INDUSTRIAL LICENSING AND ECONOMIC GROWTH IN INDIA

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> **"People must come to accept private enterprise not as a necessary evil, but as an affirmative good."**
>
> —EUGENE BLACK

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By

Dr. F, A. Mehta*

Though there has been a Niagara of economic legislation that has poured out from Parliament ever since Independence, no single piece of legislation has been so profound and pervasive in its impact as has been the Industries (Development and Regulation) Act, 1951. It is this Act which, with its Rules and subsequent Amendments, supplies the legal framework of industrial licensing, and within a compass of twenty pages provides the policies and procedures within which Indian industries are regulated. In addition, Section 30 of this Act empowers the Central Government to make rules for carrying out provisions of this Act. This was first done in 1952 in the form of the Registration & Licensing of Industrial Undertaking Rules, 1952. For example, the Licensing Committee which is the central co-ordinating link in the actual administration of the licensing system was set up under Rule 10.

With the passing of the Act in October 1951 (the Act was made operative in May 1952), Indian industry was for the first time "controlled" within a pervasive framework of law. Significantly, when the Bill was first introduced in Parliament on 23rd March 1949, it was entitled the Industries (Development and Control) Bill. It was then referred to a Select Committee whose report was submitted to Parliament in February, 1950. This Bill was, thereafter, again committed to another Select Committee, and after passing through various stages, it emerged from the second Select Committee for consideration by Parliament and was finally passed in October 1951.

One cannot but contrast with a sense of uneasiness the thorough scrutiny through which Bills were in those days made

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to pass before becoming Acts with the speed with which some of the recent legislation is sought to be pushed through, particularly through the unfortunate medium of Ordinances!

The Industries (Development and Regulation) Act marked an innovative phase in Indian economic legislation. A Companies Act, there had been as early as 1850; an Income-Tax Act, there had been since 1860, though truly planted into the Indian economic system only in 1886; price controls, there again had already been during the First World War in some fashion and during the Second World War in a thorough-going manner; but an industrial legislation which in effect gave Government powers of Life and death over almost the entire Indian corporate sector was something altogether unique.

For under this Act, no new undertaking of a major size can be started (Section 11); no new article can be manufactured (Section 11-A); no substantial expansion of an existing unit can be effected (Section 13); and no change of location of an industrial unit can take place without the express permission of Government. Government has powers to grant licences; it also has powers to revoke licences (Section 12). Under the Act, the Central Government has compreheasive powers to control and regulate the supply, distribution and prices of any of the articles listed in its Schedule A, and — this is really significant — no order made for these purposes can be called in question in a Court of Law. (Section 18-G).

Under Section 15 of the Act, Government has powers to order investigations into the working of industrial undertakings, and if these investigations reveal deficiencies that are considered detrimental to a particular industry or to the country's economic development, it has powers to issue instructions under Section 16 to the management in respect of prices, production, quality and other areas of the undertaking's performance.

And when the Supreme Court held unconstitutional the right of Government to take over the management and control of the Sholapur Spinning & Weaving Company on grounds of mismanagement to the detriment of the public interest under the

predecessor legislation to the Essential Commodities Act, Parliament reacted quickly by adding to the Industries Act in 1953, Chapter 111-A to overrule the implications of the Supreme Court decision. To make things doubly sure, the power to take over management and control of industrial enterprises embodied in Sections 18-A through 18-F of Chapter 111-A was made non-justiciable, that is to say Chapter 111-A was removed from judicial review under Articles 14, 19 and 31 of the Constitution in the Fourth Amendment.

In view of these wide and sweeping powers what attitude did Indian industry take in respect of this Act whose provisions were debated from 1949 to 1951? Most surprisingly, this Act against which today almost every industrialist and every chamber of commerce and every association of industry hurls philippics was far from condemned at the time of its introduction.

To raise this question is not to provoke just an interesting essay in the history of this legislation; it is, in fact, to ask why an Act which then aroused so little opposition from industry and commerce provokes such vehement criticism nowadays? And here hangs the story of the operation of this Act over the last 17 years, for in law what matters is not merely the substance of an Act but the spirit in which the Act is administered. This is one part of the story; the other lies in the realm of political and economic philosophy.

Political & Economic Background

Till the outbreak of the Second World War, the great debate between socialism and free enterprise was almost invariably conducted in terms of "nationalisation" or "no nationalisation". But the actual administration of a war economy with its elaborate system of licensing and controls worked a wonderful, and unexpected, revolution in the minds of most Western socialists. Slowly but surely, it dawned on them that nationalisaion was a good battle-cry for the old war-horses reared on a diet of Marxian socialism, but to achieve the aims of socialism, it was in most cases "primitive and infantile". A system of licensing that gave

Government control at all the strategic points of industry *plus* a system of taxation in which there would be high income and inheritance taxes would, it was now believed, achieve all the aims of socialism much better than nationalisation. The cry in the post-war period was more and more for a "mixed economy". and in India, it is well-known that Mr. M. R. Masani's little booklet on this subject exercised in 1947 a profound impact on the mind of Mr. Nehru. Avadi was still years away!

Thus it was that, within less than nine months from the date of Independence, there was issued in April 1948, the first Industrial Policy Resolution. For the first time, the role of the Public Sector in the industrial development of India was introduced; the era of free and unplanned industrial development was at end; the areas of activity of the public and private sectors were defined and demarcated. But their mutual and complementary roles were stressed. Nationalisation was ruled out — "a mere redistribution of existing wealth would merely mean the distribution of poverty". The State would use its resources not to acquire and run existing units in the Private Sector, but to concentrate on new units of production in other fields. Meanwhile, private enterprise, *properly directed and regulated,* would have a valuable role to play. In particular, 18 basic industres would be the subject of Central regulation and control.

It was, therefore, in this broad context of a "mixed economy" with emphasis on the proper direction and regulation of Private Sector industry that the Industries (D & R) Act was introduced and accepted in 1951. In fact, the then minister for Commerce and Industry in explaining the Statement of Objectives of the Bill emphasised that the Act was necessary to reject on the one hand the *laissez faire* economy and nationalisation on the other.

To make it clear that the Private Sector would, in fact, be involved in the actual administration of the Act, the Act provided for the setting up of the Central Advisory Council of Industries and for the Development Councils. The former Council consists of prominent industrialists either as individuals or as representatives of chambers of commerce and industry, trade union leaders, consumers etc., and it is required that the Central Government shall consult the Advisory Council in regard to the making of any rules and *may* consult it "in regard to any other matter connected with the administration of this Act."

While the CACP would help in laying broad guidelines, the Development Councils were to assist each industry or groups of industries with concrete field-work — recommending production targets, promoting standardization of products, facilitating the training of technical and skilled industrial personnel, improving business management practices, and advising the Government generally on matters pertaining to their industry or industries.

Interestingly enough, therefore, at the very outset of our Planning, the Industries (D and R) Act, 1951, clearly — and perhaps conscientiously — incorporated elements of co-operative or indicative planning of the type now so appreciatingly associated with French planning. Again and again, the plea is nowadays made by Private Sector industry that it is not consulted in the formulation of specific industry plans — this is correct — but it might come as a surprise to many that actually at the dawn of Indian planning, the French technique of indicative planning *via* the Modernisation Councils (as known in France) or the Development Councils (as known in Britain) was accepted and acclaimed by the First Five-Year Plan.

For various reasons, therefore, Private Sector industry far from looking upon the Industries (D and R) Act as a dictatorial command of a controlled economy came to look upon it as a happy expression of a mixed economy. This is hard to believe in the context of the current denunciation of industrial licensing, but it was so in the period 1947 to 1951. Nationalisation, which was the cry of almost all the non-Congress Parties, was made taboo; the State was to play an ever-increasing role but not at the expense of the Private Sector; and not least, Private Sector industry was actively to be associated in the operation of the Act. Most businessmen were in agreement with the thoughts

expressed by Mr. G. D. Birla in 1949 : "Government, of course, will have to play the primary part. But it would be fatal for private enterprise to feel that it has no duty to perform or no contribution to make. Even if the Government make mistakes, we have to look upon them with helpful and friendly eyes. The intentions of Government are of the very best. Their industrial policy on the whole is not unsound. It is neither to the extreme right nor to the extreme left. It steers a middle course which perhaps is best under the circumstances." (Speech on the Economic Conditions of India at the Joint Meeting of the East India Association and the Overseas League, London).

The Ideological Upsurge

Barely three years from the passing of the Act, a new wave of thinking began to sweep the ruling Party. Its battle-cry was not nationalisation, though both the internal and international airlines were, in fact, nationalised in 1953. Its, slogan was a "socialistic pattern of society" raised at the Avadi Session and accepted by Parliament itself in December 1954. The cry now went out for "the sovereignty and supremacy of the Public Sector"; the 1948 Industrial Policy Resolution which was implemented through the Industries (D and R) Act was now found wanting; a new Industrial Policy Resolution was now demanded which would embody and reflect the new idea of "a socialistic pattern of society."

The 1956 Industrial Policy Resolution stated : "The adoption of the socialist pattern of society as the national objective, as well as the need for planned and rapid development, require that all industries of basic and strategic importance, or in the nature of public utility services, should be in the Public Sector. Other industries which are essential and require investment on a scale which only the State, in present circumstances could provide, have also to be in the Public Sector. The State has, therefore, to assume direct responsibility for the future development of industries over a wider area."

Accordingly, the new Resolution was divided into three Schedules — Schedule A covering 17 industries was to be the

exclusive responsibility of the State; Schedule B embracing 12 industries was to be progressively State-owned, though the Private Sector could, when required, be called upon to supplement Governmental effort; and the remaining Schedule *C* comprising mainly consumer goods was to be left to the Private Sector.

Though in the case of steel, Private Sector industry was allowed to expand in spite of steel being in Schedule A, in a number of other key industries — coal, mineral oils, machine tools, aluminium, alloy-steels and fertilisers — the role of the Private Sector was virtually shut off under the ideological impetus of this Resolution. *Industrial* licensing instead *of* becoming the happy *medium of* a mixed economy now became the ideological *instrument of a* socialistic *society*. The commanding heights of the Indian economy must be in the Public Sector, while the expansion of the heavy industries is essential to assert the supremacy of the Public Sector, said Prof. P. C. Mahalanobis, who guided the formation of Second Plan.

Mr. Eugene Black, the then President of the World Bank, commenting on the Industrial Policy Resolution said: "This policy, if rigidly applied, could only result in imposing heavy additional burdens on the already overstrained resources of the Public Sector and in restricting the rate of development in these vitally important fields." And so it did.

This ideological round wore off by about 1959, but the damage in terms of holding up the country's progress was immense. In coal, of which the country was then woefully short, Private Sector industry was forbidden through licensing from tapping new coal-mines except those contiguous to the existing ones of individual units; in *aluminium*, Private Sector applicants were told to hold off till the Public Sector plants got going; in alloy-steels, the same attitude was taken; in oils, the expansion of the foreign companies was forbidden to make way for the Public Sector's emergence; and not least in *fertilisers*, already allowed a tragically small role in the Second Plan, the Private Sector's share was limited to only 10 per cent in the capacity target of 382,000 tons of nitrogenous fertilisers by 1960-61!

In all fairness, it must be said that in the course of three years from the passing of the Industrial Policy Resolution in 1956, Government realised that the country was having the worst of both the worlds. The Public Sector was not able to deliver the goods; the Private Sector was not allowed to deliver the goods. In aluminium, therefore, Birlas were at long last allowed to go ahead; in synthetic rubber (also Schedule B), the Kilachands were granted a licence. In coal, belatedly, expansion was permitted to avert the threatening "fuel famine". But in fertilisers and alloy-steels — two areas in which Tatas were then interested — the policy continued to be damagingly equivocal. The country paid heavily for this Ideological stance.

Industrial Licensing : **The** Victim of **Over-Planning** :

The ideological upsurge of 1956 coincided with the over-planning mania of 1956. It is the function of industrial licensing to see that the objectives of the Industrial Policy Resolution are achieved; it is simultaneously the function of industrial licensing to serve as an instrument of Planning. Priorities ate the religion of planning, and, therefore, for each major sector and major industry, specific targets of investment and production are to be laid down. There should be no over-investment or excess capacity in any one sector to the detriment of other sectors. Scarce resources have to be rationed in terms of the previously fixed priorities. This "rationing" is then done through the system of industrial licensing. Once the capacity target for any one industry is already licensed, no more units will be allowed entry and expansion of existing units is to be forbidden.

But under the impetus of the big Second Plan, industrial licences became the victim of over-planning. On the one **side,** there was a heavy stampede for industrial licences — as Table I shows, the number of licences issued during the Second Plan was nothing less than **4,794** as against **998** issued during the First Plan; on the other Bide, there was an acute shortage of foreign exchange, not to speak of the acute shortage of railway wagons, fuel facilities and so on.

The role of the now vastly increased Public Sector outlay on industry and mining was here crucial. In the First Plan, this outlay was a mere Rs. **97** crores; now in the Second Plan, it was Rs. 1,125 crores **!** During much the greater part of the Second Plan Private Sector industry was forbidden significant entry in the vital areas of the economy, but on top of it, the Public Sector outlay appropriated an overwhelming chunk not only of rupee resources through taxation and deficit financing, but also of foreign exchange. The victim of this acute starvation was the Private Sector.

Hitherto, industrial licence was mainly concerned with allocations on the limited front of rupee resources, but now as the stresses and strains of the Big Plan began to be felt in a vast variety of shortages — shortages of foreign exchange, of transport facilities, of power and so on — industrial licensing now began to reel under the impact of the varied allocations it was now called upon to make. The application forms now became, symbolically, more and more and larger and larger. Delays in decision-making were becoming chronic not only because of the rush for licences — a five-fold increase during the Second Plan over the first Plan — but also because now there were all sorts of shortages of materials, of resources and of facilities crying out for allocations.

On top of all these, there were the various other controls that a licence application had to secure clearance from — the Controller of Capital Issues, the Capital Goods Committee, the Chief Controller of Imports & Exports, the then Development Wing, the Company Law Administration, the Reserve Bank of India, and where foreign collaboration was involved, the Foreign Agreements Committee. In this plethora of controls, the obtaining of the Licence from the Licensing Committee was not the end but the beginning of a fresh hunt for various "licences". Such a licence was nothing but a permission to begin the search for fresh licences **!**

The position, however, was even more aggravated when the question of foreign collaborations was involved. For several reasons, good and bad, foreign collaborations became

during the Second Plan, the rage of the day, and the great majority of licences involved the question of the approval by Government of the terms of royalty, the technical know-how fees, the salaries of foreign technicians etc. To cope with this situation, another Inter-Ministerial Committee, apart from the Licensing Committee, was set up in 1959 to expedite decisions, namely the Foreign Agreements Committee. This only meant for all practical purposes another round of licence-hunting with all its delays and frustration.

Defects in the Administration of **Licensing**

Industrial Licensing, were it even administered in the best of fashions, would have failed to act as an agent of economic growth (a) because of the ideological *milieu* in which it was made to operate and (b) because it was made the victim of over-planning.

In addition there were defects in the operation of the licensing system itself. Here, *four* major factors stand out:

(A) Over-Licensing : The licensing system claims to be the instrument of planning, but the scandalous fact is, despite Mr. Manubhai Shah's protestations to the contrary, that *"industrial licences were given between* 1958-62 *irrespective of plan targets"*.* As it is, the Plan was loaded with over-ambitious targets; but on top of it there was an over-licensing of these over-ambitious targets. Mr. J. R. D. Tata warned repreatedly through the Central Advisory Council of this phenomenon, but to no effect.

Private Sector industry was passing through the euphoric conditions of a boom market — it was a seller's market and the capital market was booming. Moreover, the greater the licensed capacity secured in an individual unit, the greater would be the availability of foreign exchange and of scarce raw materials, and the greater would be the "foreclosure" of capacity of the

* *Dr. P. B. Medhora: "Industrial Growth Since 1950", p.* 57

present and potential competitors. For new entrants in each industry, there was for obvious reasons a vested interest in "over-licensing".

On Government's side, it was argued that since at least 20 to 25 per cent of the licensed capacity would not be created in the first place, and since even of the capacity created, another 20 to 25 per cent could be unutilised, it was best to err on the side of over-licensing. Besides, in every industry new entrants were to be encouraged to break the power of the old, entrenched giants.

Thus was witnessed the rare phenomenon that even before the commencement of the Third Plan, "licences were issued in many industries — among them industrial goods like cast iron pipes, steel tubes, ball and roller bearings, refractories, paper and paper-board, typewriters, and consumer goods like electric cables and meters, electric lamps and fluorescent tubes, bicycles, refrigerators, soap, rayon filament, woollen textiles, and confectionery — far beyond the capacity targets set for them for 1965-66 under the Third Plan"** Further, in every major industry, the licensed capacity was splintered into uneconomic units, and capital in this manner wastefully diffused and severely under-utilised. Since the basic constraints of foreign exchange and other shortages stood, instead of 5 units operating at 75 per cent of capacity, there were now 12 to 15 units operating at 40 per cent capacity!

(B) No Proper Concept of Priorities : It was bad enough that licensed capacities were not related to plan targets, but what paralysed no less the ability of industrial licensing to serve as an instrument of planning was that the Planning Commission failed to provide the criteria on the basis of which foreign exchange allocations should be made. One could give many illustrations, but the case of the Tata Alloy-Steel Project will suffice to demonstrate this glaring lacuna in planning which, incidentally, still persists. By the end of the Second Plan, it became clear that in this vital held of Alloy-Steels, the Public

** *ibid, p. 57*

Sector could not deliver the goods and substantial expenditures of valuable foreign exchange would now have to be made towards their imports. Yet when Tatas rose to the occasion, Government insisted that the entire foreign exchange costs of the Project should be provided by the foreign partner. That such a difficult condition should have been imposed in the case of a key industry when foreign exchange was being allocated for imports of rayon pulp and nylon yarn and any number of non-priority industries is an eloquent testimony to the fact that industrial licensing had lost its fundamental connection with planning which, in turn, had lost its connection with priorities !

(C) No Proper Concept of Economic Costs : Again, chronology often triumphed over costs. One would have thought that industrial licensing would tend to take into account the relative merits and demerits of the licence-competing projects. What were their respective capital and current costs per unit of output? What was its foreign exchange component? But as the Secretary to the Industries Ministry said when questioned by the Estimates Committee on Industrial Licensing as to how carefully licence applications are scrutinised, he said that "the costs of production are not scrutinised at the time of approving applications for industrial licences".

(D) Licensing Policy Burdened with Scores of Objectives : Last but not least, the policy of industrial licensing could not in its actual implementation but inflict the gravest of delays for the simple reason that over a period of time, every conceivable objective of national economic policy was sought to be achieved through industrial licensing. Industrial Licensing became the Alladin's Lamp of the Indian economy. The promotion of the small-scale sector, the guaranteeing of new entrepreneurship, the lessening of regional inequalities, the conservation of foreign exchange, the expedition of import-substitution, and now in the new context, the battle against the so-called "concentration of economic power" — all these must be achieved through industrial licensing. What else but interminable delays can occur when so many objectives represented by so many different parties and ministries are to be reconciled !

Then again, we have in India the further complicating fact that there is no one *over-riding* Ministry of Economic Affairs. We have seven different controlling institutions, and on top of this we have five different Economic Ministries. Then we have the D.G.T.D.; we have the Planning Commission; then we have a Special Committee of Experts; and to crown it all, we now have the Cabinet Sub-Committee on Prices, Production and Exports.

So scores of objectives have to be reconciled and half a dozen bodies have got to be coordinated — one is immediately reminded of Dr. Johnson's description of a woman's preaching ! "Sir, it is like a dog's walking on his hind legs. It is not done well; but you are surprised to find it done at all".

Government's Efforts at Simplification And Liberalisation

Government seized with this agonising problem of coordination appointed as early as in 1963 the Industries Development Procedures Committee, popularly known as the Swaminathan Committee. In its report, given in 1964, the Committee gave a formal recognition to what is called, the Letter of Intent. The Committee recommended that the Letter of Intent should be issued within a month or so where the licences cannot be issued straightaway, but where Government sees no objection, in principle, to the grant of licences at a later date. The Letter of Intent broadly indicates the conditions subject to which the Government would be prepared to consider the grant of a licence and also specified a definite period within which the applicant should come up with specific proposals regarding the terms of foreign collaboration, if envisaged, import of capital equipment, if involved, and the issue of capital. The Committee also recommended that industries should be divided into "key" and "non-key" categories. Under the new procedure, the Committee recommended that licensing applications in respect of "key" industries should be expeditiously dealt with. After issue of the Letter of Intent, the entrepreneur should put in simultaneous applications for the allocation of foreign exchange for the import of capital equipment, the issue of capital and the

foreign collaboration arrangements. All these issues were to be settled simultaneously so as to avoid delays.

The Administrative Reforms Commission recently conducted a study to assess the impact of this new procedure and came to the conclusion that the new procedure had not made much material difference in hastening the process of industrial licensing. Prior to the introduction of the new procedure, the average disposal time for applications for ihdustrial licences was about 165 days. The disposal time came down to 131 days after the introduction of the new procedure. Nevertheless, in the field of actual de-licensing, there has been some real achievement of liberalisation. Beginning with 13th May 1966 when 11 industries were exempted from the licensing procedures till todate, a total of 45 industries or more accurately industrial commodities have been de-licensed. It may be noted, however, that in some important cases, as in the case of vanaspati, there are for the large concerns some severe limitations. Again, manufacture of new articles in the engineeering industry has also been exemepted from the licensing provision, giving complete freedom to diversify production within the existing plant and machinery provided no foreign exchange is required for such diversification and further the items concerned are not included in the banned list for industrial licensing and are not reserved for the small-scale sector. The diversified production, however, must not exceed 25 per cent of the original total licensed capacity by value. Government has come to accept increasingly the position that industrial licensing should be restricted only to such industries as need foreign exchange allocation.

Judging from the vast literature now pouring out from semi-official and official sources, the consensus seems to be brought out in the recent "Approach Paper" of the Planning Commission:

a) "All basic and strategic industries involving significant investments and foreign exchange should be carefully planned and subjected to industrial licensing. It is necessary to ensure effective performance and to keep a close watch on the development of these industries. Hence once the licence is granted, credit, foreign exchange, scarce raw-materials, etc. should be earmarked for them and made available on time. This should be done for units both in the public and the Private Sector."

b) "But industries requiring only marginal assistance by way of foreign exchange for capital equipment may be exempted from the need to secure industrial licences. For this purpose, the foreign exchange ceiling may be stipulated at, say, 10 per cent of the total value of the capital equipment. The release of foreign exchange would continue to be regulated and the import of capital goods screened by the Capital Good Commitee. However, in Industries in which though the foreign capital equipment component is low, the maintenance import component is high, it may be necessary to continue licensing."

c) "Again, Industries which do not call for foreign exchange for import of capital equipment or aw materials should be exempted from the requirements of industrial licensing. In these industries, there should be freedom for private enterprise to operate in accordance with the market requirements. However, in order to protect traditional and small-scale industries from undue competition within the greater freedom envisaged to the Private Sector, the existing reservations, suitably modified from time to time in accordance with the requirements, should continue."

Limitations to **Effective** Liberalisation

All this is good, as far as it goes, but the trouble is that it does not go far enough. This is because in the first instance the industrial licensing policy has yet not been liberated from its Atlas-load task of serving a vast variety of purposes. There is no reason, why fiscal, monetary and financial measures should not be used for assisting the small-scale sector instead of industrial licensing. There is no reason again why industrial

licensing policy should be used to reduce regional inequalities when the same purpose can be better achieved by encouraging the States to build up a favourable investment climate. An all-too-easy reliance on an essentially negative instrument like industrial licence must paralyse the productive springs of positive action, and inflict on the economy a tortuous and costly delay by demanding the simultaneous reconciliation of several goals.

Although there has been a growing recognition that schemes of development or diversification involving no or marginal foreign exchange should require no licence, in actual fact, we shall find that the foreign exchange constraint will continue to haunt the fate of most licences for schemes of major development. It is here that the suggestion for a dual foreign exchange rate — one for the priority and the other for the non-priority sector — merits the closest attention.

The exemption limit from industrial licensing was raised from Rs. 10 lakhs to Rs. 25 lakhs in 1964, though this relaxation was not made applicable to industries like coal, vanaspati, matches, power-loom industry, etc. But as Dr. R. K. Hazari has queried : will the heavens fall if this limit is raised to Rs. one crore? What will, however, happen is that possibly 35 to 40 per cent of the licence-applications will now not come at all on the Agenda Papers of the Licensing Committee with little or no loss to the economy — this, of course, has a striking parallel with the suggestion of Mr. S. Bhoothalingam to raise the exemption limit from Rs. 4,800 (for a married person with two children) to Rs. 7,500 to cut down the current enormous wastage of tax-audit hours. As many as 1.7 million out of the total 2.7 income-tax assessees will now need no looking into!

The Bogey of "The Concentration of Economic Power"

Admittedly, there has begun on the procedural level a heartening degree of liberalisation. However, for large industrial houses whose contribution to the rapid industrial growth of the country has been italicised by none other than the Monopolies Inquiry Commission, there now hangs the Damoclean Sword in the shape of the charge of "concentration of economic power". Almost like the Goebbelsian technique of the "Big Lie", this cry is raised day in and day out clouding out almost all other issues of national economic policy.

Wow did this all start? Sometime in 1963, Dr. Hazari published his study of "The Structure of the Corporate Private Sector". Dr. Haaari showed that in spite of having a policy of industrial licensing wedded to socialism, the share of the 20 Big Industrial Houses in the paid-up capital of the Indian Corporate Sector had risen from 28 to 33 per cent from 1951 to 1958 and in the gross capital block, from 27 to 32 per cent. This meant, in effect, that those who were rich had already become richer. Government, spurred on by socialist critics, therefore, appointed a Committee on Distribution of Income and Levels of Living. This Committee, popularly known as the Mahalanobis Committee, did, in fact, no more than use Dr. Hazari's statistics and reach Dr. Hazari's conclusions.

The stage was, therefore. set for the Monopolies Inquiry Commission "to inquire into the extent and effect of concentration of economic power in private hands". The Commission arrived at two critical conclusions (a) that Big Business, despite its valuable contributions to industrial progress, had amassed 'concentration of economic power' and (b) that *'the system of control in the shape of industrial Licensing however necessary from other points of view, has restricted the freedom of entry into industry and so helped to produce concentration".*

While these issues were being taken up by the Joint Select Committee of Parliament, and Parliament was thus seized of the proposed Monopolies and Restrictive Trade Practices Bill, another Report "broke out", with Dr. Hazari again being the intellectual storm-trooper. In his Interim Report on the Industrial Licensing System, Dr. Hazari argued this time that while in recent years, Tatas and Martin Burns had gone slow in seeking licences, Birlas had forged ahead in cornering licences and that there was clear evidence of Birlas' "fore-

dosing" competition by seeking multiple-licences For one and the same product from their different concerns.

Predictably as anyone who knows his India well, this was a signal for the appointment of a fresh Commission, the Industrial Licensing Policy Inquiry Commitee. That it is specifically directed against "larger industrial houses" in general and against Birlas in particular is evident from its terms of reference.

For the large industrial organisations, therefore, industrial licensing is now sought to be used as a weapon of annihilation. Dr. Hazari makes this clear in his Final Report thus : "As a matter of policy, Government should declare that certain traditional industrial activities shall be closed in future to the specified ten or fifteen largest industrial houses and their associates. This would imply that the large houses already established in these activities shall not be permitted to expand in these areas, which would henceforth be reserved for small houses and independent businessmen.

"In the event of a change in the coverage of industrial licensing or its practical abolition, the large houses should not receive any capital goods import clearance or assistance from financial institutions for expansion of investment within the traditional industries; facilities for modernisation should not, however, be denied. It should also be stated at the same time that the large houses would be welcome in areas of new technology and where there are economic possibilities of large exports."

Let us examine the charge of concentration of economic power.

Firstly, what effective "concentration of economic power" can there be when the commanding heights of the economy are in the Public Sector, not to speak of the substantial investments owned by Government in almost all the major industrial concerns of the country? In steel *capacity,* Government accounts for 70 per cent of the total capacity within the country; in nitrogenous *fertilisers,* nearly the same degree of preponderance;

in *alloy-steels,* nearly 60 per cent; *in shipping,* it accounts for nearly 40 per cent; in *bank deposits,* for 28 per cent; and in *oil,* for now nearly 60 per cent; and in *machine tools,* for over 50 per cent. What ten years ago was a dream is now a reality: the commanding heights are in the Public Sector — the first seven out of the ten Indian corporate giants judged by net assets are Public Sector enterprises.

(b) Again, it is a matter sf amazement that both the right-wing and the left-wing critics of industrial licensing join vehemently in the accusation that the "small" and the "new" entrepreneurs have been penalised by industrial licensing. The truth is exactly the opposite, though there doubtless have occurred a few conspicuous cases in which "Big Business" has threatened, or has actually pushed off, potential new entrants. But let us consider the following facts. A.C.C. in cement, Indian Cables in cables, Metal Box in industrial packaging, WIMCO in matches, Indian Oxygen in industrial gases and electrodes — all these were dominating giants barely 13 years ago, but their share of the total market hovering around 80 to 100 per cent has come down largely due to "freezing" of their capacities through industrial licensing to between 30 to 45 per cent in most cases.

Again, let us consult Table II. In every major item of production, there has been a sharp increase in the growth of new units. In cables, the number of units have increased from 4 in 1955 to 32 in 1967; in caustic soda, from 12 to 27; in cement, from 27 to 41; in machine-tools, from 17 to 75; in paper, from 21 to 56; in rayon, from 2 to 8; and in motor tyres, from 2 to 7 units. Is this a sign that new entrepreneurs have been shut out by industrial licensing? (No doubt, recently due to recession, the share of larger industrial houses has shot up due to the hesitation of other parties.)

(c) Again, is it not a mechanical, mischievous and meaningless thing to equate the increase in "capital assets" of an industrial organisation with an increase in "the concentration of economic power"?

(*i*) Does it mean that an organisation which invests Rs. 60 crores in 10 different industries is economically less powerful than one which invests Rs. 100 crores in only one industry?

(*ii*) Does it make no difference to the question of "concentration of economic power" if this Rs. 100 crores are invested in an industry like, say, steel where in fact every single aspect — prices, distribution, the size of production, the pattern of production etc. — is controlled, directly or indirectly?

(*iii*) Are there not certain industries which are basically "capital-intensive" — if, for example, Tatas' assets rose sharply during the nineteen-sixties — a fact which apparently was the cause of much anguish to the socialists using Dr. Hazari's works — it was simply due to the fact that their lines of development were highly "capital-intensive".

(d) Again, the present furore about "concentration of economic power" creates for the honest industrial organisation a series of dilemmas : this was well put by Mr. J. R. D. Tata: "Apart from the interminable delays which are inflicted on the economy, as the recent case of the Tata Fertiliser Project shows, the charge of 'concentration of economic power' leads to the most unhappy consequences for the rapid economic development of the country. If a 'Big Business' House does not embark upon any major industrial activity, it is accused of 'inactivity' and 'lack of dynamism'; if it diversifies into a small and medium-sized venture, it is accused of using its 'concentration of economic power' to block or crush the growth of the small entreprenuer; and finally, if it embarks upon a major, capital-intensive project, it is accused of adding immensely to its capital resources and thereby to its 'concentration of economic power".

The whole issue of "concentration of economic power" is an essay in political ideology which lacks basis in economic facts and, policy-wise, results in a confusion of aims, the end-result of which can only be to hold up the none-too-fast industrial pro-

gress of the country. From 1956 to 1959, the country paid heavily for its Ideological Bout No. 1; it is now getting ready for the penalties to pay for the current Ideological Bout No. 2!

Conclusion

In conclusion we come to what may be the basic limitation, the fundamental weakness of licensing as a tool of planning. To understand this correctly, we must realise that while the targets of investment and production in the Public Sector are in fact "committed" targets, the similar targets of investment and production in the Private Sector are "indicative" targets. Government indicates that they would want the private sector to achieve those targets.

Now the licensing system can, if properly administered* prevent excess capital or excess capacity from being sunk in a particular industry; this is a valuable but negative virtue. It can even indirectly have a limited positive effect by showing the list of industries in which there are major gaps between the estimated demand and the existing licensed capacity, and in which there fore scope exists for additional investment and new entrants. But you can take the horse to the water; can you make him drink it?

In short, the positive functions of industrial planning (*a*) of stimulating private entrepreneurs to fulfil the targets set out in the Plan; and (*b*) of ensuring that the capacity brought into existence is fully utilised, cannot be achieved under the present system of industrial licensing.

To remedy (*b*) to some extent, both the Planning Commission and Dr. Hazari have strongly recommended that so far as the priority industries are concerned, once their licences are approved, they will not suffer under-utilisation due to lack of foreign exchange, rupee resources, the infra-structure facilities etc. On the other hand, non-priority industries will have to fend for themselves.

But there still remains the key question of getting Private Sector industry to be so "activised" as to fulfil the targets of

investment and production, During the Third Plan, investment in Private Sector industry and mining was Rs. 1,200 crores, but now in the new Fourth Plan, it is expected to be Rs. 2,400 crores.

How can Private Sector be stimulated to do this? One way, of course, is to proceed fast with the dismantling of the controls under industrial licensing along the lines already suggested, so that the agonising delays whose economic costs and psychological frustrations can be so fatal are reduced to the minimum. This itself will be a great incentive, not least for foreign investment which more than any other thing is frightened by the never-ending chain of delays implicit in the present licensing system.

But simultaneously — and perhaps even more important — a proper investment climate will have to be created. Of these, the severity both of our tax-rates and of our price-controls is the major hurdle.

In short, if industrial licensing is no longer to continue as a weapon of regulation, which it has been all these years, and is to transform itself into a dynamic instrument of development, it will have to be liberated from the ideological bouts to which it is exposed every now and then, freed from the penalty of serving several goals at one and the same time; courageously simplified in the firm knowledge that though there may be some abuses and wastes in the absence of licensing, the gains in freedom and flexibility to the economy will be enormously greater; accompanied by the introduction of a dual system of foreign exchange based on priorities; and above all, it will have to be supplemented by a simultaneous removal of other controls, particularly price-controls, so that a favourable investment climate can emerge in which the Private Sector industry will exceed its planned target of investment and production.

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* *The views expressed in this booklet are not necessarily the views of the Forum of Free Enterprise.*

TABLE 1

NUMBER OF LICENCES ISSUED UNDER THE INDUSTRIES (DEVELOPMENT REGULATION) ACT 1951

Year			No. of Licences
First Plan :	1951		...
	1952		15
	1953		181
	1954		312
	1955		490
		Total :	998
Second Plan :	1956		582
	1957		598
	1958		743
	1959		1,202
	1960		1,669
		Total :	4,794
Third Plan :	1961		1,217
	1962		1,097
	1963		942
	1964		763
	1965		541
		Total :	4,560
	1966		416
	1967 (January to October)		241

TABLE II

GROWTH OF UNITS IN ORGANISED INDUSTRIES

Industry	1950	1955	1963	'1967
	Number			
Aluminium Ingots	2	2	4	4
Ball Bearings	1	1	3	6
Bicycles (complete)	2	10	21	18
Cables (Rubber and Plastics)	3	4	23	32
Caustic Soda	9	12	19	27
Cement	22	27	36	41
Copper	1	1	1	1
Diesel Engines	5	17	29	29
Domestic Refrigerators	2*	2	6	5
House Service Meters	1*	5	9	14
Machine Tools	17	17	68	75
Paper and Paper-boards	17	21	38	56
Passenger Cars		3	3	3
Faints and Varnishes	50	49	53	50
Radio Receivers	11	15	20	21
Room Airconditioners	—	5	10	8
Razor Blades	2	5	6	5
Railway wagons	4	10	15	16
Rayon (Viscose Rayon)	1	2	8	8
Sewing machines	2	2	9	9
Soda Ash	2	2	4	4
Superphosphates	14	14	24	26
Steel Ingots	n.a.	11	17	15
Soap	66*	74	59	61
Storage Batteries	10	13	12	12
Sugar Mill Machinery	—	6	16	19
Textile Machinery: Looms	4	3	13	16
Ring Frames	3	4	7	9
Grinding Wheels	1	2	7	7
Carding Engines	—	2	5	5
Tyres: Motor	2	2	4	7
Giant	2	2	7	8
Vanaspati	46	51	42	47

"1951.

"Free Enterprise was born with man and shall survive as long as man survives."

—A. D. SHROFF
(1899-1965)
Founder-President,
Forum of Free Enterprise.

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Published by M. R. Pai for the Forum of Free Enterprise, *235,* Dr. Dadabhai Naoroji Road, Bombay 1, and Printed by S. J. Patel, at Onlooker Press, (Prop. Hind Kitabs Ltd.), Sassoon Dock, Colaba, Bombay-5.

9/May 1969