations is concerned. If the directive
is published in the report, the legislature is in a position to know as to when the directive was used. To that extent the Minister is made answerable to the Legislature. Such practice, in this country, would have gone a long way in securing adequate legislative control.

In addition to the powers of direction the Ministers enjoy far more powers in case of certain public corporations in this country. They are the powers of supercession. According to these powers, the Minister can supersede the corporation if he is satisfied that the undertaking has utterly failed in its duty. The corporations which belong to this category are the Road Transport Corporations, the Delhi Road Transport Authority, and the National Cooperative Development and Warehousing Board.

Section 38 of the Road Transport Corporations Act, 1950, lays down that if the State Government is of opinion that the corporation is unable to perform, or has persistently made default in the performance of the duties, or has exceeded or abused powers, the State Government may, with the previous approval of the Central Government, supersede the Corporation for a particular period. Before issuing a notification to that effect, the State Government shall give a reasonable time to the Corporation to show cause why it should not be superseded. The explanations and objections of the Corporation shall be considered by the Government.
After such a notification is issued by the State Government, all the Members of the Corporation shall vacate their offices; all the powers and duties exercised or performed by the Corporation shall be exercised and performed by persons appointed by the State Government for the purpose; the property of the Corporation shall vest in the Government.

On the expiration of the period of supersession, the State Government may extend the period of supersession or reconstitute the Corporation in the usual manner.

In case of the National Co-operative Development and Warehousing Board, Section 30(1) of the establishing Act states that the Government may dissolve the Board if the latter has failed to carry out its functions or if it is no longer necessary to continue its existence.

In the case of the Employees' State Insurance Corporation, Section 21 of the Act empowers the Government to supersede the Corporation or the Standing Committee if it persistently makes default in the performance of its duties.

These are the four cases wherein such provisions have been made. The powers conferred on the government by these provisions are very wide indeed. The main reason for giving such powers to the Minister concerned seems to be that he should be in a position to do away with a particular form of management (statutory public corporation in this case) if he finds that it comes in the way of proper discharge of duties by the undertaking. Another reason is
that the form of management may not be responsible for the inefficient conduct of the undertaking, but the existing set-up may need some radical change. There is no parallel to these provisions, in the British context. It would have been better for the government to throw some light on the motives behind these provisions. But this has never been done during the last ten years.

As regards the Road Transport Corporations Act, 1960, the implications of these provisions never came up for discussion either in the Central Legislature or in the State legislatures. Scanning the debates of these two Houses one never comes across any query wherein the Minister has been asked to explain the importance and implications of these provisions.

Another peculiar power conferred on the Government by the Road Transport Corporations Act, 1960, is to appoint an Administrator to be in charge of a part of the undertaking. Section 36 of the Act gives the Government power to order inquiries into the working of the undertaking. Section 37 adds that, if the report of such an inquiry warrants the appointment of a person to take over from the corporation such part of the undertaking and to administer it in public interest, the State Government has the power to do so.

Thus Sections 36 and 37 read together give the State Government wide powers to take over a particular part of
the State Road Transport Corporation and administer it for an indefinite period.

Though the provision may appear to be of a formal nature, it has very serious implications from the point of view of the autonomy of the undertaking. No satisfactory explanation has been offered for the incorporation of this provision. One possible explanation seems to be the strategic importance of the road transport. So it is quite natural that the government should have some control over the operations of the undertaking during a national crisis. The importance of logistics cannot be exaggerated. It would have been possible for the government to realize the objective by merely issuing a formal directive. Such an act would have been considered as a matter of national interest. It was not necessary for the government to take refuge behind this far-reaching provision. Such powers are likely to be misused and would make serious inroads in the autonomy of the corporation. One does not come across similar provisions in the establishing Acts in the U.K.

In addition to these statutory provisions which make the ministerial control quite extensive over the public corporations in this country, there exist certain informal devices which make this control almost complete. Some of these devices have already been discussed earlier, though in different context. One of these is the appointment of
the legislators to the governing board. In many cases the Minister in charge of the undertaking and the legislators on the board belong to the same party. So it becomes easier for the Minister to influence the policies of the undertaking if he so means. For this, he is in no way accountable to the legislature.

Another familiar device is the appointment of civil servants on the Board. This also goes a long way in augmenting the ministerial influence over the undertaking.

The relationship between the Minister and the Chairman of the Board also plays an important role in this matter. In many cases the Minister influences the decision of the undertaking by having informal discussions with the Chairman. Like their British counterparts, the Ministers in this country are making greater and greater use of this device. For this, again, they are in no way responsible to the legislature. No systematic study has been undertaken of these informal sources of ministerial control in this country.

Ministerial Control over the Corporation

The Minister in charge of the Bombay State Road Transport Corporation exercises control over its working through formal statutory provisions as well as some informal devices. The statutory provisions for the purpose are :-
(1) Power to appoint some members of the Governing Board of the Corporation: The Governing Board has six non-official and five official members. All the non-official members are appointed by the Minister. Though they have to be appointed from industry, agriculture, labour and commerce, this is in no way a limitation to the ministerial power. Of the five official members, three are appointed by the Minister, while the other two are nominated by the Central Government. Thus most of the members are appointed by the Minister. The Chairman and the Vice-Chairman of the Corporation are also appointed by him.

The Minister has power to remove the members on the following grounds: (a) lunacy or unsound mind; (b) insolvency; (c) conviction for an offence involving moral turpitude; (d) direct or indirect financial interest either in a company concerned with the Corporation, or in other road transport undertakings; and (e) absence, without sufficient reason, at more than four consecutive meetings of the Corporation.

(2) Power to appoint the General Manager and the Chief Accounts Officer of the Corporation.

(3) Power to issue directions--The Minister can, after consultation with the Corporation, give general directions to the Corporation which is supposed to follow them. These directions may pertain to recruitment,
conditions of service, wages and training of the employees, reserves to be maintained, and disposal of profits or stocks.

(4) Power to approve or veto specific categories of actions and policies of the Corporation: (a) To raise share capital, to raise additional capital, to borrow money in open market or from other sources, and to redeem the shares; (b) the budget; (c) regulations for the administration of the affairs of the Corporation; (d) reciprocal arrangements with other states; and (e) all other things to facilitate the proper carrying-on of business.

(5) Power to appoint Advisory Councils for advising the Corporation on specific matters.

(6) Right to obtain information from the Corporation: It includes (a) annual reports on the working of the Corporation; (b) Annual accounts together with the Auditor's report; (c) budget; (d) monthly operational review containing the analysis of operations, the vehicle position, the revenue analysis of major items and the general statistics of accidents, breakdowns, irregularities in services, public complaints and default cases.

In addition to these, Section 35 of the Road Transport Corporations Act, 1950, empowers the Minister to ask for any information about the working of the Corporation.
(7) Power to order inquiries into the working of the Corporation.

(6) Power to control a part of the undertaking of the Corporation—the Minister has power, if he considers it necessary, either as a sequel to the findings of an inquiry, or in public interest, to take over from the Corporation a part of the undertaking. He can appoint a person to take charge of it, and administer it for a specified period, enjoying all the powers of the Corporation.

(9) Power to supersede the Corporation:—With a previous approval of the Central Government, the Minister can supersede the Corporation if he thinks that it is unable to perform its duties, or has persistently made default in the performance of its duties, or has exceeded or abused its powers. Before taking such action, the Minister has to give reasonable time to the Corporation to show cause why it should not be superseded. He has to consider explanations and objections put forth by the Corporation. During the period of supersession, the Members of the Governing Board have to vacate the office. The powers and property of the Corporation are vested in the State Government. After that period, the Minister can reconstitute the Corporation according to the provisions of the Road Transport Corporations Act, 1950.

(10) Finally, the Minister has power to liquidate
the Corporation with a previous approval of the Central Government.

It will be interesting to examine against this background the powers of the Minister in relation to the British Transport Commission. These are:

(a) Power to give to the Commission directions of a general character, as to the exercise and performance of their duties in relation to matters affecting national interest. Such directions are to be published in the annual report, unless it is notified by the Minister that it is against national interest to do so.

(b) Power to approve certain actions:— Previous approval of the Minister is necessary for reorganization or development programmes involving substantial capital outlay; training, education and research programmes; the acquisition of the whole or part of an undertaking, if its activities consist of constructing, owning, operating or conserving any railway, harbour, or inland waterway, or of operating tram-cars or trolley vehicles.

(c) Power to ask for information:— The Commission shall furnish to the Minister with such returns, accounts and other information regarding their property and activities as he may require from time to time. The Commission shall also submit to him an annual report of their working.

(d) Power to hold inquiries about the working of
the Commission.

(e) Power to appoint the members of the Governing Board of the Commission and the Consultative Committees.

The borrowing powers of the Commission are also subject to previous approval by the Minister.

As compared with the above-mentioned powers, the powers of the Ministers in the case of the Bombay State Road Transport Corporation appear to be very wide. Unlike his British counterpart, he has power to appoint the two important officials of the Corporation, namely the General Manager and the Chief Accounts Officer; to control a part of the undertaking of the Corporation and to supersede the Corporation for a specific period. Moreover, the directions issued by him do not appear in the annual reports of the undertaking. Thus the range of ministerial control envisaged by the statutory provisions is very wide indeed.

This may not be so in actual practice. It is up to the Minister to make use of some of the discretionary provisions to exercise effective control over the working of the Corporation. It seems that certain discretionary powers like those of approving some actions and policies and ordering enquiries into the working of the undertaking have been used very sparingly and with utmost regard for the autonomy of the Corporation. Nothing can be said
about the power to issue directions as it is not customary to publish them. The powers to control a part of the undertaking and to supersede the Corporation have not been used at all.

There is only one instance so far of the Minister holding an enquiry into the working of the Corporation. The purchasing policy of the organisation met with severe criticism on the floor of the House and outside. The Estimates Committee, in its Eleventh Report, passed severe strictures on it. So the Minister thought it necessary to hold an enquiry into the matter, and appointed Mr. Venkatapalah, the then Deputy Governor of the Reserve Bank of India, to report to the Government on the matter. The ordering of such an enquiry was quite justified in view of the serious charges levelled against the Corporation.

During the last 12 years, the Minister has not made use of his statutory powers and interfered with the working of the Corporation, or influenced its policies. There are well-known examples of ministerial intervention in labour disputes as well as in the rate-structure policy of the British Transport Commission. One does not come across such instances in the affairs of the Bombay State Road Transport Corporation. Generally, the economic aspects of the working of the Corporation or, for that matter, any public undertaking, are more vulnerable to
ministerial interference. But the Bombay Government has never interfered with the economic aspects of the working of the undertaking. The rate-structure of the Corporation has remained practically the same though it came under heavy fire both in the Legislature and outside from time to time. This shows that no contrary suggestion to that effect was ever made by the Government. Same is true of wages and service conditions of employees. They have been determined from time to time by agreements arrived at between the Federation of the workers and the management. This equally applies to schemes of capital development and other expansion programmes. The Minister, it appears, has relied more on the informal devices, and so it is necessary to turn to them.

Informal Devices

In addition to the statutory provisions ensuring control over the working of the Corporation, the Minister makes use of some informal devices to enhance his control over the undertaking. The most important device is the appointment of Legislators to the Governing Board of the Corporation. This practice has been followed from the beginning. The first Corporation Board, constituted in 1949, had, out of five non-official members, three members from the Bombay Legislature. In 1962, there were six non-official members, out of which four were Legis-
-lators. Since 1955, however, this number has declined. In 1965, out of six non-official members, only two were members of the Bombay Legislature. In 1958, there was only one Legislator on the Board; in 1959, this strength was increased to two.

Needless to add that all the Legislators belonged to the party in power. The only exception was that of an Opposition member appointed to the Board in 1958. As the Minister and these Members belong to the same party, it becomes easier for the former to influence the working of the Corporation.

Another device is the appointment of civil servants to the Board. Though not enjoying any sanction of the Road Transport Corporation Act, 1950, this practice has been regularized by the provisions of the Bombay State Road Transport Corporations Rules, 1952, framed by the State Government. So it is not as informal as the practice of appointing legislators to the Board. Of the five official members, two are the nominees of the Central Government, and the remaining three are appointed by the Minister. Thus the three official members together with the Legislators on the Board ensure an adequate ministerial control over the Corporation in an informal way.

The relationship between the Minister and the Chairman of the Corporation also plays a significant role in this respect. Realizing this, the Minister has been
very careful regarding the choice of the Chairman of the Corporation. Efforts have been made to secure the services of persons who would be in a position to appreciate the broad policies of the Government and maintain good relationship with the Minister. The first Chairman, Mr. Wadilal Mehta, was associated with the national movement and was a member of the Congress Party. His relations with the Minister were very close and informal. Same can be said about his successor, Mr. Chhotabhai Patel, and the present Chairman, Mr. R.G. Saraiya, though they had no political affiliations. No differences between the Chairman and the Minister on any policy matters have been reported during the last 12 years. This is a fair indication of the informal relationship between the two.

It is certain that the policies of the Corporation have been influenced by the Minister through this relationship. It is, however, difficult to know about this process, in detail. The only conspicuous example seems to be the decision of the Corporation to enter the field of freight transport. Here again, it is not possible to say, categorically, whether it was as a result of a formal ministerial directive or an informal discussion between the Minister and the Chairman, as the ministerial directions are not published in the annual reports of the undertaking.
Thus the Minister has made more use of the informal devices to influence the policies of the Corporation. He has succeeded in achieving considerable harmony between the line of action of the Corporation and the broad policies of the Government. The use of informal devices has also enabled him to avoid accountability to the Legislature to a certain extent.

It can be safely concluded that, by and large, the ministerial control in practice, either formal or informal, has not seriously affected either the working or the autonomy of the undertaking. As already mentioned, the only major example wherein the ministerial influence was responsible for compelling the Corporation to take a line of action against its own will, was that of the operation of freight transport.