

research and development. If we have not got resources today to go in for manufacture of nuclear weapons in other fields at least we must have adequate technology and have sophisticated weapons. The expenditure on Research and Development has to be stopped up. We find this. The position in 1962-63 regarding expenditure on research and development a section of defence was of the order of 5.10 crores. That is 1.1 per cent of total defence expenditures. In 1965-66 the expenditure on research and development was 9.53 crores which is 1% of the total defence expenditure. The latest figure for 1972-73 indicates that total expenditure on research and development in defence was 29.55 crores which is 2% of the total defence expenditure. It has been the consistent complaint of the scientists working in Research and Development wing of the Defence Ministry that this amount is inadequate. Not merely the total quantity of expenditure has to be stopped up, but the total defence expenditure for R&D has to be improved. As for as defence planning is concerned the 1962 aggression showed us the most imperative need because it brought forward for the first time the imperative need to have long-term defence planning for the country. After independence five times our defence planning was intercepted by aggression on our country and every time we resorted to piecemeal planning. It is only in 1962 that for the first time it was established that there was imperative need to have long term planning. Unless we have that major problems of defence cannot be tackled. After Chinese aggression of 1962 we had for the first time five-year defence planning from 1964 to 1969 and we established for the first time defence planning in proper perspective.

MR. DEPUTY-SPEAKER : You may continue on Monday.

15.28 hours

#### STATE FINANCIAL CORPORATIONS (AMENDMENT) BILL.

*Amendments of section 15 and 25)*

MR. DEPUTY-SPEAKER : Dr. L. N. Pandeya, not here. Shri Arjun Sethi.

SHRI ARJUN SETHI (Bhadrak) : Sir, I beg to move for leave to introduce a Bill further to amend the State Financial Corporations Act, 1951.

MR. DEPUTY SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the State Financial Corporations Act, 1951".

*The motion was adopted.*

SHRI ARJUN SETHI : I introduce the Bill.

15 & 29 hrs.

#### INDIAN TRUSTEESHIP BILL \*

श्री अटल बिहारी वाजपेयी (स्वालिदर) :  
उपाध्यक्ष महोदय! मैं प्रस्ताव करता हूँ कि न्यस्त नियमों के सृजन और तत्सम्बन्ध विषयों का उपबन्ध करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाय।

MR. DEPUTY-SPEAKER : Mr. Naik, you wanted to oppose this ?

SHRI ATAL BIHARI VAJPAYEE : The other day he commended my bill Has he changed overnight ?

SHRI SOMNATH CHATTEERJEE : (Burdwan). You cannot take contradictory positions.

SHRI B. V. NAIK (Kanara) : Sir, Sometimes the silence will have to be more eloquent than a reply or words. And I hope that the very thoughtful Bill which Shri Vajpayee has introduced in this House which I have complimented the other day and the principle behind which I would like to compliment once again today, this noble venture, this noble enterprise, will not suffer for want of constitutional requirements, so that all the roadblocks in the acceptance of both the idea as well as the Bill are cleared to the satisfaction of this august House before we take up further consideration. Sir, the operative part of the Bill which consists in all thirtyfour clauses has clause 4 which provides for the formation of a trust corporation. The other clause with which I would like to deal in brief is clause number 10 and clause number 11. Clause 10 deals with the functions of the Panchayat. Clause 11 deals with

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[Shri B. V. Naik]

the crediting of the net profits to the Government, Clause 4 says:

"The company may, by a resolution passed by a majority of shareholders present and voting, at its general meeting, declare itself to be a trust corporation".

The substance of this provision is that if fifty per cent share in a company or, according to the slightly ambiguous wording used, 50 plus shareholders of the company can, by a Resolution, convert a limited company into a trust which amounts, in essence, to deprivation or their right to property as laid down in the Constitution of India which happens to be a fundamental right.

As far as this specific clause is concerned I shall make it more clear.

"No person shall be deprived of his property save by authority of law".

"No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount, of the compensation or specifies the principles on which, and the manner in which the compensation is to be determined and given; and no such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate".

"The whole or any part of such amount is to be given otherwise than in cash."

Now, this means the fundamental right as provided for by the Twentyfifth Amendment in which we all participated. This particular provision in our Constitutions as far as the minority shares are concerned the minority shareholders are concerned—is going to be denied in respect of the limited companies according to the law of the land.

MR. DEPUTY-SPEAKER : Mr. Naik, your point is clear. Now go on to the next point. That is why this should not be introduced. Is that your contention ?

SHRI B. V. NAIK : If I can develop the next point, possibly, ...

MR. DEPUTY-SPEAKER : Please do not take too much of time.

SHRI B. V. NAIK : I shall not take too much of time. There is a provision.

SHRI PILOO MODY (Godhra) : Why don't you ask me ?

SHRI B. V. NAIK : I shall quote another Article of the Constitution—Article 31(c). I am talking in good humour and I think that if there is a clarity of thought

MR. DEPUTY-SPEAKER : Go on.

SHRI B. V. NAIK : "Notwithstanding anything contained in Art. 13, no law giving effect to the policy of the State towards securing the principles specified in clause (b) or clause (c) of Art. 39 shall be deemed to be void on the ground that it is inconsistent with or takes away or prejudices any of the rights conferred by Art. 14, Art. 19 or Art. 31 and no law containing a declaration that it is for giving effect to this would be called in question in any court of law on the ground that it does not give effect... (Interruptions)".

SHRI SOMNATH CHATTERJEE : Sir, the hon. Member is reading Article 31(c) which has been declared *ultra vires* by the Supreme Court. He cannot oppose the Bill on the basis of an Article which has been declared *ultra vires*.

SHRI B. V. NAIK : Unlike the hon. Member, Shri Chatterjee, I am not a court bird.

MR. DEPUTY-SPEAKER : Is it 'bird' or 'bard' ?

SHRI B. V. NAIK : Sir, in essence what Mr. Vajpayee has tried to do is to provide an alternative to nationalisation. Sir, I want a clear-cut verdict on two counts. One, whether such a law which empowers a section of the law but not by a separate law brought and passed through this House—as in the case of Coking Coal nationalisation—this Section 4 is or is not *ultra vires* of the Constitution. If it is *ultra vires* and against our fundamental rights whether this particular Bill which has been brought forward and which denies the fundamental rights of the minority shareholders is not defective. Secondly, whether this question was examined by the Ministry of Law—who are supposed to be the pundits on the legal aspects—before the President's assent was given as is required for introduction of this Bill. I want to know whether the question of infringement of the fundamental

rights was given thought to by the Law Ministry or not ?

श्री अन्नल बिहारी बाजपेयी : उपाध्यक्ष महोदय, आपको स्मरण होगा कि इस विधेयक के सम्बन्ध में राष्ट्रपति महोदय की सिफारिश प्राप्त करने में काफ़ी समय लगा था और मुझे यह मामला सदन में उठाना पड़ा था। आपने आदेश दिया था कि राष्ट्रपति महोदय की सिफारिश प्राप्त करने में जल्दी की जाए और मुझ जो पत्र मिला है, उस के अनुसार सभी पहलुओं पर विचार करके यह राष्ट्रपति महोदय की रिक्मंडेशन दी गई है, वैसे श्री बरका चाहें तो इस को धीरे स्पष्ट कर सकते हैं।

जहां तक श्री नायक का प्रश्न है, मैंने खुशी है कि आज सत्तारूढ़ दल के एक सदस्य मूलभूत अधिकारों की रक्षा की बात कर रहे हैं। उन अधिकारों में सम्पत्ति का अधिकार भी है। यह तो धीरे भी सदन के लिए विस्मय की वस्तु है। इस विधेयक के द्वारा किसी मूलभूत अधिकार में कटौती करने का प्रयत्न नहीं किया गया है।

प्रश्न इतना ही है कि जिन के हाथ में सम्पत्ति है व उस सम्पत्ति का उपयोग तथा विनिमय किस मनोवृत्ति से करें। ट्रस्टीशिप का अर्थ यह है कि जिन के पास सम्पत्ति है वे उसका अपने को स्वामी न समझें बल्कि ट्रस्टी समझ और समाज के हित में उसका उपयोग करने का प्रयत्न करें। अब उन्होंने धारा 4 का उल्लेख किया है जिस में यह कहा गया है कि किसी कम्पनी के अगर हिस्सेदार हैं तो वे बहुमत से अगर चाहें तो उसे ट्रस्ट घोषित कर सकते हैं। उनका कहना यह है कि अगर ऐसा होगा तो बहुमत के अतिरिक्त जो अल्पमत है उसका शरर समाप्त हो जाएगा, उसकी सम्पत्ति छीन ली जाएगी। ऐसा नहीं है। वे हिस्सेदार बने रहेंगे, उसमें से उन्हें लाभ भी थोड़ासा मिलेगा। लेकिन कम्पनी के स्वामित्व में आज जो शेयरधारी टुकड़ों में स्वामी हैं वे ट्रस्टी बन जाएंगे और कम्पनी जितना उसमें से लाभांश देने का विचार करेगी वे सकती है। इतना ही नहीं मैंने बोस के बारे में

भी प्रावधान किया है। अगर यह विधेयक संविधान की कसौटी पर खरा नहीं उतरता तो आप जानते ही हैं कि इसके बारे में कभी बैरर की तरफ से रुचि नहीं दिया जाता है, सब इस मामले का फंसला नहीं करता, यह बात जब जब उठते रहें हैं बेयर की धीरे से यही कहा जाता रहा है कि इसका फंसला अदालत करेगी। मैं समझता हू कि आज नायक साहब चकि आपत्ति उठा रहे, इसलिए आपका निर्णय नहीं बदलेगा।

SHRI B. V. NAIK : Are you going to give a ruling before you hear the Minister ?

SHRI PILOO MODY : After having given a hearing, he is going to give a hearing.

MR. DEPUTY-SPEAKER : Let us understand very clearly the procedure in these matters. This is not a Constitution Amendment Bill. In the case of a Constitution Amendment Bill, the Bill comes before the Committee on Private Members' Bills who consider whether the Bill could be introduced or not. But, in the case of an ordinary Bill, the Member sends his notice, it comes up and then he is free to introduce it. This is one procedure which we must remember. Secondly, with regard to the constitutionality or unconstitutionality of any Bill, it is not the Chair that gives a ruling on that. The House has to decide in its wisdom and if the House commits a mistake, then of course, the Court will decide whether a particular Bill is constitutional or not. Thirdly, the Government has no right to stand in the way of private Members' Bills from being introduced. If the Bill attracts the provisions of Articles 110 and 117, then, the duty of the Government to that extent is to secure the President's recommendation. But, they cannot stop the Bill on that score. Therefore, there is no need for the Minister to give any reply on this. Now, the Bill is there and the only thing I can do is to put it to the House. The House has heard you and the House has heard Mr. Vajpayee. The House in its wisdom will decide. Now, the question is.

SHRI DINESH CHANDRA GOSWAMI (Gauhati) : Sir, Mr. Naik has raised a point. Though I am not in agreement with that point. I would say, we have not really gone in depth on this point. There

[Shri Dinesh Chandra Goswami]

fore, I feel, Sir, that at this stage, instead of giving any opinion on this, Mr. Naik may withdraw his objection to the introduction. We will discuss this point at the time of consideration of the Bill.

SHRI B. V. NAIK : I completely disagree. I have not raised it as a frivolous point. I would have done the same thing, if the Bill had been brought forward from this side. You have said that the Members of the House should be the guardians. They should be able to protect the rights. But, here is a case, where it amounts to a clear breach of the Constitutional provisions. The hon. Member has said that I am trying to protect the property rights. No, I am saying, this is backdoor nationalisation in which rights of certain persons are tried to be abridged. This is backdoor nationalisation without authority.

(Interruption)

MR. DEPUTY-SPEAKER : What are the members excited about ?

SHRI DINESH CHANDRA GO-SWAMI : I am not raising a frivolous point. My point is that if the House is to give its verdict, it should be after due consideration.

MR. DEPUTY-SPEAKER : This is only the introduction stage.

The question is :

"That leave be granted to introduce a Bill to provide for the creation of trust corporations and for matters connected therewith".

*The motion was adopted.*

श्री अटल बिहारी वाजपेयी : मैं बिल पेश करता हूँ †।

#### CONSTITUTION (AMENDMENT) BILL\*

*Amendment of Art 284*

श्री मधु लिमये (बांका) : मैं प्रस्ताव करता हूँ कि मुझे भारत के संविधान का और संशोधन करने वाले विधायक को पुरस्चित करने की अनुमति दी जाए।

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MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Constitution of India".

*The motion was adopted.*

श्री मधु लिमये : मैं बिल पेश करता हूँ †।

#### NOMENCLATURE OF THE EDUCATIONAL INSTITUTION BILL\*

SHRI RAJDEO SINGH (Jaunpur) : I beg to move for leave to introduce a Bill to achieve the object of national integration and instil the sense of nationalism by prohibiting Educational Institutions from bearing any name or title after a caste, community or religion in the country.

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill to achieve the object of national integration and instil the sense of nationalism by prohibiting Educational Institutions from bearing any name or title after a caste, community or religion in the country".

*The motion was adopted.*

SHRI RAJDEO SINGH : I introduce the Bill.

#### CONSTITUTION (AMENDMENT) BILL\* (SUBSTITUTION OF ARTICLE 120)

SHRI SEZHIYAN (Kumbakonam) : I beg to move for leave to introduce a Bill further to amend the Constitution of India.

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Constitution of India".

*The motion was adopted.*

SHRI SEZHIYAN : I introduce the Bill.

†Introduced with the recommendation of the President.

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