

[Shri Raghu Ramaiah]

parties are represented. There they decide what should be the agenda. We are very tight with financial business. It has to be finished within a certain date. My overriding anxiety is to see that every minute of time in this House is spent in accordance with the schedule laid down by the Business Advisory Committee. In fact, I sought your guidance. Certainly, I would be the last man to say anything derogatory to any hon. Member or the Chair. I would like you, Sir, at the same time, to bear in mind, while appreciating the importance of the subjects raised, that our schedule is very tight. I would also like to have the assistance of all Member of this House to see that the business is carried out in accordance with the advice of the Business Advisory Committee.

श्री जार्ज फरनेन्डीज : अध्यक्ष महोदय, मैं इस पर इतना ही कहना चाहता हूँ आपने कहा कि मैंने जो प्रश्न उठाया, यह मुबह जब स्पीकर यहां थे तब उठाना चाहिए था। आप जानते हैं आज मुबह मेरे लिए इस प्रश्न को उठाना असम्भव था। मेरी आपसे इतनी ही प्रार्थना है कि आप मेहरबानी करके मन्त्री महोदय से यह कहिए कि इस पर प्रधान मन्त्री या विदेश कार्य मन्त्री एक वक्तव्य दें।

SHRI RAGHU RAMAIAH : He is vigilant enough. I am sure he has taken note of everything and they will be coming up at the proper time.

SHRI P. G. SEN (Purnea) : Sir, from your ruling it follows that you are going to allow any important matter occurring in or outside India to be raised in this House at any time and there is no necessity of giving any notice. We will be in the dark if anybody can raise any subject without notice. If the time of House is taken on those subjects the time for discussion on the other subjects is cut down with the result that many hon. Member from these benches were disallowed time to speak on the Budget. There are complainst from so many hon. Member whereas you are allowing anybody who stands up

from the other side to raise any points without notice.

When they create a row, you are not objecting to that.

MR. DEPUTY-SPEAKER : He must bear with me. I have some discretion in this matter. I know what is important. For instance, when Shri Randhir Singh normally shouts, I ask him to resume his seat. But when he takes up a particular issue which is important, I have to permit it

SHRI P. G. SEN : That does not help.

MR. DEPUTY - SPEAKER : I am passing over to next subject.

14.51 hrs.

STATUTORY RESOLUTION RE: CUSTOMS (AMENDMENT) ORDINANCE AND CUSTOMS (AMENDMENT) BILL

SHRI SHRI CHAND GOYAL (Chandigarh) : I beg to move :

“This House disapproves of the Customs (Amendment) Ordinance, 1969 (Ordinance No. 1 of 1969) promulgated by the President on the 3rd January, 1969.”

I am going to make a four-pronged attack in disapproving the Customs (Amendment) Ordinance. Firstly, I would say that there was absolutely no justification, there was no pressing need, there was no urgency in issuing the Ordinance and it violates the spirit and provisions of the Constitution, under which an Ordinance can be promulgated.

Sir, you will remember that a Bill which sought to amend the Customs Act was introduced in this House on the 3rd December 1968 and the House had adjourned *sine die* on the 20th December 1968 and prorogued on the 24th December, 1968.

This Ordinance was issued on the 3rd of January 1969 and the House was again summoned for the present session on the 6th of January 1969. Now, if the heavens were going to fall, or if there was such a pressing need, then the Government could have passed this Bill between the 3rd and 20th of December. The very fact that the Government did not choose to pass this Bill within a period of 17 to 18 days when the House was seized of it certainly indicates that there was no pressing urgency, no pressing need for passing this piece of legislation. When the House was already seized of it, especially when a Bill has already been introduced in this House, an Ordinance is brought on the same subject.

I would add that the power of framing laws, passing legislation is the exclusive privilege and prerogative of the legislature, of the Parliament, and the executive cannot make an encroachment upon the powers of Parliament, on the power of the legislature, by promulgating an Ordinance.

In support of my contention, I would invite the attention of the House to Basu's Commentary on the Constitution. On page 56 of the Third Volume it is stated :

"The article empowers the President the power to legislate by Ordinance to meet with any circumstance that requires immediate action when Parliament, or either House thereof, is not in session."

It further says :

"The power to make Ordinance during recess of Parliament has been justified on the ground that President should have the power to meet with a pressing need for legislation when either House is not in session."

On page 58 it further says :

"But though the Ordinance-making Power is legally unfettered, there has been a move in Parliament to ensure that the Ordinance-making power of the President is not used by the

executive to secure the passage of an ordinary measure by resorting to Ordinance-making power."

Basu is absolutely clear. He is one of the best commentators on the Constitution of India and he says that this power, under article 123, can only be resorted to under exceptional circumstances, on emergent circumstances when there is a pressing need.

I would also read a few lines from Seervai's *Constitutional Law of India*. Dealing with this provision regarding issuance of Ordinances Shri Seervai says on page 19 :-

"These provisions have secured considerable flexibility both to the Union and to the States to enact laws to meet emergent situation as also to meet circumstances created by laws being declared void by courts of law."

He quotes the instance of the Sales-tax Ordinance which had been struck down by the Supreme Court. He visualises two circumstances—either when a piece of legislation is declared void by the courts of the country, because the Government is likely to suffer great loss in such circumstances Ordinances can be issued, or in emergent and pressing circumstances.

I would also invite the kind attention of the House to what the framer of the Constitution had in mind. When the framers of the Constitution discussed it was numbered as article 102. While dealing with this provision, on page 206 (Volume VIII), Pandit Hriday Nath Kunzru says:-

"This is a vital matter to which the Constitutions recently passed in several European countries have attached the greater importance. The power of passing an Ordinance is equivalent to giving the Executive the power of passing a law for a certain period. If there is such an emergency in the country as to require that action should be immedia-

[Shri Shri Chand Goyal]

tely taken by the promulgation of an Ordinance, it is obviously necessary that Parliament should be summoned to consider the matter as early as possible. Suppose that law and order in the country are seriously affected and the Government of the day considered it necessary that an Ordinance should be promulgated at once in order to prevent the situation from deteriorating or to bring it under control, it is obvious that if the Legislature is not sitting the Executive must be enabled to arm itself with adequate powers to maintain the peace of the country, but it is equally necessary that the Legislature should be summoned without avoidable delay to consider the serious situation that makes the promulgation of the Ordinance necessary."

14.58 hrs.

[SHRI R. D. BHANDARE *in the Chair*]

Then, I would read a few lines from Professor K. T. Shah. He says :

"The principle of my amendment is the same as that which found such a powerful support from Pandit Kunzru. Most of us, I am sure, view with a certain degree of dislike or distrust the Ordinance-making power vested in the Chief Executive. However we may clothe it, however it may be necessary, however much it may be justified, it is a negation of the rule of law, that is to say, it is not legislation passed by the normal Legislature and yet would have the force of law which is undesirable. Even if it may be unavoidable and, more than that, even if it may be justifiable in the hour of emergency, the very fact that it is an extraordinary or emergency power, that it is a decree or order of the Executive without deliberations of the Legislature, should make it clear that it cannot be allowed and it must not be allowed to last a minute longer

than such extra-ordinary circumstances would require."

The architect of the Constitution, Dr. Ambedkar, while dealing with this article says—I am quoting him from page 214 of Volume VIII--

"If I may say so, this article is somewhat analogous—I am using very cautious language—to the provisions contained in the British Emergency Powers Act. Under that Act also the King is entitled to issue a Proclamation and when a Proclamation was issued the Executive was entitled to issue regulations to deal with any matter and this was permitted to be done when Parliament was not in session. My submission to the House is that it is not difficult to imagine cases where the power conferred by the ordinary law existing at any particular moment may be deficient to deal with a situation which may suddenly and immediately arise.

"What is the executive to do ? The executive has got a new situation arisen, which it must deal with. *Ex hypothesi*, it has not got the power to deal with that in the existing code of law. The emergency must be dealt with and it seems to me that the only solution is to confer upon the President the power to promulgate a law which will enable the executive to deal with that particular situation because it cannot resort to the ordinary process of law because, again *ex hypothesi*, the legislature is not in session. Therefore, it seems to me that fundamentally there is no objection to the provisions contained in article 102."

15 hrs.

The architect of the Constitution is very clear. Supposing a certain serious situation arises in the country, then alone the President or the executive is competent to issue an Ordinance. But what has been done in this case? As I submitted, when the

House was seized of it for three weeks and we did not feel the necessity of passing this legislation, where are the circumstances justifying the issue of the Ordinance ?

I would also draw the attention of the House to what our earlier Speakers have ruled on that point. There are specific rulings given by our great Speaker Mr. Mavalankar when this issue was debated or was raised in the House. I am quoting from the book of Mr. Kaul and Mr. Shadher, at p. 899 :

"In 1947, Speaker Mavalankar, at the Presiding Officers' Conference referring to the issue of Ordinance, observed : It was obviously a wrong convention for the Executive to promulgate Ordinances merely because of shortage of time. That power was to be exercised only when there was an emergency and the Legislature could not meet. It was not a desirable precedent to promulgate Ordinances for want of time, as inconvenient legislation might also be promulgated in that manner."

As I have pointed out, this Ordinance has not taken birth in circumstances arising out of some emergency. I have already submitted that the Bill had been introduced in the House and the House was seized of it for three weeks. But the statement which has been made justifying the issue of the Ordinance says that because of shortage of time, they could not pass it in the previous session. Our learned Speaker Mavalankar clearly says that an Ordinance cannot be issued in circumstances where paucity of time is the only reason. Further on p. 900, it says :

"Again on December 19, 1953, when the Minister of Home Affairs informed that if the House was unable to dispose of the Press (Objectionable Matter) Amendment Bill before the termination of the session, then an Ordinance would have to be promulgated, a member questioned the propriety of promulgating Ordinance and felt that the conversion of pend-

ing Bills into Ordinances was an 'invasion' of the legislative competence of the House."

This is what I am referring to here that the conversion of a Bill into an Ordinance is an 'invasion' on the legislative competence of the House.

Then, Speaker Mavalankar, in his letter of July 17, 1954, to the Prime Minister said :-

"The issue of an Ordinance is undemocratic and cannot be justified except in cases of extreme urgency or emergency."

"... We, as first Lok Sabha carry a responsibility of laying down traditions. It is not a question of present personnel in the Government but a question of precedents; and if this Ordinance issuing is not limited by convention only to extreme and very urgent cases, the result may be that, in future, the Government may go on issuing Ordinance giving Lok Sabha no option but to rubber-stamp the Ordinances."

SHRI RANAGA (Srikakulam) : These people have justified his fears.

SHRI SHRI CHAND GOYAL : These apprehensions of the great Speaker, Shri Mavalankar, have come true. This is not a solitary instance. Four Ordinances have been issued during the short period of a week when the House had been prorogued and had been resummoned. This is certainly an encroachment, an invasion, an inroad, on the powers of the Parliament so far as legislative functioning is concerned.

There are two objectionable and illegal provisions in this Customs (Amendment) Bill. They are clauses 11M and 11N....

MR. CHAIRMAN : It has not yet been moved.

SHRI SHRI CHAND GOYAL : Can't I challenge the illegality of those provisions in disapproving ?

श्री मधु लिमये (मुंगेर) : उनका जो वक्त है वह ग्राप वीजिए। उस समय में वह जो बोलना चाहें बोलें। ग्राप बीस या पच्चीस मिनट जो दे रहे हैं उसमें वे अपने मुद्दे रखते जायेंगे।

MR. CHAIRMAN : Anyway, both are to be discussed together.

SHRI S. KANDAPPAN : (Mettur) : On previous occasions, we have discussed such things together.

MR. CHAIRMAN : The practice is that both the motions are discussed together, But here the other motion has not yet been moved.

SHRI S. KANDAPPAN : It is a sort of convention.

श्री मधु लिमये : ग्राप मान लीजिये कि पेश किया है। औपचारिक ढंग से मान लीजिये।

बिल मन्त्रालय में राज्य मंत्री (श्री प्र० चं० सेठी) : मान कैसे लें ?

MR. CHAIRMAN : The hon. member may continue.

SHRI SHRI CHAND GOYAL : I was pointing out that there are two illegal and unconstitutional provisions which find a place in this Bill. They are Clauses 11M and 11N. Clause 11M requires that a seller of a commodity will take such steps as to ensure that the purchaser is not a fictitious person and if he omits to do that, it shall be presumed that such goods have been illegally exported and the person who had sold the goods had been concerned in such illegal export. My contention in this behalf is this. You, as a prominent lawyer and barrister, know the principle of criminology, that every person is presumed to be innocent unless he is proved guilty. But here the reverse process has started. Here we are starting with the presumption of guilt and not with the presumption of innocence. May I know how a seller can ensure

whether a particular purchaser is not a fictitious person ? It is all right he takes note of his address and tries to satisfy himself of his *bona fide*, but he cannot possibly take such steps as to ensure that he is not a fictitious person and all that. If he omits--it is for the courts to say that he has omitted--the presumption will be against him and he will be dealt with under the provisions of this law. I say, this is reversing the very principle of criminal jurisprudence that everybody is presumed to be innocent rather than being presumed to be guilty. So far as Section 11N is concerned, a wide power uncanalised, undefined power has been taken by the Government to exempt any goods or all goods whether generally or under specified conditions from the purview of provisions of Chapter IVA and IVB. This will result in helping friends and relations of the customs officials of the minsters concerned and of the party in power when in difficulties. This is not at all justified and the Bill is likely to be struck down or declared void or unconstitutional by the courts the of country.

I would remind the House that a Study Team was appointed to go into the working of the Customs Department. They made certain useful suggestions. They said that an exhaustive Bill must be brought forward incorporating the recommendations of that Study Team. What did they recommend ? They recommended that the appellate powers which at present are invested either in the Customs Collectors or the Excise Board which is a kindred body should be vested in an independent tribunal. The principle is that the accuser cannot be the judge. There can be no appeal from Caesar to Caesar. So, I submit, the provision for an independent tribunal which has been made in the income tax Act and other enactments ought to have been made here as recommended by this Study Team. This Study Team has recommended that there are certain hardships and difficulties of importers. They are not allowed to take away their goods. Clearance is not given to them and goods are lying in the port area for months together with the result that they are required to pay huge demurrage amounts. Their production schedule and time

schedule are upset because goods are not allowed to be removed from the ports. They suggested that certain provisions must be incorporated to remove the difficulties of importers. They went even to the length of recommending that in disputed cases when certain formalities of the customs have not been gone into, even in such circumstances, the lifting of the goods may be permitted subject to the furnishing of the security bonds.

Sir, the objective with which this piece of legislation is being brought forth is to check smuggling. I know this is a serious problem. The country is losing foreign exchange to the tune of Rs. 100 crores every year. The importers racket coming to light during the last 2 or 3 years have shown that gold worth crores of rupees are being brought into the country and silver worth huge amounts are being sent outside the country. There are allegations of even Chinese goods being smuggled into the country from Nepal border, contraband materials entering the country. It is necessary that Government take certain effective checks to check this smuggling. But the question is this. Is this Bill adequate to meet the situation which the country is facing? I want a categorical answer from the hon. Minister on one point. The names of some important persons have come to light. I may mention the name of Mr. T. H. Gaokar, who is a famous race-horse-owner of Bombay and a former police officer; in connection with an important racket in which 36,000 tolas of gold were discovered, valued at Rs. 1.15 crores, this name has come to light. Then I can mention the name of Mr. Yusuf Dost Mohammed Meghji; he is a glass-merchant of Bombay, and a lot of foreign and Indian currency was detected by the Anti-Corruption Bureau in that particular haul. The third name that I can mention is that of Mr. Hiru S. Advani. When these important names have come to light, I want to know why these gentlemen have escaped. How could they escape unless there be corruption in the Customs Department itself and unless they are getting shelter and help from the officers of the Department?

I want to know whether there is a certain spirit in the activities of the smugglers or whether it is the vigilance of the customs officials which is responsible for detecting these cases.

In conclusion, I would suggest a few methods by which smuggling on this large scale can be prevented. Firstly, there must be more mobile squads and searching of more places throughout the country. There should be an all-out attempt to intercept carriers bringing contraband gold to undiscovered agents. Thirdly, there should be surprise searches of air passengers and interception of cars, at sensitive spots. Then there should be accurate knowledge about the secret branches of the international gold smugglers' gang and regular contact with the anti-smuggling organisation in other countries. There should also be better equipment supplied to the customs and excise officials. If they have better equipment and better launches and a fleet of about a dozen cars in excellent running condition it would be possible for them to make their anti-smuggling drive more effective and they would be able to catch the new powerful cars of the smugglers. The help of the Navy, Air Force and police should also be taken in spotting out the smugglers.

With these words, I move.

MR. CHAIRMAN : Motion moved :

"This House disapproves of the Customs (Amendment) Ordinance, 1969 (Ordinance No. 1 of 1969) promulgated by the President on the 3rd January, 1969."

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. C. SETHI) : I beg to move : \*

"That the Bill further to amend the Customs Act, 1952, be taken into consideration."

As is known to the House, this Bill was moved on 3rd December, 1968 in this very

\* Moved with recommendation of the President.

[ Shri P. C. Sethi ]

House. The proposed new section 11C provides that the persons concerned are required to report about the place of storage etc. within seven days. Especially with regard to silver, it was provided that within an area of 50 Kilometers along the western coast and on the eastern coast in Tamil Nadu also, wherever silver was being smuggled, they were required to report within seven days. The intention of the Government when they came forward before this House was well known. This time-lag of seven days was provided with this in view namely that the smugglers would not get ample opportunity to do away with their things. Having known all these provisions, now to say that these provisions have not come before Parliament and before the people is not proper. If any time-lag would have been given, then it would have been disastrous and the very purpose of the Bill would have defeated. After all, the Constitution provides for certain emergencies. This is not a Bill which is going to infringe the fundamental rights of some people or deprive them of their liberties. This is a very innocent Bill meant for checking smuggling. The hon. Member himself said...

**SHRI SRINIBAS MISRA (Cuttack) :** Is he speaking on his Motion or replying to the Mover of the earlier Motion?

**SHRI P. C. SETHI :** I am replying to his points ; as for the other points, when the amendments are moved, I will reply to them.

**SHRI DATTATRAYA KUNTE (Kolaba) :** He may justify the Bill also.

**SHRI P. C. SETHI :** I am at the moment only replying to the Resolution moved and saying why it was necessary to promulgate an Ordinance. Later, I will deal with the other arguments and suggestions contained in amendments.

The object of this Bill is limited in the sense that, as the hon member himself said, there is a continuous racket going on and silver is being smuggled from this country on a very great scale and gold is being smuggled in. In order to check this smugg-

ling of silver as well as certain other notified articles which were being imported in exchange for silver or gold, Government wanted to promulgate this Ordinance. Now it is sought to be replaced by a Bill because it could not be passed last time. That was why the Ordinance had to be promulgated.

This provision has been there in the Constitution only for certain type of emergencies which very well fits in with this particular case.

The executive is certainly not going to usurp the authority or power of legislature. We have no intention to do so. But the nature of the Bill is such that had we lost time in promulgating the Ordinance, the very purpose of the Bill would have been defeated. Hence the Ordinance.

I do not want to go into the merits of the Bill which I would do later. I only say that on account of the considerations I have mentioned, this Ordinance had to be promulgated. This is fully justified and the legislative competence of this Bill has been fully examined. I would submit that the point raised with regard to competence is not very valid as far as this Ordinance is concerned. Therefore, I would request the House not to accept the Resolution. I would commend my Motion for the consideration of the House.

**MR. CHAIRMAN :** Motion moved : "That the Bill further to amend the Customs Act, 1962, be taken into consideration".

**SHRI SRINIBAS MISRA :** On a point of order. First, this is beyond the competence of this House. Many of the provisions of the Bill, in fact, the very purpose of this Bill, are beyond the competence of this House.

**SHRI MADHU LIMAYE (Monghyr) :** At this stage, he cannot raise this objection; it should have been done at the introduction stage.

**SHRI SRINIBAS MISRA :** Even after introduction, this could be raised at any time.

SHRI MADHU LIMAYE : There is no provision for it at this stage.

SHRI SRINIBAS MISRA : Constitutional validity can be questioned anywhere, as soon as the matter comes.

SHRI MADHU LIMAYE : It comes at the introduction stage.

MR. CHAIRMAN : The introduction stage was the proper time for that.

SHRI SRINIBAS MISRA : You are giving an opinion. Please hear me before that.

At the stage of introduction, with the permission of the Speaker, it is possible to raise it. But at this stage, such permission is not necessary. Simple permission to stand is necessary. This is the distinction between the two.

SHRI AMRIT NAHATA (Barmer) : He cannot raise it now.

SHRI SRINIBAS MISRA : I can.

MR. CHAIRMAN : He is challenging the very validity of the Bill. It should have been done at the introduction stage. Legislative competence is now being questioned. That was the occasion to do it.

SHRI SRINIBAS MISRA : No. We are somewhere wrong in the rules. The rule says that there can be no opposition at the stage of introduction except on constitutional grounds.

MR. CHAIRMAN : Which is now sought to be done by him, which should have been done at the introduction stage.

SHRI SRINIBAS MISRA : No, Sir. The point of order can be raised at any time. Rule 72 says :

“ If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member

who moves and from the member who opposes the motion . . . .”

it says “ If a motion for leave to introduce a Bill . . . .”

MR. CHAIRMAN : At the introduction stage.

SHRI SRINIBAS MISRA : It says, ‘the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion may, without further debate, put the question :

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon.’

MR. CHAIRMAN : That is at the introduction stage. The rule is very clear.

SHRI SRINIBAS MISRA : I think I will be able to convince you. I am not opposing a motion for introduction. I am opposing a motion for consideration. This cannot be taken for consideration. That is what I am saying.

SHRI RANDHIR SINGH (Rohtak) : Opposition to introduction is opposition to consideration.

श्री मधु लिमये : सभापति महोदय, मैं जरा सफाई करूँ। अगर आप मेरी बात सुनेंगे तो सारा मामला साफ हो जायेगा। जब किसी भी विधेयक को पेश किया जाता है, इन्ट्रोड्यूस किया जाता है तो उस समय राजनैतिक कारणों को लेकर भी विरोध हो सकता है और संवैधानिक आपत्तियों को भी उठाया जा सकता है। अगर अध्यक्ष महोदय चाहें तो उनके ऊपर बाकायदा चर्चा भी करवा सकते हैं। यह प्राविजों में लिखा हुआ है। लेकिन इस वक्त जो प्रस्ताव है वह 74 और 75 के तहत है। अब 74 और 75 को अगर आप देखेंगे तो



[श्री मधु लिमये]

उसमें आप सक्सटेंटिव मोशन पर विरोध भी कर सकते हैं। इन्ट्रोडक्शन के स्टेज पर चर्चा की, विरोध करने की गुंजाइश नहीं होती है इसलिए नियम बनाया गया है। अभी बहस के दौरान संबैधानिक कारणों को लेकर, सिद्धान्तों को लेकर, राजनीतिक, आर्थिक सभी कारणों को लेकर विरोध किया जा सकता है। इसलिए जब सक्सटेंटिव मोशन है उस समय संबैधानिक आपत्तियां भाषणों के दौरान में उठाई जा सकती हैं लेकिन बहस को खत्म करने के लिए नहीं उठाई जा सकतीं।

मेरा भी प्रस्ताव है और मैं वैसे पहले उस पर बोलना चाहता था लेकिन अगर श्री श्रीनिवास मिश्र इस पर पहले बोलना चाहते हैं तो फिर मुझे बाद में बुलाया जाय। मैं इन के बोलने के विरोध में नहीं हूँ।

SHRI RANDHIR SINGH : We will do that.

MR. CHAIRMAN : So far the point of order raised by you...

SHRI SRINIBAS MISRA *rose.*—

MR. CHAIRMAN : I am quite clear in my mind.

SHRI PILOO MODY (Godhra) : One of you two has to sit down.

MR. CHAIRMAN : Hon. Shri Pilo Mody must know that the Chairman should not be asked to sit down when he wants to clear the position.

SHRI PILOO MODY : One of you.

MR. CHAIRMAN : A point of order is raised. You can at the time of discussion oppose it while speaking. At the introduction stage you can challenge the validity or the competency of the Bill. That stage is over. Now we are acting under Rule 74. Please refer to Rule 74. The procedure

is laid down and directions are given as to what should be done.

SHRI MADHU LIMAYE : Rule 75 also.

MR. CHAIRMAN : Both these rules govern the discussion after the introduction of the Bill. In view of rules 74 and 75, I rule that your point of order is not valid.

SHRI S. M. BANERJEE (Kanpur) : I do not want to challenge your ruling, once you had given your ruling. But at the time of the Essential Services Maintenance Bill. . . .

MR. CHAIRMAN : You are bringing up extraneous matter which should not be allowed to be discussed when I have already given my ruling. That point of order had been ruled out.

SHRI S. M. BANERJEE : My point of order is under rule 376 (2). The motion before the House now is that the Customs Amendment Bill be taken into consideration; there is also the other motion for disapproval. So, they are both to be discussed simultaneously. You have permitted a discussion on both. But they should be discussed separately. That is the convention. Mr. Misra did not raise any point of order on that. The same question arose at the introduction stage of the Essential Services Maintenance Bill; we objected to it and there was a discussion for about 4-5 hours. The Speaker gave a ruling in the House that even at the introduction stage or consideration stage, if objected to a particular clause, we might rise on a point of order.

MR. CHAIRMAN : You have had your say now. There is no point of order. You must argue with the decision of the Speaker in your hand and must show it to me and you must also read it to the House. Since you have not done so, there can be no point of order.

श्री जार्ज फरनेगंडीज (बम्बई दक्षिण) : जब मामला सदन में रखा जा रहा है तब क्या

यहां खड़े होकर नहीं बोलेंगे ? अगर आपने दो वर्ष पहले कोई रूलिंग दी है तो क्या आप चाहेंगे कि हम पहले जाकर उसको ले आएं ?

MR. CHAIRMAN : Let us follow some rules; let us not convert the House into a place where we can discuss anything and every thing under the sun.

श्री जार्ज फरनेन्डीज : मैं केवल सिद्धान्त को लेकर यह पूछ रहा हूँ, क्योंकि अगर आपकी यही रूलिंग रही तब हमको बड़ी परेशानी होगी ।

MR. CHAIRMAN : There are three amendments. Would hon. Members like to move them ?

Those who want to move their amendments to the motion for consideration may move them.

SHRI SHIV CHARAN JHA (Madhubani) : Sir, I move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st April, 1969." (1)

MR. CHAIRMAN : Shri Vishwa Nath Pandey--absent.

SHRI RAMAVATAR SHASTRI (Patna) : I move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th April, 1969." (3)

MR. CHAIRMAN : The motion for consideration and the amendments to the motion are before the House.

SHRI LOBO PRABHU (Udipi) : Sir, this Bill attempts to deal with the effects without even thinking about the causes. If there is smuggling into this country, it is due to the fact that our prices for many articles are about a 100 per cent above the world prices. If there is smuggling of silver outside this country, it is due to the fact that the world price of silver is 245 pence while

the Indian price is 144 pence. Anyone who conveys silver to London via Dubai or any other route will get a large difference for himself. Unless the Government thinks seriously of the causes, to deal with the effects, is rather a vague and useless process and makes this particular legislation something farcical on the one side and capable of corruption on the other. This is my first objection to the Bill.

My second suggestion is that this Bill has completely ignored the proposals of the Tiwary team which enquired into this subject. Smuggling is an extremely large subject. That team estimated that smuggling to the extent of Rs. 100 crores takes place, against which we are spending less than one per cent on the staff, while in the United Kingdom about five per cent is spent. The proper procedure in the matter should have been to increase the staff and obtain helicopters and some steam-boats. You have failed to do that. You have failed to estimate the fact that the adversary, the smugglers, especially from Dubai, engage very fast moving boats and they have even got an insurance system to see that their smuggling is complete as a paying proposition. After having failed to implement the clear recommendation of your own team which did not include the particular proposal you are making, you have proceeded in a very unconstitutional way to take away the right of the people to possess their own goods without having to declare them. It is a very primitive procedure to ask a man to go and declare the goods, for instance, if he has two razors more than are required for his personal use. The items you have included in this particular list of specified commodities include anything from knitted sarees to propelling pencils, blades, battery operated toys, playing cards, cameras, films, irons and so on. Have you considered that you yourselves have encouraged the people to use foreign-names for most of these razors and iron and so on ? How are the people going to identify what a particular item is made in India or is made abroad ? Do you want a party to declare all the irons and all the blades in its possession just because the name seems some-what like the English name ? When you spread the net as wide as this, what do you do ? On the one hand you mal

[ Shri Lobo Prabhu ]

your very legislation ineffective and, on the other, you provide infinite opportunities to see that the staff becomes corrupt. The Bill therefore, is one which aims at much and therefore will be able to do very little.

The Bill is defective in the third place because it is placing undue burden on certain categories of dealers. Is any silver trade possible when you limit the transactions to Rs. 2500 a day? A bar of silver costs Rs. 18,000. If a man cannot even transact a bar of silver without coming within the rules of the Act, we may as well write off the silver trade in this country. How can we do something to stop smuggling of silver? The procedure is very simple. The Reserve Bank was buying silver at prices, which should have been but which were not, comparable to world price. Why should not the Reserve Bank buy silver at 200 d. and export it at 240 d.? According to one calculation, we have at present Rs. 8000 crores of silver. We cannot do much with it. It is a barren metal. If we export it now we would get a great deal of foreign exchange or even gold and also it would reduce smuggling.

In respect of other items, the procedure which should have been adopted is to reduce taxes, to reduce inflation, to reduce controls which are causing these high prices. Have you considered these? If you increase the prices and make imports more attractive, how can you expect smuggling to stop? If the Finance Ministry looks at it from this point of view, it will be able to achieve very much more. The particular provisions of the Bill which are repetitive admissible to malpractices will be opposed by me when we take the clauses and amendments.

**SHRI BEDABRATA BARUA** (Kaliabor) : Sir, when a pressing national need arises, an ordinance is in order. The legality or otherwise of an ordinance can certainly be disputed, but when a stringent measure is taken against the most despicable of creatures-smugglers-I think that it is in order. The law should be such as to appropriate the smugglers. In some countries, the laws are more stringent. In a country

like ours, where smuggling is of the order of about Rs. 200 crores, i. e. about 10 per cent of our total external trade, it becomes serious, and immediate notice should be taken of it.

I feel the ordinance should have been brought earlier, because many of the loopholes where there for a very long time and it should not have been delayed. When a man trades in a large quantity of silver, he should not be given the usual benefit of Roman law that a man is supposed to be innocent until he is proved guilty. If he is a small trader it is all right. But if he trades, for instance, to the tune of Rs.4000 of silver per day, he is sufficiently suspect and any legislation which tries to put him in order is good.

Silver smuggling is only one of the aspects of the whole situation. It is said that so far the smuggling is to the extent of Rs. 200 crores. But people say that when smuggled goods are sold in our country, smuggled goods from Nepal and other sources, the figure will easily come to Rs. 600 crores or Rs. 700 crores because smuggled goods at the port and inside are sold at very high prices. Taking into consideration this extent of smuggling we should consider how much of silver is smuggled out of the country. It is said that only 5.2 million ounces of silver is smuggled out of the country. I do not know how that "0.2" comes in. That is the estimate of the British, that so much of silver is imported to Great Britain every month. That does not cover Rs. 200 crores, that may cover Rs. 10 crores or 12 crores. The official export is only 3 lakh ounces per month and the rest of it is smuggling. As Shri Lobo Prabhu said, the infamous merchants of the Persian Gulf come in fishing boats and take some silver or gold with them. But the crucial point in the whole story is that silver does not account for smuggling.

**SHRI DHIRESWAR KALITA** (Gauhati) : Can you stop smuggling with the help of an ordinance?

**SHRI BEDABRATA BARUA** : I think we can.

**SHRI PILOO MODY :** Can you quote a precedent in the past where it has been possible to do so ?

**SHRI BEDABRATA BARUA :** One precedent is, between February and October last year Rs. 17.2 crores worth of smuggled goods were seized. That is a very good precedent though there is smuggling to the extent of Rs. 200 crores and in that context it may not be sufficient. But it is significant that something has been done. I do not know how the administrative machinery which has not been so effective in this regard. It may be because of various legal and other reasons or because of lack of loopholes. Only in Indo-Nepal trade loopholes are predominant because when trucks go into Nepal smuggling of jute and food grains takes place. If it is a piece of gold or silver one can understand but when truck-loads of foodgrains and other things pass into Nepal it is very difficult. In my State a lot of Chinese goods are sold. How do they come ? They can come only in one way. They can come to India only through Nepal and in that case our foodgrains must have gone to China, From there they must have bought some Chinese goods and brought to Assam. So it becomes Indo-Nepal, Nepal China, China-Nepal and Nepal-India trade. They go to Assam from Bihar and Chinese goods are sold at a cheap rate there. These things require an ordinance.

This rule does not apply at all because it cannot make foodgrains notified goods. Only those goods that can be imported and can be distinguished may be made notified goods. The whole problem therefore boils down to finding out the motivation factor and whether we can remove that factor for smuggling goods. I do give importance to this ordinance because with that it becomes more and more difficult for the infamous merchants of Persian Gulf to take silver.

To stop smuggling of silver, as Shri Lobo Prabhu said, the easy way would be to raise the price of silver. At least on that point I agree with him. We cannot export silver but we can get the silver out of these people if the price is raised from 145 pence to 240 pence so that it does not

become so profitable to take silver out of India to England and take gold from there.

Gold does create a lot of difficulties because of the craze for gold and foreign commodities. In this way the entire policy of the Government has to be discussed. I hope Government will take notice of these facts. The whole Opposition at one time turned down on Shri Morarji Desai's regulation regarding gold control. However, whether legislative steps alone will suffice is a matter of doubt. Possibly we cannot solve it until we solve the basic issue, which is the craze for gold. I think the communist methodology can help us here to hammer into the heads of people that wearing of gold ornaments is not a prestige or status symbol, it amounts to cheating, it is bad and risky, it is not honourable to be covered with gold, in fact it is a shameful thing in a poor country like ours, when it needs all that gold for its development.

**SHRI PILOO MODY :** Whom are you kidding by saying all these things ?

**SHRI BEDABRATA BARUA :** I am not kidding anybody because I am always myself. So far as this question is concerned, we must make an effort to educate our people that wearing gold is not a fashionable thing, it is a shameful thing, it must not be hoarded and that the entire development of the country can be financed by the hoarded gold. Even if we import another half of the gold vault in the world, it will not be able to solve our problem unless we try to propagate and educate the people of this country that this disreputable regard for gold should go in a poor country like ours, if we have to develop. Without that education, if we import more gold that will also be hoarded.

So far as the craze for foreign goods is concerned, it is the industrialists who have to be blamed, because it is they who create this craze. They produce such low quality products that people are prepared to pay even four times the price to get foreign goods. So, the craze for foreign goods is the total outcome of the bad condition of our indigenous protection. This

[Shri Bedabrata Barua]

is not a motivational factor but an essential factor.

If the silver smuggling does not tally with the smuggling of gold, then we must know that there are other ways in which foreign currency is obtained. One such method is over-invoicing of imports and under invoicing of exports. In what way, our businessmen get foreign currency worth Rs. 2 lakhs or 3 lakhs which they sell in foreign market. In this way a lot of currency is made available which is used for smuggling.

In this context, if somebody says that smuggling is only the function of the smuggler, I would say 'No'. It is facilitated by some of our unscrupulous businessmen. If we nationalise the foreign trade, take over aspect of it, then foreign currency will not fall into the hands of the unscrupulous businessmen who could sell it in the foreign market for smuggling gold into the country. Because of this big gap between smuggling of silver out of the country and smuggling of gold into the country, I say that we have to nationalise the foreign trade so that we can put a stop to many of these malpractices. Then our economy will be under certain discipline which it badly needs. I support this Ordinance and the Bill to replace it. It is no doubt a stringent measure. But unless it is stringent there will be a tendency to evade it. Now it is said that in Indo-Nepalese smuggling on an investment of Rs. 1,000 one gets a profit of Rs. 1,100 per day. May be, that estimate is on the lower side. When that is the magnitude of the problem, the measure has to be very stringent. When we are expecting a bumper harvest and increased jute production, we can never face the challenge of the situation unless we put a stop to this smuggling by a stringent measure. Without this legislation we cannot stop smuggling. So, we have to support it. This legislation has become all the more necessary in view of the smuggling which is taking place in the east and west coast of our country.

I do agree there may be some misuse of power but it is more unlikely because

these people who will be dealing with it will certainly be the people who take the risk and can by and large be expected also to have had something to do with the smuggling trade.

So far as the other goods are concerned if a man has got a small packet of blades, certainly the customs official should not be allowed to harass him. These people may be small traders who may have got small amounts and they should not be subjected to this gruelling process.

But here is a challenge and homoeopathic treatment alone, or even medicinal treatment as the Government is proposing, will not do but a surgical treatment is necessary to our entire economy. Therefore I say that not only nationalisation of our external trade is in order but also the promulgation of this Ordinance and the passing of this law.

श्री मधु लिमये (मुंगेर) : समापति महोदय इस बिलिनेस का मैं इसलिए विरोध नहीं कर रहा हूँ कि उस के पीछे जो उद्देश्य है, उस से मेरा कोई भेदभाव है, बल्कि असल में एक धरसे से, दो तीन साल से, इस सवाल की धोर मैं सरकार की तबज्जह दिला रहा हूँ और मांग कर रहा हूँ कि इस के बारे में कोई ठोस कार्यवाही की जाये। लेकिन जिस ढंग से यह बिलिनेस आया है—और अब विधेयक भी आ रहा है—, उस के बारे में मेरा सख्त विरोध है।

इस बिलिनेस और विधेयक में सब से पहली महत्वपूर्ण बात यह है कि "आयात" और "निर्यात" की परिभाषा में बड़ी गड़बड़ी है। इस में कहा गया है कि हिन्दुस्तान के बाहर से जो सामान आता है, वह "आयात" है, "इम्पोर्ट" है और हिन्दुस्तान के बाहर जो सामान जाता है, वह "निर्यात" या "एक्सपोर्ट" है। लेकिन इस में घपला यह है कि नेपाल के साथ 1960 में हमारा एक करार हुआ और उस करार के कारण हमारे देश का बहुत बड़ा नुकसान हो रहा है।

15.58 hrs.

[उपाध्यक्ष महोदय पीठासीन हुए]

मैं संक्षेप में बताना चाहता हूँ कि इस करार के तहत यह तय हुआ कि जो चीजें भारत में बनाई जाती हैं, वे भारत से नेपाल जा सकती हैं और जो चीजें नेपाल में बनाई जाती हैं, वे नेपाल से भारत में आ सकती हैं। लेकिन उस के बाद भारत को यह पता चला कि इस करार का दुरुपयोग कर के ऐसी बहुत सी चीजें भारत में भेजी जाने लगीं, जो नेपाल के कच्चे माल से नहीं बनी हैं, बल्कि विलायत से कच्चा माल ला कर बनाई जाती हैं, या बाहर से बनी बनाई चीजें ला कर उन पर "नेपाल में बनाया हुआ माल" की मुहर लगा कर भारत में भेजी जा रही हैं। जब यहाँ पर इस का विरोध हुआ, तो हमारा एक प्रतिनिधि मंडल 1969 में नेपाल में भेजा गया और उस ने नेपाल सरकार का ध्यान इस बात की ओर खींचा कि नेपाल से ऐसी बहुत सी चीजें भारत में आ रही हैं, जो नेपाल के कच्चे माल से नहीं बनाई गई हैं, बल्कि जिन के लिए कच्चा माल विलायत से आया है; वे चीजें बिना ड्यूटी दिये भारत में आ रही हैं और इस से भारतीय उद्योगों के साथ एक अनुचित स्पर्धा हो रही है। तो जो मेमोरेण्डम और अन्डरस्टैंडिंग उस समय का है उस का मैं कुछ हिस्सा आप को पढ़ कर सुनाना चाहता हूँ। इस में यह कहा गया है :

"With respect to the export of Nepalese manufactures to India, the Indian delegation reaffirmed the intention of the Government of India to expand the exchange of goods between India and Nepal and to facilitate in particular the import into India of Nepalese industrial products both old and new based on Nepalese raw materials."

और आगे इस के बारे में यह कहा गया :

"The terms and conditions as also the procedures for import into India

of Nepalese products which are not principally based on Nepalese raw materials and in respect of which special laws such as those relating to prohibition are enforced in Indian States or Union Territories will be agreed upon between the two Governments."

तो इस के बारे में तय हुआ था कि बातचीत होगी। जब इस तरह का मेमोरेण्डम आफ अन्डरस्टैंडिंग दिया गया था तो मैं पूछना चाहता हूँ कि क्या वजह है कि जब आप ने पिछले वर्ष अपना इम्पोर्ट ट्रेड कंट्रोल हेडबुक प्रकाशित किया, रेड बुक शायद उस को कहते हैं, उस रेड बुक में जब भारत नेपाल व्यापार के बारे में आप ने सुझाव दिया तब क्या वजह है कि इस मेमोरेण्डम आफ अन्डरस्टैंडिंग का उल्लेख तक आप ने नहीं किया न उस के अनुसार अपनी आयात नीति को बनाया ? यह रेड बुक से एक पैरा-ग्राफ मैं आप को पढ़ कर सुनाना चाहता हूँ। इस का नम्बर है 176 :

"Unless otherwise provided, imports and exports of goods from and to Nepal are allowed without import and Export Control restrictions provided the goods are either produced or manufactured in the respective countries. The export of raw jute and rice to Nepal will, however, be regulated in accordance with the provision of the Export Control Order 62 as laid down in the Ministry of Commerce public notice ... ."

MR. DEPUTY-SPEAKER : The hon. Member may try to conclude now.

श्री मधु लाम्बे : मेरा प्रस्ताव भी है, एक मिनट भी मैं ज्यादा नहीं ले रहा हूँ। इस से तो अच्छा मैं बैठ जाता हूँ। यह इतना काम्प्लीकेटेड है, हम के ऊपर बहस करने का और कोई रास्ता नहीं है। मैं एक भी बात को दोहराऊंगा नहीं। पचासों टाइमिंग्स हैं .....

MR. DEPUTY SPEAKER : I understand your difficulty. I can give you a

[Mr. Deputy-Speaker]

couple of minutes more; five minutes more but not beyond that.

श्री मधु लिमये : कपुल ग्राफ मिनट्स ? तो मैं बैठ जाता हूँ ।

MR. DEPUTY-SPEAKER : You try to conclude.

श्री मधु लिमये : कान्क्लूड क्या करना है ? मैं ने तो अभी शुरू भी नहीं किया है तो कान्क्लूड क्या करूंगा ? ठीक है, अब आप को क्या बताऊँ, 40-50 रातें जाग कर मैं ने यह मेहनत की है.....

MR. DEPUTY-SPEAKER : I know. The hon. Member always takes, so much trouble. But you must recognise that there are certain time limits also. How can I disregard all that ? I am prepared to give you five minutes more.

श्री मधु लिमये : ठीक है, तो जाने दीजिए ।

MR. DEPUTY-SPEAKER : All right. Shrimati Sharda Mukerjee.

SHRI NARAIN SWARUP SHARMA (Domariaganj) : Nobody has spoken from the Jana Sangh Party.

MR. DEPUTY-SPEAKER : The Resolution has been moved by Shri Goyal . . .

SHRI NARAIN SWARUP SHARMA : He has moved the Resolution. I want your protection. My name has been given by the Party.

MR. DEPUTY-SPEAKER : I will consider that later on. I have to bear in mind the time limit. Your Party member has moved the Resolution.

श्री मधु लिमये : आप ने पहले वक्त कुछ तय नहीं किया और आते ही बेल दबाया । पहला वक्ता आधा घंटा बोला तो हम को 25 मिनट दिया जाता.....

MR. DEPUTY-SPEAKER : I do not know how much time he took.

SHRI MADHU LIMAYE : He took nearly 40 minutes.

SHRI NARAIN SWARUP SHARMA : Because he was the mover of the Resolution. What about my Party time ?

श्री मधु लिमये : आप को कुछ तो पहले से वक्त बांध देना चाहिए :

MR. DEPUTY-SPEAKER : I am not concerned just now with your Party time. I agree there should be a fair debate and I am always conscious of that.

SHRI MADHU LIMAYE : Where is the fair debate ? आप पहले से हम को कह देते कि आप को 30 मिनट मिलेंगे तो उस के अनुसार हम अपना भाषण बनाते ।

MR. DEPUTY-SPEAKER : We have got 5 hours. Let us be very fair about it. Five hours allocation is divided half and half and out of that, according to party-wise strength, the time is given.

श्री मधु लिमये : कई दफा हम समय बढ़ाते हैं । कमी कमी पांच पांच गुना समय हम बढ़ाए हैं ।

MR. DEPUTY-SPEAKER : That is true.

SHRI RANDHIR SINGH : What is his Party time ?

श्री मधु लिमये : देश की बात मैं कर रहा है । पार्टी का सबाल नहीं है ।

MR. DEPUTY-SPEAKER : His Party time is over. That is why I cautioned him. If Mr. Goyal has taken more time . . .

SHRI NARAIN SWARUP SHARMA : What about my Party time ?

MR. DEPUTY-SPEAKER : Please

resume your seat. I am not concerned with your Party time just now.

I am concerned with this. He was the seconder of the motion. I should not give the impression that there was no fair debate or no fair opportunity. I do not give that impression at any time, if I may say so. I can give him some time, but if he wants 30 to 35 minutes, that is not possible. Mr. Limaye, you do not want to conclude your speech ?

SHRI MADHU LIMAYE : I have not even begun. Where is the question of concluding ? That is why I do not want to speak.

MR. DEPUTY-SPEAKER : What can I do ? The Business Advisory Committee has decided the time . . .

SHRI N. K. SOMANI (Nagaur) : You can give him time by the consent of the House . . .

MR. DEPUTY-SPEAKER : If he insists that the same time should be given to him, how is it possible ?

SHRI N. K. SOMANI : After all, his name is also there as one of the movers of the Statutory Resolution. Mr. Goyal has taken 30 to 40 minutes . . .

AN HON. MEMBER : Only 20 to 25 minutes.

SHRI N. K. SOMANI : May be, 20 to 25 minutes.

MR. DEPUTY-SPEAKER : Is Mr. Limaye inclined to continue ?

SHRI MADHU LIMAYE : How can I ?

MR. DEPUTY-SPEAKER : You have lost your mood. You will not be effective.

श्री मधु लिमये : इस सदन में जो मध्ययन करेगा, मेहनत करेगा उस की कोई कीमत नहीं है ।

MR. DEPUTY-SPEAKER : This is not proper. Shrimati Sharda Mukerjee.

SHRIMATI SHARDA MUKERJEE (Ratnagiri) : All of us, from all sides of the House welcome the Government's attempt to stop smuggling into the country . . .

MR. DEPUTY-SPEAKER : I would like to point out that she has only ten minutes.

SHRIMATI SHARDA MUKERJEE : This Bill provides for punitive measures. I want to know how this is really going to stop smuggling into the country. For instance, I am told that in Goa when the food ships come in, through some secret signs which are passed on before, gold is smuggled through the sacks containing foodgrains. Similarly, all along the southern coast which I happen to represent it is known for a fact that every other fellow is walking around with a smuggled transistor and nobody asks him how he got it. In my constituency, Mr. Walcott landed; not only did he land but he had lunch there, he spent several hours in the village, then he caught the State transport bus and safely got away to Bombay. All these were within the knowledge of the police, the knowledge of the people, but nobody ever found out how he got away.

When I was in my constituency some months ago, I met some of the Customs people who are supposed to be looking after the smuggling site. There is a solitary man; he has neither a jeep nor a radio communication; there is no telephone along the line. So, all this smuggling willily meerily go on.

Another thing is that if you go down any street in Bombay or Calcutta, you can buy anything that you want under the sun, provided you can pay the price. You don't have to go far. In Juhu and Pali Hill of Bhandra, people tell me that smuggling is going on, but they are so terrified that in case they report the matter to the police, they themselves will be in danger. So, unless you provide effective administrative and police machinery to stop what is



[Shrimati Sharda Mukerjee]

happening, it is not going to do any good having these punitive measures.

Secondly, Government has provided certain powers to the officers. I am told, where are excise officers, each one takes a share. When you provide greater powers to the customs officers it would become a smugglers, paradise. That is what is going to happen. What is more important is (a) to see that adequate machinery exists to stop the smuggling and not wait till you actually go and raid the place and find out whether the man has got smuggled goods or not; and (b) to make it economically unprofitable for the man to smuggle such articles. I am told, along the Gujarat coast, you can buy as much nylon yarn as you like. We have put a very heavy excise duty on nylon here. Who wants to buy Indian-made nylon? The mills here are closing down, because, you can buy smuggled yarn. We have made it very difficult for the people to get licenses for spare parts for ordinary machinery. I am told, you can put up a whole factory provided you are prepared to pay the price. You can get things from the smuggling agents. As long as these things continue you will not be able to detect what is being smuggled by just going to the place where these things are stocked. They will never stock such things in one place. There is a wide ring operating, both national and international and this has to be checked. Smuggling is having a very adverse effect on our economy. Smuggling is having the effect of having our foreign exchange being drained out of the country and so this should be checked if you want really to help the economy of the country. When you have black-market money, the easiest way to turn it into something worthwhile is to arrange for getting in gold. There are various people who have engaged themselves in contracts for importing foodgrains and within one year they have acquired cars, built houses. Nobody has ever asked them how they acquired so much money. How they got such huge wealth out of the foodgrains contract. This thing happens. Every day such people are becoming multi-millionaires. Nobody has ever asked them how did you get the money? That is at the bottom of it all.

As far as the operative part of the Bill is concerned, I am glad small traders are excluded, because, poor fellows, they will neither be able to line the pockets of the officers concerned, nor do they have sufficient staff. The burden is upon the man who has in stock imported articles.

There is one thing I am rather worried about. It is about delegated power. We are constantly moving in an atmosphere of mistrust where it is said that certain powers which are called delegated powers, will not be properly used. To add to it will only create a greater mistrust and it is not going to help the present situation at all. I am not at all happy that the Government officers, powers have been enlarged, because that will only mean that you have greater corruption, greater opportunity for graft and it will certainly not cure the administrative inefficiency which exists.

These are my only comments. I support this Bill, but I just do not know how it is going to be implemented, how it is going to help the economy and cure the economic troubles which have been started by smuggling.

MR. DEPUTY-SPEAKER: I hope other hon. members will emulate the example of the hon. lady member.

SHRI JYOTIRMOY BASU (Diamond Harbour): Does the Chair want to help the Minister with smooth passage of the Bill?

MR. DEPUTY-SPEAKER: No. He will have to go to the Business Advisory Committee. This time was decided there. His party is also represented on the committee. This time was determined there taking all things into account. We started today at 2.15. Five hours have been allotted for this Bill. We must conclude the consideration stage today, come what may, leaving one hour tomorrow for clause by clause and third reading. I have discretion to extend time by half an hour. Accordingly, I am dividing time.

DR. Ranen Sen 10 minutes.

DR. RANEN SEN (Barasat) : How ? My party has 14 minutes according to the calculation.

MR. DEPUTY-SPEAKER : Out of 5 hours, one hour is for the next two stages. He will get that time then.

DR. RANEN SEN : This is very unfair. Anyway, I shall start.

Any Bill that seeks to control and root out smuggling is to be welcomed. In so far as the object and reasons go, this is a piece of legislation which should be welcomed. But I feel that the provisions of the Bill do not go far enough to root out the evil that goes on in India today.

In order to understand the magnitude of this evil, one should see now in spite of the many loopholes present in the existing Act and due to total administrative collapse and absence of administrative control to prevent it and the amount of corruption that is rampant in that machinery, only from January to Oct. 1968, goods smuggled worth Rs. 17.3 crores were captured. I presume this is one-fifth or one-sixth of the total smuggled in and out of India.

Many members have spoken about items of goods smuggled. Today we find that certain pharmaceuticals produced here, particularly certain vitamin tablets and other patent medicines, are cheaper here and therefore, they are smuggled out. A whole network operates here; it is a smugglers' paradise that we find in India today. It has become a happy hunting ground for smugglers who come and go as they like. Shrimati Mukerjee mentioned about Walcott. Nuns, Fathers and clergymen have been arrested in Calcutta, Bombay and other places on this charge. India is surrounded by duty-free ports like Hongkong, Singapore, Beirut, Aden etc. This facilitates their operation.

Therefore, any Bill that seeks to eradicate this evil should have in it more stringent provisions. The Bill, I am sorry to say, does not go far enough. Firstly, I want to know why this present Bill does not contain certain provisions which were there in the earlier Bill (pages 5 and 6).

It is an attempt to water down so that this control of smuggling simply remains on paper. Since you have asked me to be brief, I will only point out certain lacunae. To-day it is known that the smugglers have a wide network which is much more powerful than the Government network. There is small band of smugglers throughout India in all the cities and villages and through them these smugglers operate whether it is a transistor radio, or rice or jute or shaving blades.

I want to draw the attention of the Minister to clause 11 M of this Bill. Later on when the second reading comes, I will point out more clearly. The provision says:

“ . . . nothing in this section shall apply to petty sales. . . ”

and by petty sale it is meant a daily sale not naxceeding Rs. 2500. It is known that in big cities and smaller towns also, through these petty sales smuggling goes on merrily. Therefore, this one particular thing I do not like.

Secondly, in this amending Bill there is a question of confiscation of the property or the smuggled goods. There is the question of confiscation of vehicles, this and that. There is the question of a certain amount of fine. But if the Government is really serious in controlling or rooting out this corruption, it should take more deterrent punishment. Why should not imprisonment be given to these people who are found guilty of smuggling and not the petty people who are operating in the gang but the people who are really behind the whole scene? We have seen in the big cities, as Shrimati Sharda Mukerjee was saying, that everything is found there. You go and catch a small fry. You will find that there are thousands of small fries, there are big 'Saiths' and big businessmen who are operating the racket. In this amending Bill I do not find anything that can be considered as deterrent to the smuggling, anything that can really stop this smuggling because there is no such thing as to catch the big people sitting behing and operating the racket.

[Dr. Ranen Sen]

Thirdly, there are other provision also. Take for instance the original Act. In the original Act, Section 117 deals with fines. I have read the original Act as well. There is no mention of deterrent punishment in this. I want to know why this softness, why this sort of soft corner for the smugglers who are runing the economy of our country and spreading corruption throughout. To Clause 11K's proviso I want to draw your attention. The Proviso says :

“Provided that no transport voucher shall be necessary for the transport, within a village, town or city. .”

The area is 50 Kilometers. Now as far as West Bengal is concerned, I come from that area and that area is near the Pakistan border. Many big towns are included in that area. Inside the towns the smugglers can operate without the town and reach the city of Calcutta where nobody can catch anybody. This is another lacuna to which I draw the attention of the Minister through you. 11J-this is just standing very generally. When this clause comes, I will deal with it more thoroughly.

Clause 11J says; “Every person who owns . any specified goods, the market price of which exceeds fifteen thousand rupees. .” That means that if a person is holding goods but whose value is short of this sum by one rupee, he is not required to do anything. There is no voucher or no notification required for him. If these loopholes are kept like this, we cannot expect improvement in the situation inspite of the fact that the *Statement of Objects and Reasons* contains laudable objectives. Again clause 11G says: “Nothing in sections 11C 11E and 11F shall apply to any notified goods which are in personal use of the person by whom they are owned, possessed or controlled, or kept in the residential premises of a person for his personal use” There is no hint that it should all be within reasonable limits and smugglers can carry on their trade under the guise that these goods are for personal use. During the British days also, there was smuggling but during the last 21 years of the Congress rule, it has increased and has now become a regular

trade just as black market has become a regular market. . (*Interruptions.*) Even today Congress rule exists in the Centre. Therefore, if the Minister wants to do away with this curse that affects our economy and moral, these lacunae should be removed and loopholes plugged so that we root out this evil to a great extent, if not completely.

श्री अमृत लाल नाहाटा (बाड़मेर): उपाध्यक्ष महोदय, यह सही है कि जनवरी में जबसे यह अर्डाइनेन्स इश्यु किया गया उसके बाद से हमारे देश से चांदी का बाहर जाना काफी कम हुआ है। हमारे देश के अखबार इस बात के साक्षी हैं। चांदी के जो भाव हमारे देश में हैं, वे इस बात के साक्षी हैं कि पिछले दो महिनो में इस अर्डाइनेन्स की वजह से चांदी का स्मग्लिंग होना काफी कम हुआ है। इसलिए मैं इस बिल का स्वागत करता हूँ क्योंकि इसका मकसद है स्मग्लिंग और तस्करी को रोकना। लेकिन मैं बताना चाहता हूँ कि यह एक बहुत ही अस्थायी शार्ट-लिव्ड मामला है क्योंकि शुरू शुरू में अर्डाइनेन्स आया है, हमारे स्मग्लर्स घबरा गए हैं, वे रास्ता ढूँढ रहे हैं, उनका एटोट्यूड इस कानून के प्रति और इस सरकार के प्रति हिंकारत और कन्टेम्प्ट का है, वे हंसकर कहते हैं कि यह तो थोड़े दिन का मामला है, हम कोई दूसरा रास्ता निकाल लेंगे, सरकार स्मग्लिंग को रोक नहीं सकती है इसलिए कि इस देश में स्मगलर्स की परैलल सरकार चल रही है। वह आपकी पुलिस के प्रति, आप की सरकार के प्रति, आपके कस्टम्स विभाग के अधिकारियों के प्रति बिल्कुल हिंकारत का दृष्टिकोण रखते हैं और वह निश्चित है कि कोई भी कानून इस देश में पास हो जाय स्मगलिंग चात्र रहेगा। और मुझे डर है कि यह बात सही होने वाली है। इसलिए सही होने वाली है कि यह कानून हमारी नीतियों के अनु-रूप नहीं है। यह कानून कागजों पर इसलिए रहना है, और इससे देश के अन्दर जो सोना

भाता है वह भी नहीं रुकने वाला है, तो चांदी बाहर जाती है वह भी नहीं रुकने वाली है, क्योंकि मुझे डर है कि हमारा कानून जब हमारी नीतियों के अनुरूप नहीं होता तो उसका असर यही होता है कि कानून कागजों पर धरा रह जाता है। आप कैसे उम्मीद करते हैं, कहा गया माननीय लोबोप्रभु की तरफ से कि स्मर्गलिंग इसलिए होता है कि चांदी के भाव बाहर तेज हैं और हिन्दुस्तान में चांदी सस्ती है इसलिए स्मर्गलिंग होगा। मैं इस कारण को सही नहीं मानता। स्मर्गलिंग के दो, तीन कारण यह हैं कि हमारे देश में, और बाहर भी बहुत बड़ी तादाद में काली मुद्रा, चाहे देशी हो या विदेशी हो, लोगों के पास जमा है। एक समानान्तर मुद्रा इस देश में चल रही है और बाहर भी चल रही है। यह पहला कारण है स्मर्गलिंग का।

दूसरा कारण यह है कि स्मर्गलर को इस देश में इज्जत और प्रतिष्ठा प्राप्त है। स्मर्गलर के यहां हमारे मिनिस्टर्स दावतें खाते हैं, उनसे चन्दे लिए जाते हैं। स्मर्गलर्स को दानवीर कहा जाता है और अकाल के नाम पर या अन्य किसी कार्य के लिए मिनिस्टर्स लोग उनके सामने हाथ फेंकते हैं और चन्दा लेते हैं और उनको दानवीर का खिताब दिया जाता है, समाज में उनको प्रतिष्ठा प्राप्त है, उनके पास पैसा है, वह राजनीतिक प्रभाव रखते हैं, प्रशासन में प्रभाव रखते हैं।

और तीसरा मैं यह निवेदन करना चाहता हूँ कि आप कहते हैं कि ब्राडिनेन्स से स्मर्गलिंग बन्द हो जायगी, जबकि मेरा कहना है कि इस ब्राडिनेन्स से ही स्मर्गलर्स ने फायदा उठा लिया। पहले से मालूम था चांदी के सटोरियों को कि इस तरह का ब्राडिनेन्स आने वाला है कुछ मुट्ठी भर लोगों को मालूम था, मैं चंलेंज के साथ कहता हूँ कि बम्बई में कुछ विशिष्ट लोगों को पहले से मालूम था कि ब्राडिनेन्स आने वाला है और इससे चांदी का भाव गिरने वाला है। उन्होंने लाखों रु० इस ब्राडिनेन्स के

पहले कमाने का प्रबन्ध कर लिया और रु० कमाया है।

SHRI JYOTIRMOY BASU : Are you intending that Mr. Morarji Desai should whisper into their ears ? (Interruptions)

श्री अमृत नाहाटा : यह मुझे नहीं पता। लेकिन मैं यह कह सकता हूँ कि ब्राडिनेन्स धरा रहा है यह बात पहले से लोगों को मालूम थी और उन्होंने पैसे कमाये।

यह 15,000 रु० की बात करते हैं कि इससे ज्यादा ही चांदी तो नोटिफाई करना पड़ेगा। वह बाकायदा नोटिफाई करेंगे और इसके बाद कभी भी इन्स्पेक्शन कीजियेगा जितनी चांदी नोटिफाई की है उतनी ही रहेगी। लेकिन फिर भी लोग चांदी खरीदेंगे और बेचेंगे क्योंकि सारी खरीद फरोख्त ब्लैक मनी से होती है जिसका कहीं कोई सबूत नहीं होता। और आप चाहे कानून बनायें, रजिस्टर करायें, नोटिफाई करायें, कुछ भी करें, जब तक आप विदेश व्यापार का राष्ट्रीयकरण नहीं करेंगे, जब तक काले धन को रोकेंगे नहीं और सेठों को जो इज्जत इस में मिलती है वह समाप्त नहीं होगी, तब तक स्मर्गलिंग चलती रहेगी और आप उसको किसी तरह नहीं रोक सकेंगे।

सोना आता है, आप कहते हैं कि रोकेंगे। क्या रोकेंगे ? जो सोना देश में आता है स्मर्गल होकर वह इन्वोयर्ड होता है। जो सोना भारत सरकार पकड़ लेती है उसका हर्जाना मिलता है स्मर्गलर को। यह अखबारों में छपा है "इकोनॉमिक टाइम्स" और "फाइनेंशियल एक्सप्रेस" में। जो सोना देश में स्मर्गल होकर आता है वह इन्वोयर्ड होता है। स्मर्गलर्स कहते हैं कि हम जो चांदी स्मर्गल कर रहे हैं बाहर, उससे देश की सेवा कर रहे हैं। क्योंकि अगर ऐसा नहीं करें तो हिन्दुस्तान के रुपये का मूल्य गिर जायगा, और उसके मूल्य में स्थिरता नहीं रहेगी। सोना तो स्मर्गल होता ही रहेगा, और

[श्री भ्रमृत नाहाटा]

भगर चांदी बाहर नहीं जायगी तो रुपये का मूल्य गिर जायगा। और इसलिए हम देश की बड़ी सेवा कर रहे हैं। और उस चांदी के भाव, हर चीज के ब्लैक के भाव, गैर कानूनी भाव आप के सारे भ्रखबारों में छपते हैं। उन भ्रखबारों का उद्घाटन करने हमारे मन्त्री महोदय पहुंचते हैं। ये भ्रखबार स्मगलरों को प्रोत्साहन देते हैं। और जब बात करते हैं विदेशी भ्रखबारों के राष्ट्रीयकरण की तो कहा जाता है कि नहीं। क्योंकि आप की फिलासफी यह है कि फ्री कम्पटीशन होना चाहिये, पैसे वाले ही देश का विकास कर सकते हैं। इस फिलासफी से, इस नीति से स्मगलिंग आप कदापि नहीं रोक सकते हैं। इसीलिए स्मगलिंग बढ़ रहा है, विदेशी चीजों के लिए देश में वातावरण बन रहा है। विदेशों के साथ कोनेबोरेशन होता है। तो जब कोलेबोरेशन का युग है फिर स्मगलिंग के लिए क्यों एतराज करते हैं? जब सरकार गैम्बलिंग को प्रोत्साहन दे रही है, रेस होती है, लौटरी निकल रही हैं तो स्मगलिंग को कानून बना कर आप कैसे रोक सकते हैं।

इसलिए मैं कहना चाहता हूँ कि यदि कानून को सफल बनाना है तो उसके अनुरूप नीतियाँ बनानी पड़ेंगी, वातावरण बनाना पड़ेगा और उस वातावरण में ही यह कानून सफल हो सकता है, अन्यथा नहीं हो सकता है।

**SHRI JYOTIRMOY BASU (Diamond Harbour) :** Sir, the Finance Minister has made tall but hollow claims saying that this amending Bill will stop smuggling, which has become a traditional and roaring business in this country. I shall quote from an article written as a result of an interview with one of the world-famous bullion traders, Mr. Samuel Montagu :

"Smuggling goes on uninterrupted, ordinance or no ordinance. After the recent ordinance restricting the movement of silver on the Indian coastline, the smugglers are re-organising themselves to meet the challenge."

The Finance Minister may take note of it,

The measures proposed here are only to hoodwink the people and to touch the real roots. The existing official machinery is so corrupt and saturated with malpractices, so quickly they are getting wealth, that it should act as an eye-opener to the Finance Minister and he should lay his hands on the right place in the chain of smuggling. After the promulgation of the ordinance, the poor repatriates from Burma in Madras, who were running small trades with the goods they brought with them, were caught by the over-energetic customs-officials. They were deprived of their belongings and rendered homeless once again.

The same article says :

"According to these circles, what the authorities have seized during the last year does not amount to more than 5 per cent of the metal smuggled out. It is strange but it is true, that when authorities act on information, it is the smugglers themselves who supply the information. They have nothing to lose, the amount will be made good..."

Whatever they try to impress us by publicising some haul through PIB photos and giving them sumptus parties, etc. is only a token catch by agreement, because the smugglers themselves are anxious to maintain their image before the people and before the House.

We have all this show of rigidity and righteousness. What will happen? Only the small fries will be caught and disturbed. Some of them will be sent behind the bars, but the roots will continue to swell and prosper as before. Unfortunately during the last 21 years of Congress rule, my country has become a smugglers' paradise. It is quoted very often that India is the best place for smugglers. It has come to be a key industry in this country. The Finance Minister, who never stops at anything as far as lip service is concerned, said so many things when the Gold Control Order was issued, which ruined many

families in the country and made many commit suicide. He promised that smuggling and misuse of gold will be restricted by that piece of paper he produced so gallantly. But what has happened? Gold smuggling has gone up. Previously you could buy a tola of gold for Rs. 150 in the private open market. Today you pay Rs. 200. That is what has come out of Mr. Morarji Desai's wonderful performance.

"The pattern of silver trade in Dubai varies. The moment silver lands in Dubai, the banks purchase it and sends it to the London bullion market; or silver is bartered at the port itself for any item of luxury or other goods which is subject to heavy taxation in India. The tonics and country crafts that carry silver to Dubai bring back the contraband for being smuggled into India."

Let the Finance Minister in his reply say how many gold smugglers worth their name have been caught, penalised and punished during the last few years. Let us go to the few cases. Shri Biju Patnaik, the man who had a private chartered plane made it land at a way-side station and did it by torchsignalling. A team of customs experts were despatched from Calcutta to do the right job. But when they came they were not allowed to go near hundred yards of the plane. We know what the plane carried. It carried smuggled gold but being a Congressman they did not dare touch him. Then, Mr. Ruth Everett of the Everett Lines of USA in one trip brought gold worth not less than Rs. 53 lakhs. But nothing happened. The same thing happened with Indo-China Steam Ship under Jardin Henderson's famous smugglers. When you seized the steamer you let it go at a very small token penalty. The then Chairman was made the local Director of the State Bank of India and the Reserve Bank of India. I believe he was then made the Adviser in the Central Excise and Customs Department—so coal was carried to New Castle. The latest case is that of the BOAC. You had set a lot of fanfare and publicity to it but you made a mole hill of a mountain. In the end the pressure was too great from Whitehall that you could not resist it.

You cannot touch them. When you go to them for jobs for your nephews how can you touch them?

The most important thing is, smuggling is killing us. It always cuts, out it cuts and in it cuts, and it is causing a severe foreign exchange crisis for us. As a result you have reduced your earnings from import duties. It is certainly due to increased smuggling in every sphere of international movement of commodities and goods.

Where do the smugglers find their funds from? It is mainly from over-invoicing and under invoicing. The Administrative Reforms Commission had said that under invoicing and over-invoicing in this country would be damaging us to the tune of Rs. 200 crores per annum. I consider this an under-statement. It is anything between Rs. 500 crores to Rs. 500 crores per annum. They get their funds like that and Shri Desai is not in the least interested to set up a machinery to control this over-invoicing and under-invoicing in foreign countries so that the real source could be dried up. Money goes out from this country. Gold is bought there. We had a diplomat who was a victim of this racket. Some years ago he wanted to break this racket and he was butchered mercilessly. The Government could not do anything because they did not touch the real root of the problem.

You talk about preventing and controlling smuggling. The British Banks and American banks which are functioning here have been given all freedom to expand their business. They are the principal bankers in Dubai from where they are operating, collecting silver at lower prices and despatching it to London. In the same article it is said;

The Bird and Company by under-invoicing and over invoicing, cheated us to the tune of millions of rupees and accumulated that wealth in foreign countries. That money finds its way into our country in the form of smuggled gold and other things. In this way, the country loses the revenue by import duty which it would have otherwise

[Shri Jyotirmoy Basu]

got. I would request Shri P. C. Sethi, who is a good man, to tell us something about it.

Then, the Reserve Bank report refers to a gap between, what is called, foreign exchange earned and foreign exchange received. What is this difference? Why are you allowing this?

Coming to the smuggling on Indo-Nepal border, some people say that it amounts to Rs. 30 lakhs per day. It is done mainly in stainless steel and nylon by the antinational Nepalese traders with the connivance of the big capitalists of this country and the Government of India stands as silent watcher.

The whole world knows about smuggling but only Shri Morarji Desai, the good husband of the Finance Department, does not know how it is being done. If the Government is serious about controlling smuggling, it will have to take far more vigorous steps than it is contemplating to day. Then it will give better returns.

**SHRI HIMMATSINGKA (Godha) :**  
Mr. Deputy-Speaker, I have heard the hon. Members who have spoken on this Bill. Though they have tried to point out a number of defects which exist, all their arguments really support the Bill in principle.

As a matter of fact, I feel that the Bill ought to have been passed long ago, because smuggling is ever on the increase. Even though the import of a large number of items has been prohibited for a number of years, they are available in the market any where you go, be it a small town or a big town. I am sure the introduction of this measure will, to a certain extent, stop this kind of availability of smuggled goods. Already, after the introduction of this Ordinance, it has become difficult for persons who deal in smuggled goods to continue their trade, because they have to get vouchers from the shops from where they buy them. Those who used to deal in smuggled goods used to get certain articles from the customs when they disposed of captu-

red goods so that they could get vouchers for them from the customs. But when they sell those goods, they do not part with that voucher. They will retain it with them so that in case anybody makes an inquiry they can show it to prove that it has been purchased from the customs. Now, under this Act they have to make a declaration of their stock. So, they cannot continue to indulge in this practice of selling smuggled goods as if they were obtained from the customs by showing the voucher.

Of course, the amount of Rs. 15,000 looks a big amount, but when you consider the value of the goods mugged, namely, silver, gold etc. it is not a big amount. If he has got only stocks worth Rs. 15,000, if he goes on selling, the stock will get exhausted soon. So, he will have to prove that the subsequent supplies were rightfully obtained. Therefore, this is a welcome measure and I feel that the criticism that has been levelled against the Ordinance by Shri Goyal is not justified.

This Bill was introduced in the House on the 3rd of December. But, as the time of the House was occupied in various extraneous matters, important Bills were not allowed to be taken up. Naturally, this Bill could not be reached and passed.

Therefore this Ordinance became necessary and I feel that it is a very right thing that has been done. It has enabled a certain amount of smuggling to be stopped.

A large number of articles the import whereof has been banned--watches, synthetic yarn, fabrics of various kinds, alcoholic liquors, cigarettes, fountain pens, perfumes etc--you can buy even today in any quantity. How is it possible unless smuggling has been going on on a very large scale?

Nepal has become one of the source through which these smuggled goods are coming and it is very necessary that proper steps be taken to check smuggling.

The defect pointed out by previous speakers that the staff is not very effective and is not honest in certain cases is also helping

smuggling. If effective steps are taken to stop smuggling, there is no reason why it should not be effective. If effective steps are not taken, it is no justification for this Bill not being passed into law.

Therefore I feel that the Bill is a very welcome measure and should be supported by the House. It will certainly help in stopping smuggling to a very large extent. If it is properly enforced and proper action is taken under the Bill, I think, a large part of misuse that is taking place will disappear.

Clause 11 (m) was criticised. I feel that is very necessary because that is one of the Provisions which will stop fraud and false names being put forward as purchasers or sellers. This provision was not there in the previous Bill. It is a welcome measure that has been added.

With these remarks I support the provisions of the Bill.

SHRI SRINIBAS MISRA (Cuttack) : Mr. Deputy-Speaker, Sir, however much one would like to support the Bill which seeks to check smuggling, the nature and the form in which this Bill has been brought forward rather arouses suspicion about the intention, whatever may be the objects and reasons noted in the Bill itself.

First of all, I would go into the constitutionality of the Bill itself. The Bill provides for a corridor the long coastline and the border of India. All this coastline and the border are States. If you go through the Bill, you will find that Government wants to control deposit, storing and movement of any article by notification. The power which is sought to be given to the Central Government is for controlling storage, disposal and movement of any kind of notified goods, that is, by notification at the sweet will of the Central Government.

What does it mean ? Under List II of the Seventh Schedule the State has the real power to control production and distribution of goods. Parliament has Power under entry 33 of List III to legislate regarding

certain kinds of trade and business. This law wants to give power to regulate all kinds of trade and bussiness, all kinds of production, distribution and control. How can Parliament, which has not got the power itself to legislate regarding such subjects, regarding all the articles, delegate such a power to the Central Government so that the Central Government can regulate all kinds of goods ?

I will refer to some entries in the Constitution itself. Entry 83 of List I refers to duties of customs including export duties. The Customs Act is simply a taxing Act containing ancillary Provisions for Punishment. Under entry 83 Customs Act itself enacted.

Then, Entry 41 of list I reads :

"Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers."

This amending Bill does not come with in Entry 41 of List I. Again, Entry 27 of List II reads :

"Production, supply and distribution of goods subject to the provisions of entry 33 of List III."

MR. DEPUTY-SPEAKER : You are raising some constitutional point. You should have done it when the motion for consideration was taken up.

SHRI SRINIBAS MISRA : I did it; it was overruled.

MR. DEPUTY-SPEAKER : I do not know. You are taking your normal time for this. Therefore, I just cautioned you. Normally, the constitutional points would be raised at the time the consideration motion is taken up. Of course, this is a constitutional point worth consideration. It is for the Government to reply to that.

SHRI SRINIBAS MISRA : I raised it earlier; it was ruled out by the Chair at that time.



[Shri Srinivas Misra]

Here, Entry 27 of List II reads :

“Production, supply and distribution of goods subject to the provisions of entry 33 of List III.”

Here, a blanket power is being given to the Central Government to notify any good. In respect of specified good and notified good, of course, some difference is being made out in the definition. Anyway, any good can be notified and specified ..

**SHRI HIMATSINGKA:** It must be imported goods.

**SHRI SRINIBAS MISRA :** Specified good is with reference to export and notified good is with reference to import. So, any good can become notified good at the sweet will of the Government.

Then, subject to Entry 33 of List III, the Parliament has got powers only with regard to certain matters. Entry 33 of List III says :

“The products of any industry where the control of such industry by the Union is declared by Parliament by law....”

There is no such declaration yet. Then it says :

“foodstuffs, including edible oilseeds and oil ....”

There may be some other goods besides this, that is, cattle fodder, raw cotton and raw jute. This House is to delegate such a blanket power to the Union Ministry. I hope, he will answer this point. After that, I will resume.

**MR. DEPUTY-SPEAKER :** Your time is up. I have followed you. As I observed earlier, this is a serious matter. You have raised certain points as to whether the Centre can delegate or take over certain functions which under the Constitution are within the sphere of the State. I would just make one observation. Either the Minister concerned or the Law Officer of the Government must take this point seriously because every time, the question of encroachment on

the sphere of State is being raised which I do not want to take very lightly. At that time, you will get more time.

Shri S. R. Damani.

**SHRI S. R. DAMANI (Sholapur) :** Mr. Deputy-Speaker, Sir, this Bill is to replace the Ordinance issued on 3rd January, 1969 in order to prevent the smuggling activities prevailing in the country.

The question of the huge smuggling going on in the country has been raised on the floor of the House several times in the last two years. The Government has adopted the policy of raiding the places and seizing the goods wherever they get information. A substantial amount of goods has been seized during the last year. But we can very safely say that the percentage of goods which have been seized is very less in comparison to the goods which have been smuggled into the country.

17 hrs.

[ **SHRI THIRUMALA RAO** *in the Chair* ]

The main object of bringing this legislation, as expressed in the ‘Statement of Objects and Reasons’ is :

“Because of large scale smuggling of silver out of the country and of various consumer articles into the country...”

It is a fact that, in the last two or three years, smuggling of silver out of the country has increased considerably because the price of silver in the world market has gone up very high. To that extent, the price of silver prevailing in our country became remunerative and as such, smuggling of silver from the country has been going on for the last two or three years. Even after bringing this Ordinance, I do not think that the volume of smuggling of silver has been very substantially affected. According to the reports that we see in the papers, smuggling of silver still continues.

Government has also exported some silver from April to November 1968- 54,344

kilograms valued at about Rs. 3 crores. It is a proof that the prices in the other countries are so high that even Government purchase silver here and export on the basis of no profit-no-loss. I shall give here the figures which have been supplied to the House in reply to Question No. 1531 dated the 3rd March, 1969. The following quantities have been seized from 1st November, 1968 to 15th February, 1969. In 3½ months the following quantities have been seized by the Customs Department: gold 1,725 kilograms valued at Rs. 145 lakhs; silver 29,057 kilograms valued at Rs. 85.6 lakhs; and other items valued at Rs. 410.5 lakhs, thus making a total of about Rs. 641 lakhs. In 3½ months the amount of goods seized is about Rs. 6½ crores. We can well imagine what will be the volume of smuggling which has not been detected and for the whole year. Therefore, it is very essential that Government should consider it seriously and take some other measures to stop smuggling. This is essential because this affects us in two ways. Our silver is going out, our wealth is going out, and in return what we are getting is consumer items which are being produced in our country—nylon yarn, watches and so on. Most of the consumer items are smuggled into our country. Those industries which are manufacturing those items in the country are finding difficulties in selling their products because of excise duty, because of high cost of production.

The consumer goods which are smuggled into the country do not pay any excise duty and, therefore, they are sold cheaper. It is common knowledge that any item, transistor or tape-recorder or watch, is available in any of the big cities. It is an open market. Therefore this smuggling is affecting our economy to a great extent and specially those consumer good industries. I want to quote one very important report published by Hardy and Harman of USA. They are the biggest dealers of bullion in the USA and this is what that they estimate. They say like this in their annual report.

“Even though the ban on the export and import of silver continued it was estimated that nearly 60 million ounces were shifted out of India during

1968, Primarily through illegal sources.”

Now, Sir, 60 million ounces come to about 90 to 100 crores of ruppees. This is the estimate of loss to India which one of the biggest bullion dealers of USA had given. So, this amount of Rs. 90 to 100 crores goes out of this country. What is the amount that we seize? They say it is Rs. 85 lakhs. Only one per cent of the smuggled goods has been got hold of. 99% of the goods go without detection. This is the failure which is taking place and such huge amount of foreign exchange is going out of this country. And, I hope, this Bill will prove successful to some extent in this respect. But what happens is this. According to the general feeling this smuggling business is done with the support and cooperation of some of the officers of the department. It is again the same officers who have to enforce these provisions and these measures. Will it be possible to expect them to detect every case of smuggling? So for they have not been to bring to book all the cases of smuggling. Now, will it be ever possible for them to detect and stop this smuggling altogether? I don't think so, Sir. There is a proverb in Hindi and I want to quote it.

बहु पासे चोर मरावे  
 चोर बहु का भाई ।

We expect our officers who are supporting this smuggling, to check it. Will it be possible? How far it will be successful, I have my own doubt.

Then, there are a few suggestions which I would like to place before the house. One suggestion is that the State Trading Corporation should be authorised to handle the export of silver, and the foreign exchange so earned can be used for payments against the huge imports which they are making. STC is importing hundreds of crores worth of goods every year and they have to pay large amounts of foreign exchange. If they start purchasing silver and exporting it, to that extent foreign exchange will be saved and our liability of repayment in foreign exchange would be reduced. Now, some-

[Shri S. R. Damani]

times, if the price of silver in the country is higher or unremunerative, even then STC. can adjust the difference in the sale prices of imported items. What the smugglers do is they purchase gold at Rs. 66 per tola there and they sell it here at Rs. 145 per tola. They make a huge profit on gold, on the smuggled gold. If STC could take up silver exports even at a little loss, and make payment of foreign exchange against the import, it will save foreign exchange in the process.

There is another thing which is very important and it is this. There are certain consumer goods which are smuggled into the country which are affecting our industry and also reducing our revenue and our excise duty. This loss will continue unless we take steps to stop this kind of smuggling. If this is not done, silver will continue to be smuggled out and we will be getting these consumer item in return and things will continue as they are today. Therefore, I would request the Minister to think in a practical way and do something so that at least we can save foreign exchange by authorising STC to export silver and stop the illegal import of consumer goods.

Lastly, about the disposal of the seized goods. Now the Customs after seizure of the goods sell them. Dealers and parties purchase them. They already keep stocks of smuggled goods. But under this shelter they sell away those smuggled also. This is a well known fact, known to the officers and Ministers. In what way can we stop this? They will prove that they have purchased these items from the Customs, produce the Bill and get away with it and nothing can be done about it. In this way, whatever other smuggled goods they have, they will sell in the market. So this offers a kind of protection to the smugglers. This system requires change. So I suggest that the resale of these items should be stopped. Any body who purchase these items from customs should not be allowed to sell them. If this is done, and if the present system of protection is withdrawn, we will be able, to some extent, to curb this evil of smuggling.

With these few words, I hope Government will consider my suggestions.

**SHRI N. K. SOMANI (Nagaur):** Before I proceed to offer my comments on the proposed legislation, I would like to make a brief presentation about a few attempts I made earlier since the last two or three years in the matter of the silver export policy of the Government of India. As early as July 20, 1967, I had brought this to the personal attention of the then Commerce Minister, Shri Dinesh Singh, and told him that this is the first time that India might assume a role of exporter of silver in the last 100 years due to the advantage of our recent devaluation; In view of the fact, however, that the British currency might also be devalued. In the near future, this advantage may not be available to us for a long time. I also mentioned to him that India has nearly 5.5 billion ounces of silver which, was of the value, at the then current price, of Rs. 6,000 crores, according to the Reserve Bank estimates at time. Therefore, I saw no justification at all in the Government's policy of either prohibiting the export of silver from this country or not encouraging it.

At that time, let me recall, the price in London was 160d per fine ounce which worked out to Rs. 448 per Kg. At that time in India, the price of silver was ruling at Rs. 350. Therefore, there, was enough margin. I do not know what was the lure, whether the Government of India considered silver as an essential commodity or there were any other considerations attached to this that this fabulous opportunity of not only building up our foreign exchange reserves in the course of the last two or three years but of curbing the illegal and clandestine smuggling that was going on in this country, and still going on, should be missed, when we could have benefited a lot and smuggling could certainly have been stopped if honest and legitimate traders and exporters were allowed to export silver from this country.

I did not stop at that. I had a personal meeting with the hon. Minister. He of course promised that he would give my very

interesting suggestion the consideration it deserved. If this is the consideration that it has deserved, which has resulted in crores of rupees worth of goods smuggled and the Government's policy has not done a bit to help the exporters, and in the meantime we have completely lost whatever advantage we had in the matter of prices, of parity, I do not know what further I can say about it.

I followed up this attempt with the hon. Prime Minister at the end of Nov. 1967. She also sent the papers to the Commerce Ministry, but ever since then, I do not know whether it was by design or by accident, there has been no export from India. Neither the State Bank nor the Reserve Bank was allowed any opportunity in this matter of silver export or silver buying. Instead of tackling this economic problem and by which we could have certainly built up our foreign exchange reserves and not only that we could also have built up a secondary support for our foreign exchange because every one knows that gold standards are now on their way out and India could certainly take an ingenuous stand by building up its silver reserves either at the Reserve Bank or the State Bank level. This fact was clearly brought out by the Economic and Political Weekly as early as June 1968. It says :

"Obsession with the gold exchange standard, as understood before as well as after the setting up of IMF, prevents the framers and modifiers of the Reserve Bank Act from taking a forward, indigenous view of the composition of monetary assets. With demonetisation of gold around the corner in time, India should use the advantage of its large silver stocks to have a more diversified base for foreign exchange reserves and credit creation."

Unfortunately even those words were not heeded to. I cannot understand one thing. The Government of India cannot come forward and say that it is not aware of the advantages that we were placed in for the last 2 years and that do not know at what scale this smuggling is going on. I will just give you figures about the gold,

silver and other goods that have been caught in the last 3½ months after the ordinances was promulgated. This data is provided by your Department and it is after this ordinance was promulgated. It is 1725 Kg. of gold valued at Rs. 145.5 lakhs, 29057 Kg. of silver valued at Rs. 85.6 lakhs and other goods worth about Rs. 410.5 lakhs. It goes on to prove that when you undertake legislation of an unimaginative kind, when there is a deeper conspiracy and collusion between the smugglers and the dishonest elements here and elsewhere, unless you go to the root of the problem is not going to be solved. I would like to say very forcefully and with great respect that when this Bill is passed, it is only going to hurt the small silversmith and the smaller people who are engaged in honest trade in refineries and ornament making industry. As for as the large scale international smugglers are concerned, you will not be able to touch them. This proposed legislation, howsoever cumbersome, is not going to effect those who are not at all concerned with your laws .

The daily news papers in Bombay and Calcutta reveal and give you the figures as to how many bars and being smuggled every day out of the country. 300 bars, 250 bars 350 bars and these are regularly reported by intelligent reporters in our daily newspapers. I certainly would not believe that with its vast assets the Government of India have in their intelligence field, in their preventive field, in their excise field they were not able to keep track of the clandestine movement. They have totally failed in this matter. Every one knows who are the parties who run, and who are operating at the end of Dubai. Every one knows as to who are the principal brains behind the smuggling activity in Bombay and elsewhere. Who are the people caught ? They are the ordinary truckwalas and those who are running the mechanical boats and the small fry is being caught, sentenced and prosecuted while the brain behind the racket is not touched. If this is perpetuated, then I have a very poor opinion for the intelligence and competence of the Government staff. I cannot understand this. If you have principal intelligence agents located in Bombay, in Surat, on the Indo-Nepal border and in Dubai, you certainly would be able to trace, if you want to trace those who are behind this business.

[Shri N. K. Somani]

I will like to quote another report. According to Customs figures of England, 26 million ounces of silver were imported into UK from Dubai between January and May 1958. During 1967 gold worth Rs. 90 crores was exported from the U.K. via Dubai. The total Dubai trade in gold and silver was around Rs. 258 crores. When these figures are available to newspapers, I cannot accept the plea that the Government is unaware of it. I can only come to the conclusion that either they are incompetent or do not want to touch the fundamental bases of these things. An other very famous firm, Handy and Harman who are very good counsellors in the bullion field say in February 8 issue of *Commerce* about sixty million ounces of silver were smuggled in 1968 from India. People living in Bombay know it. I can pick up a telephone and find out exactly how many silver bars have come, how many are being sold in India and how many are earmarked for smuggling. They can find out without much difficulty these figures; they are available so simply. If they had asked for more money for helicopters to reinforce their investigation machinery or forensic talent we would have gladly approved of it. Instead they come out with this cumbersome and unimaginative piece of legislation. Just like the Gold Control Act hits only the poor goldsmiths and does not hit the smugglers, the same sad story is being repeated.

There is another unfortunate development in a sensitive matter of trade between India and Nepal and Mr. Limaye tried to focus the attention of the House on this matter. Nepal is giving a 40-60 per cent export incentive to crudely made silver articles. One can make some kind of a silver *thali* and then can officially send it all the way down to the port of Calcutta. Because the Chinese source is dried up, most of that silver is finding its way from India. Therefore, we do not understand why the Government should talk of only fifty kilometers from the coast. Delhi and Nepal are hundreds of kilometers from the coast. If one has to deal with this matter seriously, one has to be careful about those sensitive areas like the Indo-Nepal border, instead of keeping it open. Foreign exchange worth millions is being swindled. Then again

truck loads of sand and dust are brought to India from Nepal with the collusion of excise officials of both the countries and taken to Bihar mica mines like Kodarma where the rubbish is unloaded and mica ore or mica fines are loaded and taken to Calcutta to be exported at a cost much below what the Indian businessman can afford. The world knows that Nepal is no producer of mica. But this product goes from Bihar but as a product of Nepal because they have got the export incentive which is much higher than what we can ever afford or are prepared to give. This is how the honest dealer, honest trader and the honest refinery is made to suffer by this unnecessary paper work and by more powers being given to the bureaucrats. It seems they want to completely disintegrate the silver trade in this country. Otherwise, why this limit of Rs. 15,000? You cannot even buy a bar of silver for Rs. 15,000. You have also set the limit for transport. With all these rules and regulations the poor man will only be going between your office and his shop and filling up a variety of forms and not attend to his trade or profession at all. You have also imposed another limit of Rs. 2,500. This attitude only shows that you do not want to go to the root of the problem but that you want only a plethora of unnecessary legislation. Even now it is not too late. On the one hand you have to reinforce your preventive staff; put in a little more honest people and pay them a little more and give them all investigation facilities such as helicopters, etc. Which can at least match their adversaries who come in from Dubai side; give also encouragement for the export of silver from this country.

Even if you have to pay a small amount on export incentive to the Indian businessmen and to the genuine trader and exporter to that extent you will be discouraging this area of smuggling from this country.

**SHRI SONAVANE (Pandharpur)** : Sir he is always saying "you" "you". He should address the Chair, and through you the Minister.

**MR. CHAIRMAN** : Order, Order. He is addressing the Chair.

**SHRI N. K. SOMANI :** I was saying this : I was making two suggestions. One is to encourage the export of silver from this country and the other is to improve your vigilance in Bombay, Surat and Dubai. It is a curious fact : the hon. Deputy Prime Minister lives sometimes in Bombay and sometimes in Surat, but he has not even been able to control any smuggling. Surat district has now become the largest smuggling centre for nylon and rayon yarn. What kind of exercise of superintendence and vigilance that you are making ? In Bombay, every day, as I have described to you earlier, and on the Indo-Nepal border, these things go on.

The third point which I want to stress is that you should have an educative campaign among the Indian people, so that this obsession of trying to get imported, goods, anything that is imported, whether it is a transistor, radio, watch or nylon yarn or whatever it is, should go, and a spirit of Swadeshi is inculcated in all of us. This educative campaign would also to some extent help you to curb all this smuggling.

**SHRI NARAIN SWARUP SHARMA**  
*rose-*

**MR. CHAIRMAN :** I have to adjust the debate; you cannot put a question for a categorical answer from me. Shri Goyal has taken much of your time. There is no good arguing with me.

**SHRI BAL RAJ MADHOK (South Delhi) :** We leave it to you, Sir. At your pleasure, you can call him.

**SHRI SHIVA CHANDRA JHA** *rose-*

**MR. CHAIRMAN :** His name is also very much there. I know.

Shri Sita Ram Kesri.

श्री सीताराम केसरी (कटिहार) : अध्यक्ष महोदय, तीन जनवरी, 1969 को जो आर्डिनैन्स निकाला गया तस्कर व्यापार रोकने के लिए, उसके समर्थन में बोलते हुए यों तो बहुत सारी बातें आईं और बहुत सारे लोगों ने अपने विचार प्रकट किए और सभी लोगों ने

यह कहा कि तस्कर व्यापार ने हमारी एकोनामी, हमारी आर्थिक अवस्था और हमारे नैतिक जीवन के लिए एक बहुत गम्भीर परिस्थिति पैदा कर दी है और इस बात में कोई सन्देह भी नहीं है। विशेषकर नेपाल से हमारे यहां जो चीजें आती हैं उसके सम्बन्ध में हमारे दोस्त ने ठीक ही कहा कि विदेश के बड़े बड़े बैंक वाले और बहुत सारे दूसरे लोग नेपाल तथा दूसरे देशों के द्वारा यहां पर माल भेजते हैं और सिलवर तस्कर के रूप में बाहर जाती है। यह भी ठीक है कि चीन का माल खासकर नेपाल के थू जो हमारे देश में स्मगल होता है, जो मेरे दोस्त ने अभी कहा 30 लाख रुपयों का परन्तु जहां तक मुझे जानकारी है—क्योंकि मेरा क्षेत्र बहुत समीप है— 40 लाख रुपए की चीजें रोजाना स्मगल होकर हमारे देश में आती हैं और यहां के लोग उनको खरीदते हैं। इससे यह बात स्पष्ट है कि हमारे देश में जो चीजें पैदा होती हैं या बनती हैं उनके मुकाबले में वह स्मगल की हुई चीजें सस्ती पड़ती हैं। इस बात पर भी सरकार को ध्यान देना चाहिए कि जो चीजें हमारे यहां स्मगल होकर आती हैं उनके मुकाबले में हमारे यहां की वही चीजें सस्ती हों, उनकी कीमत कम हो ताकि तस्कर का वह सामान यहां पर विक्रि ही न सके। इससे हमारे देश को बहुत बड़ा लाभ हो सकता है।

हमारे दोस्त ने कहा कि मिनिस्टर लोग स्मगलर्स के यहां जाते हैं। मैं समझता हूँ इस तरह का प्रालोचन करना किसी प्रकार से उचित नहीं होगा। यह कहना कि मिनिस्टर के यहां स्मगलर्स आते हैं, मिनिस्टर स्मगलर्स की मदद करते हैं, यह बात बिल्कुल गलत है। बहुत सारे स्मगलर्स को मिनिस्टर जेल भी भेजते हैं, उन्हीं मिनिस्टर के अफसरान के द्वारा उन स्मगलर्स को सजायें भी मिलती हैं। इसलिए खामखाह इस बात को कह देना, इम आर्डिनैन्स बिल पर बोलते हुए, इस प्रकार से प्रालोचन करना कि मिनिस्टर लोग स्मगलर्स के यहां रहते हैं, मैं

[श्री सीताराम केसरी]

समझता हूँ बिल्कुल बेजा और गलत बात होगी।

जहाँ तक स्मगलिंग का सवाल है, जैसे चांदी की बात ले लीजिये, चांदी हमारे देश से बाहर जाती है। माइका की बात कही गयी। यह भी सच है कि जो टुक नैपाल से आता है और कोडरमा में आकर के खाली होता है और माइका लाद कर के कलकत्ते के बाजार से विदेश में जाता है। इसी तरह से अन्डर इनवायसिंग और ओवर इनवायसिंग से बहुत सारा पैसा बाहर जाता है। मान लीजिये एक लाख रु० का माल हमने ऐक्सपोर्ट किया तो 80,000 रु० का अन्डर इनवायस बना कर भेजते हैं और 20,000 रु० ब्लैक के जरिये विदेश में प्राप्त कर लेते हैं। इस तरह की चीजों को रोकने के लिये भी आपको कोई ऐसी योजना बनानी चाहिये जिससे दूसरे देश जब पोलिटिकल निगोशियेशन करते हैं, या ट्रेड निगोशियेशन करते हैं तो आप उस देश से कहिये कि जो माल हमारा आपके यहाँ जाता है, जो इनवायस में पेमेन्ट होता है उसके अलावा जो आपकी पार्टी हमारे व्यापारी को गलत ढंग से पेमेन्ट करती है उसकी रिपोर्ट हमको दे। इससे आपको यह फायदा होगा कि विदेश में जो हमारे व्यापारी ब्लैक मनी जमा करते हैं उसका पता लग सकेगा और यह अन्डर और ओवर इनवायसिंग का सिस्टम भी बन्द हो जायगा और देश के व्यापारी विदेश में कैसे काला धन जमा करते हैं इसका आपको पता चलेगा।

जैसे हांगकांग है, इसी तरह से देशों के नजदीक छोटे छोटे पोर्ट होते हैं, फ्री पोर्ट होते हैं, ऐसे ही अन्डमान निकोबार की छोटी छोटी चीजों के लिये आप फ्री पोर्ट घोषित कीजिये। इस से यह लाभ होगा कि कम कीमत की चीजें जैसे फाउन्टेन पेन, पैसिल या घड़ी इत्यादि, इन सारी चीजों का वहाँ के जरिये आदान प्रदान होगा और देश को बहुत बड़ा आर्थिक लाभ होगा।

दूसरी बात मैं यह कहना चाहता हूँ कि जो आप ने यह कानून बनाया कि समुद्र या नेपाल की सीमा के नजदीक के अन्डर 50 किलोमीटर में 15,000 रु० से ज्यादा की चांदी अगर किसी व्यापारी या व्यक्ति के पास है तो वह उस की घोषणा करे। मेरा ख्याल है कि राष्ट्रीय स्तर पर भी आप इस तरह की चीजें कीजिये कि जिन लोगों के पास चांदी है उस को घोषित करवा दीजिये जिस से पता चलेगा कि आप के पास कितनी सिल्वर है और कितनी विदेशों में तस्कर व्यापार द्वारा जाती है।

जो प्राइवेट सेक्टर में व्यापार होता है, खास कर के ऐक्सपोर्ट और इम्पोर्ट का जिस की वजह से अन्डर इनवायसिंग और ओवर इनवायसिंग के जरिये विदेश में पैसा रह जाता है, यदि उस को आप रोकना चाहते हैं तो एक तो जैसा मैं ने कहा जब किसी देश से आप कोलंबोरेशन की बात कीजिये, पोलिटिकल निगोशियेशन किसी इश्यू पर चलें तो उस के द्वारा आप ऐग्ग्रेस लीजिये कि जो उन के देश का व्यापारी हमारे देश के व्यापारी को पेमेन्ट करता है वहाँ पर ब्लैक मनी का उस की जानकारी वह देश हम को दे। और दूसरे यह कि अगर सम्भव हो सके तो एस० टी० सी० के द्वारा ऐक्सपोर्ट और इम्पोर्ट के व्यापार का राष्ट्रीयकरण कर के राष्ट्रीय आधार पर ऐक्सपोर्ट और इम्पोर्ट कीजिये।

चौथी चीज मैं यह कहना चाहता हूँ कि पोर्ट्स, बन्दरगाह पर कुछ ऐसे अफसर हैं जिनके द्वारा एक्सपोर्ट इम्पोर्ट होता है, स्मगलिंग होती है, इसको रोकने के लिए वहाँ पर एक ऐसा अफसर रखिए जो उंचे दर्जे का अफसर हो, जो आई०सी०एस० हो, सेक्रेटरी लेवल का हो, हाईली पेड हो, जिसके चरित्र के बारे में कोई शक न हो और जिसने अच्छी सेवा की हो। छोटे स्तर के अफसर को ऐसी जगह पर न

रखिए । एक बहुत ही सीनियर अफसर को कस्टम्स आफिसर बनाकर हर पोर्ट पर, जैसे बम्बई, कलकत्ता है वहां पर रखिए जिससे आप स्मॉलिंग को रोक सकें और जो देश को हानि होती है वह रूक सके तथा देश को फायदा हो । श्री ज्योतिर्मय वसु ने अभी हमारे वित्त मंत्री पर इनडायरेक्ट वे में आक्रमण करते हुए कुछ ऐसी बातें स्मॉलिंग के बारे में कह दी है ।

मैं तो देखता हूँ कि केवल चीजों की ही स्मॉलिंग नहीं होती है कभी कभी थोट की भी स्मॉलिंग की जाती है । कमी थोट रूस से स्मॉलिंग किये जाते हैं तो कमी चीन से किये जाते हैं । इसलिए मेरा ख्याल है कि स्मॉलिंग हर एक दिशा में रोकनी चाहिये । इन शब्दों के साथ मैं मंत्री महोदय जो सीमा शुल्क (संशोधन) विवेक हाउस के सामने लाये हैं उसका मैं पुनः समर्थन करते हुए अपना स्थान ग्रहण करता हूँ ।

SHRI TENNETI VISWANATHAM (Visakhapatnam) : Sir, this Bill is not intended to prevent smuggling, this Bill is intended to regulate smuggling. Will the Minister kindly note this, because if this Bill is intended to prevent smuggling they would not have clauses 11 (c), 11 (d), 11(e), 11(f), 11(j) and 11(m). They are simply regulatory they regulate smuggling just like regulation of prostitution in France. If you are satisfied that there is large scale smuggling and you should prevent it you should simply confiscate the goods, you should strengthen your intelligence at the borders, you should strengthen it at the coasts and strengthen the intelligence at the airports. Now, in order to divert the attention, from the fact that they are failing, either willfully or otherwise at these crucial points of coastline, sea ports and airports, the Government fall upon these small traders. That is what they did with gold. Gold is being smuggled. Only the poor goldsmiths and small traders have been affected. Similarly, here also it is the small men who will be affected. Why do the Government want to do this ? They want to tell you that they are taking every care to prevent it. But they do not; perhaps they are behind it.

What innocent fellows they are ! These gentlemen pass a legislation and the smugglers are asked to give the cost of smuggled goods. If it exceeds a certain amount at appears they will pass vouchers, give accounts and all that. If this is the way they are going to prevent smuggling, then I must say that they want only to regulate it. Will those smuggler gentlemen tell the Finance Minister that they are placing the smuggled goods today at such and such a place and that tomorrow they are shifting them to some other place, the value of the goods is such and such and so on ? Are they innocent or are you innocent ? I cannot understand this. The officers have pocketed the Finance Minister and given "this divortory legislation" to divert the attention of the Government from the real problem.

At Visakhapatnam and also at Kakinada six or seven miles from the coast line steamers come, our fishing boats go and bring smuggled goods in huge bus tubs and tyres or lorry tubes and tyres. Your reconnaissance ships and helicopters do nothing. Your officers walk in the streets of Viskhapatnam and Kakinada trying to see where they are found and where more money can be made. At the point where these things are coolly and calmly unloaded from the steamer absolutely nothing is done. Things are unloaded from the ships into the fishing boats, they are packed and brought to shore from where they are sent to Bombay, Calcutta and other places. At this point nothing is done. But, in order to divert attention, they say: We will walk into streets, go into shops and get the places notified. They will notify the goods. The smugglers are not fools. While you catch one pound the smugglers will steal one hundred pounds.

If the government is sincere and serious. it must be cautious about the borders. I did not know that this Bill was coming for consideration just now. Otherwise, I would have brought a whisky bottle which a friend of mine had brought. It is a huge bottle with a printed lable "Made, blended and bottled in Scotland". But, in the middle of the label, there is a small red circle-not red triangle-in which it is written "Produce Nepal". We get many such things from Nepal. So, let not the department divert



[Shri Tenneti Viswanatham]

your attention or my attention to the small fellows, Let them strengthen the coastal vigilance and vigilance at the airports and at the borders. Without that, it is no use passing these measures.

There is another point, to which a friend of mine has already referred, and that is the re-sale of seized goods. This is one of biggest sources for making money. Once these goods are seized, they ought not to be sold to dealers again they have to be sold to actual users after taking the customs duty. If they are sold to dealers again, there is no method of pursuing the inquires, whether the seized goods have paid customs duty or not. So government themselves must sell the products to actual users. If the goods are not worth selling goods, like liquor, they should at once destroy them. If they are goods like watches and fountain pens, they can sell them to actual users. Today you will find hundreds of Chinese imported pens in the hands of several high-ups and VIPs; so also imported cigarettes. Why should the department sell these seized goods to dealers again? Government must devise some machinery to sell these goods to actual users so that no dealer can later say that the goods seized from them are those which they have purchased from customs after paying duty.

Then, I want the government to carefully see through the Bill. We have seen through the Bill. This Bill is only to divert the attention of the government from the real problem. Therefore, drop clauses 11(c) (d), (c), (j) and (n) which ask these gentlemen to give accounts, intimate where they are hiding their goods. Is it child's play? I cannot understand it. Kindly attend to all these.

We are all with you in preventing smuggling. But you have to go to the root cause Why does the smuggler take the risk of smuggling? He pays money and takes risk because it is more profitable to smuggle. Therefore, attack it at the economic base and see that smuggling is made unprofitable.

श्री श्रीकार लाल बोहरा (चित्तौड़गढ़): सभापति महोदय, मैं इस बिल का स्वागत करता

हूँ। हम संसद में बैठकर बिल पास कर सकते हैं, लेकिन मैं समझता हूँ कि अगर बिल पास करने से ही हमारा मकसद पूरा हो जाता तो हमारे देश की बहुत सी समस्याएँ हल हो जातीं। मैं ऐसा महसूस करता हूँ कि इस देश में सबसे बड़ा भ्रमाव और सबसे बड़ी आवश्यकता है राष्ट्रीय चरित्र की। मुझ से पहले जो मित्र बोले मैं उन को बतलाना चाहता हूँ कि हम इस देश में कितने ही बिल पास करें, हम इस देश का नशा नहीं बदल सकते क्योंकि तस्कर व्यापार इस देश में बहुत हो रहा है। आज तो तस्कर व्यापार साधारण चरित्र का विषय हो गया है। एक अन्तर्राष्ट्रीय गिरोह है और वह बड़े पैमाने पर सारे विश्व में फैला हुआ है। राष्ट्रीय पैमाने पर इसकी जड़े शहर शहर में और देश के कोने कोने में फैली हुई हैं। मैं चाहता हूँ कि इस प्रश्न को एक दूसरे एंगल से, एक दूसरे पहलू से सोचा जाए। आखिर तस्कर व्यापार होता क्यों है? हमारे देश में अभी तक इस बात की पूरी चेष्टा नहीं की गई है कि हम परिश्रम करके कमायें, पसीना बहा कर जीवकोपार्जन करें। अभी तक हम ने मेहनतकश लोगों को, परिश्रमी लोगों को, कमा कर खाने वाले लोगों को उतना सम्मान नहीं दिया है। यही वजह है कि हमारे देश में ऐसे लोगो की बहुतायत है जो केवल हेराफेरी से, तस्कर से, चोरी से, डाकेजनी से और गलत काम करके धन पैदा कर रहे हैं। हमारे देश में ऐसी स्थिति पैदा नहीं हुई है कि हम ऐसे लोगों की मत्संन्या कर सकें, ऐसे लोगों को हम सिंहासन न दें, ऐसे लोगों को सम्मान न दें। हमारे देश में धन की पूजा होती है, पैसा की पूजा होती है। इसलिए जो भी इधर उधर से, हेराफेरी से, चोरी से तस्करी से पैसा पैदा करके भ्रमीर हो जाता है, उसको सम्मान भी मिलता है। यही कारण है कि इन कामों को करने की लोगों में हिम्मत बढ़ती है और लो तस्कर व्यापार में और ज्यादा उलभते जाते हैं।

इस तस्कर व्यापार के पीछे जो मनोवृत्ति है वह अधिक से अधिक धन पैदा करके समाज में अपनी प्रतिष्ठा बढ़ाने की मनोवृत्ति है। जब तक हम धन की प्रतिष्ठा करेंगे तब तक हम तस्कर व्यापार को रोक नहीं सकेंगे। ब्लैकमेलिंग हमारे देश में होता है। तरह तरह की कमजोरियाँ हमारे देश में हैं। उन सबसे हमको ऊपर उठना होगा।

इस बिल का समर्थन करते हुए मैं दो तीन बातें स्पष्ट कहना चाहता हूँ। आज देश में सोने का आयात बढ़ रहा है और चांदी का निर्यात भी देश से बढ़ रहा है। हमारे देश के किसानों ने मेहनत करके अच्छी फसलें पैदा की हैं और उनको उन फसलों के दाम भी अच्छे मिले हैं। चौधरी साहब नाराज न हों उससे कि जो बात मैं कहने जा रहा हूँ। उनके अन्दर सोना खरीदने की आदत बँठी हुई है और वे निरंतर सोना खरीद रहे हैं। किसान भाइयों ने पिछले दस पन्द्रह साल में अपने उत्पादन से खूब सोना खरीदा है। इसका परिणाम यह हुआ कि सोना बाहर से स्मगल हो कर आता गया और आ रहा है और सोने के दाम बढ़ गए। उन्होंने अपने बच्चों को नहीं पढ़ाया और सोना खरीदना शुरू कर दिया। इसका परिणाम यह हुआ कि सोने के दाम बढ़ते गए। यह सोना खरीदने की उनमें मनोवृत्ति क्यों पैदा हुई। हमारी समाज में सोने से प्रतिष्ठा मिलती है। जिसके पास सोना है ...

SHRI SONAVANE ( Pandharpur ) :  
Blackmarketers are also buying gold.

SHRI ONKARLAL BOHRA : Yes, I  
will come to that.

हमारे देश में यह परिस्थिति पैदा हो गई है कि जिसके पास सोना है वह बड़ा है। सोना एक अनुत्पादक चीज है। चूँकि इसकी खरीद में पैसा लगाया गया है इस वाम्ते हमारी समाज का जो आर्थिक सन्तुलन है वह बिगड़ रहा है। चांदी हमारे देश से निरंतर निर्यात होती गई है। हमारे देश की जितनी बन्दरगाहें हैं सब स्मगलिंग के सब तस्करों के अड्डे बन गए हैं। उनका पूरा जाल प्रान्तों के आसपास के क्षेत्रों में फैला हुआ

है। बम्बई, कलकत्ता, मद्रास आदि जो बड़े बड़े शहर हैं। वहाँ फुटपाथों पर तस्करों का माल बिकते हुए जब हम देखते हैं तो हमारी आँखें चकाचौंध हो जाती हैं। विदेशों से जो माल स्मगल हो कर आता है जिस तरह से वह फुटपाथ पर बिकता है, उसको अनदेखा क्यों कर दिया जाता है? क्या सरकारी अधिकारी, पुलिस, हमारे जिम्मेदार आदमी इस चीज को देख नहीं सकते हैं और कार्रवाई नहीं कर सकते हैं? कानून होते हुए भी हमारी सरकार अभी तक इस चीज पर पूरी तरह से काबू पाने में, इस पर नियंत्रण रखने में सफल नहीं हुई है। यही कारण है कि आपकी आँखों के सामने स्मगलिंग हो रहा है। पुलिस वाले और कस्टमज वाले पटरियों पर सामान पड़ा रहता है लेकिन उसको चँक नहीं कर सकते हैं।

सीमावर्ती जो क्षेत्र हैं, उनकी हालत को आप देखें। राजस्थान की सीमा सात सी मीन तक फैली हुई है। नेपाल के बोर्डर पर, बिहार के बोर्डर पर, बंगाल के बोर्डर पर तमाम जो हमारे सीमावर्ती क्षेत्र हैं, वे तस्करों के व्यापार के अड्डे बने हुए हैं, घड़ल्ले से वहाँ तस्करों का व्यापार होता है। लोगों ने इसको अपना एक पेशा सा बना लिया है। लोग समझने लग गए हैं कि हेराफेरी से, इधर उधर सामान भेजने से लाखों का गोलमाल धँस कर सकते हैं, करोड़ों रुपया कमा सकते हैं। जब ऐसी स्थिति है तो मेहनत करने की क्या जरूरत है। मैं जानना चाहता हूँ कि भारत सरकार ने और राज्य सरकारों ने इस सम्बन्ध में कौन सी सख्त कार्रवाई की है और इस तस्कर व्यापार को रोकने की क्या कोशिश की है। इस बिल को तो मैं स्पॉट करता हूँ लेकिन मैं समझता हूँ कि केवल बिल पास करने से काम नहीं चल सकता है। यह करोड़ों रुपये का सवाल है। करोड़ों रुपया हमारा विदेशी मुद्रा के रूप में बरबाद हो रहा है। यह सामान बाहर से आता है और हमारा जो मेहनत से कमाया हुआ धन है वह चांदी के रूप में तथा दूसरे सामानों के रूप में बाहर जाता है। जबाहराव,

[श्री श्रीकार लाल बोहरा]

कपड़े, ट्रांजिस्टर लाखों करोड़ों रुपये के बाहर से आते हैं और अगर उनमें से कुछ बन्दरगाहों पर पकड़ भी लिये जाते हैं और उनको लेने वाला कोई नहीं मिलता है तो जैसे मेरे मित्र ने कहा है कस्टम वाले उसको बेच देते हैं। जो उनको खरीदते हैं वे उससे दस गुना माल यह कह कर कि यह कस्टम्ज से खरीदा गया है और उसकी चिट भी दिखा दी जाती है, कलकत्ता बम्बई मद्रास आदि में बेच देते हैं। यह भी चेक होना चाहिये। यह चीज समाप्त होनी चाहिये।

मैं मंत्री महोदय को यह सुभाव देना चाहता हूँ कि क्यों नहीं हम अपने आयात और निर्यात का राष्ट्रीयकरण करते। मैं दावे के साथ कह सकता हूँ कि ऐसा करने से तस्कर व्यापार प्रॉडर-इनवायर्सिंग और प्रोवर-इनवायर्सिंग और चोर-बाजारियों द्वारा कई तरह के गलत काम आदि कई समस्यायें हल हो सकती हैं, जिनसे हमारे राष्ट्रीय हितों, हमारी अर्थ-व्यवस्था और हमारे देश की सम्पत्ति को क्षति हो रही है। केवल इस प्रकार के बिल पास करने से देश के करोड़ों लोगों को संतोष नहीं हो सकता है। आज इस देश का आम आदमी, प्रोसत आदमी यह समझ रहा है कि गोल्ड कंट्रोल के द्वारा वास्तव में कोई गोल्ड कंट्रोल नहीं हुआ है, बल्कि उससे साधारण आदमी को बड़ी दिक्कतें हो रही हैं और अधिक से अधिक सोने का स्मगलिंग हो रहा है।

यही स्थिति चांदी की है। भारतीय संस्कृति के अनुसार हमारे यहां चांदी एक बहुत शुभ वस्तु समझी जाती है, लेकिन वह भी धीरे धीरे इतनी मंहगी हो गई है कि जो गरीब आदमी सोना नहीं खरीद सकता है, वह चांदी खरीदने में भी असमर्थ है।

असल में इसमें भोना या चांदी का प्रश्न नहीं है। हमारे देश में तस्कर व्यापार इसलिए होता है कि हम अभी तक बुनियादी रूप से यह

स्पष्ट नहीं कर सके हैं कि हमारे देश में इच्छत उन्हीं की होगी, जो शुद्ध और पवित्र ढंग से, ईमानदारी के पाथ, कमायेंगे और उसको खर्च करेंगे। इसलिए आवश्यकता यह है कि हम लोगों के बुनियादी दृष्टिकोण में परिवर्तन लाने का प्रयत्न करें।

मैं इस बिल का स्वागत और समर्थन करते हुए युवक मंत्री महोदय से निवेदन करूंगा कि हम बिल पास करने से नहीं, बल्कि कठोर नियंत्रण करने से समस्या से पार पा सकेंगे।

सभापति महोदय : श्री कन्डप्पन।

श्री शिव चन्द्र झा (मधुबनी) : सभापति महोदय, आप मुझे नहीं बुला रहे हैं, इस लिए मैं वाक आउट करता हूँ।

(*Shri Shive Chandra Jha then left the House*)

SHRI S. KANDAPPAN (Mettur) : Mr. Chairman, Sir, I am totally opposed to this Bill. I am glad that even some Congress Members have seen to the mischief of the Bill and have opposed this measure. Unfortunately, as Mr. Tenneti Viswanatham said, the Government seems to be said-tracking the public attention and pretending as if they are attending to the basic issues whereas they are not very keen or serious about tackling the problem at all.

Sir, sometime back, when the Gold Control Order was issued, the promise given was that smuggling was going to be stopped. In another case, they said that they were going to draw the black money out and some measure was announced. Then, it was further modified and they said that some improvements were going to be made and the Finance Minister changed it. Nothing happened afterwards. Now, in this year's Budget, they have said that the proposed wealth tax is going to siphon off all the black money that is there. This kind of pretension is not going to lead us anywhere. As far as the intention, if it is honest and

genuine, that the smuggling is going to be checked by this kind of measure is concerned, we are there to join our hands and give support to the Government. But, unfortunately, as we see things today, the smuggling cannot be stopped.

Some Congress Members took objection to the charge that the Opposition Members were accusing the Ministers of connivance with smugglers. I do not want to make that charge. But I do feel, very seriously, and ask : Can the Ministers cite any case in which the smugglers and the racketeers who were caught red-handed were meted out sufficient punishment that it demands ? My hon. friend, Mr. Goyal, brought about some names about the recent seizure of gold. Is the Government going to take any serious measure about them ? I would even go to the extent of saying, if there are not enough penal provisions to punish them sufficiently, that you take enough powers to punish them, hang a few of the smugglers, the racketeers, and then you will see the result. They deserve it. If there is anything more than that, I am for it. You torture them. They deserve it.

MR. CHAIRMAN : Do you suggest these powers to be conferred on provincial Governments ?

SHRI S. KANDAPPAN : No, not at all.

MR. CHAIRMAN : They can exercise power as they like.

SHRI S. KANDAPPAN : At least in proved cases where crores of rupees are involved and slender foreign exchange resources and meagre resources of the country are being robbed of, the Government should see to it that sufficient punishment is meted out. That has not been done so far. If they are not positively at connivance with the smugglers, I am sure, they are at least complacent about what is going on. Whatever it might be, I am sure, the smugglers and racketeers in this country are given a VIP treatment, wittingly or unwittingly. This kind of thing goes on increasingly.

I would appeal to the Minister to be serious about it. This measure is not going to solve the problem. It is not even going

to solve it partially. That has been our experience previously.

I understand from knowledgeable sources that even the speed of the motor boats that we have got to track down the smugglers is not equal to half of the speed of motor boats which the smugglers use, or could match in anyway with the motor boats used by the smugglers. If that is the position, how are you going to track them down ? Why don't you have some more motor-boats with better speeds and all that or even, as some hon. member suggested, some helicopters ? Why don't you improve your vigilance ? Apart from this, there is another problem. We should keep a vigil over these vigilance people because we know that there are certain cases where, they are in connivance with the smugglers. These are problems which need a different kind of approach, a practical approach, at serious approach, from the Government and not a Bill of this type.

I am very sorry that the reply given by the hon. Minister in regard to the issue of Ordinance is not very convincing. Though it is a political question, though it does not have any direct relevance to this, still I would say that, in the interest of democracy, they should respect the Constitutional position with regard to legislative measures of this kind. The reply given by the hon. Minister is not at all convincing. The Bill was there. There were 20 days left before the Session was to adjourn. Still, Government thought it fit to promulgate this Ordinance after the Session adjourned.

Another very important issue is this. Government may say that it may not create any difficulties or problems to traders and others. Unfortunately, the very next day after the promulgation of the Ordinance, in my part of the country, in Madras City, where the Burmese repatriates have been allowed to carry on some trade—some concession was given by the Central Government to them to bring certain goods from Burma ; they are small traders like peddlers—, the officers were after these repatriates. These poor fellows are innocent, not literate, not even businessmen ; they did not know what to do in this country. When they came here from Burma, fortunately the Central Gov-

[Shri S. Kandappan]

ernment allowed them to bring certain goods and the Burmese Government also agreed to it. They brought those things and started selling those things. They did not have a voucher or anything of that sort. Now they are being harassed very much. I have been getting telegrams and letters from those people that something should be done for them. Therefore, in this particular case, I would appeal to the hon. Minister to instruct the customs officials there. Whatever concession was given to them earlier should not be infringed in any way by the proposed measure that has been introduced today. With this appeal, I oppose this measure.

SHRI RANDHIR SINGH (Rohtak) : Smuggling is the order of the day. It has become a fashion with all of us. Every tenth or eleventh Indian—excuse me for making this straightforward statement—is guilty of connivance with smuggling; it may be smuggling inside the country or outside the country. I should say that the Government is partly responsible for this. You will ask how? We have these zones and barriers at every State point. There is smuggling inside the country. If a farmer goes with his grains to another State, he gets profits; if he passes on to another State, he gets dividends. Again if he goes from, say, Delhi to U. P., he gets a different price; again if he goes from U. P. to Punjab, he is getting still another price. This is also a sort of smuggling. Even people very well placed in life, just as my hon. friend was mentioning, do this. If they can get money without doing anything, without exerting themselves much, why should they not get it? As a matter of fact, a very bad mentality or tendency is developing in this country; everybody is trying to go in for foreign made goods, whether it is a fountain pen or a watch or a car, anything and they say that that is better, superior and that they can get cheaper and all that. The other day I was in Bombay. One fellow came from behind and catching hold of my shirt asked, 'Why don't you take this watch for Rs. 50? It is worth Rs. 400'. I asked, 'What is wrong with this? Why are you selling this which is worth Rs. 400 for Rs. 50?'. I was afraid of the Police; otherwise, I was tempted to purchase that which was worth Rs. 400 for Rs. 50.

But wherefrom did he get all such things? What is the malady with this country? The malady is that a law of the jungle is prevailing, which is ruling in respect of foreign trade. There should be some policy. If STC is there or some other agencies are there, there is absolutely no procedure or no policy or no principle involved. The little fry is caught but the big crocodile goes scot-free. This is what is happening throughout. Everywhere our policy is, catch the small fry. But the big crocodile goes scot-free. If a small kisan commits a small crime, you say, he should be hanged, he should be given rigorous imprisonment and all that while Walcotts and other big crocodiles go free. We are reminded of the good old days of Queen Elizabeth and the sea pirates and all that. I get reminded of those days. There is no policy. It is my demand that something should be done. But this Bill is not even one-thousandth of what it should be. I do not know how my hon. friend Shri Viswanatham says that this is something which will regulate it. Absolutely not. The punishment given is extremely small. It should be much more stringent.

18 hrs.

The only remedy for this is this, namely, the complete nationalisation of our foreign trade. It may be done tomorrow or day after, but nationalisation of trade is the only panacea for all these ills. My hon. friend Mr. Goyal said why the law of presumption should be made applicable in this Bill. It is not there for the first time; it is there already. Mr. Goyal is a lawyer; you, Sir, are a lawyer. You know that in Arms Act, in Prevention of Food Adulteration Act in Supplies Regulation Act, etc. that regulation is already there. There smugglers are number one enemies of the country and strictest punishment should be awarded to them. The tendency of the people has come to this, that they want to get money without toiling for it. There should not be any leniency shown towards the smugglers. I agree with my hon. friend Shri Labo Prabhu in what he has said. We do not have adequate enforcement force to check this kind of smuggling. I

say that the staff should not only be doubled, but should be increased by ten times. The smugglers should be awarded with the highest punishments for committing such crimes, For his own petty gain the smuggler is spoiling the good name of our country. This Bill is the need of the hour. The Minister has come with this Bill now. This is to replace the Ordinance which has been issued already. The Minister ought to have come earlier with this Bill. I support this Bill and I feel that this Bill will be adhered to and that this will not be put in cold storage. Thank you.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. C. SETHI) : The Customs (Amendment) Bill, as has been rightly pointed out by some of the hon. Members, was absolutely essential in view of the large smuggling of silver that was taking place and also in view of the fact that smuggled goods were sometimes sold as was pointed out by some hon. Members.

That was why this Bill was introduced in the House last time, but as it could not be passed, an Ordinance had to be promulgated.

SHRI NARAIN SWARUP SHARMA : There is no quorum in the House.

SHRI ONKAR LAL BERWA (Kota) : Challenge, Challenge.

SHRI R. D. BHANDARE (Bombay Central) : It is not properly challenged. He did not get up, to challenge.

श्री रणधीर सिंह : इनका नाम कोरम के मामले में मोटे मोटे झलफाज में झखबारों में आ जाता है, अगर न आये तो ये कमी चैलेंज नहीं करेंगे ।

Mr. CHAIRMAN : After the Minister replies, Shri Goyal has to reply. If he wants that his party member should forgo that, it is another matter. There is some sort of convention or agreement on this.

SHRI RANGA (Srikakulam) : We have all agreed unanimously not to challenge quorum.

Mr. CHAIRMAN : There is no point in raising it now. Let the Minister reply.

SHRI NARAIN SWARUP SHARMA : If you do not take notice of it, it is up to you.

P. C. SETHI : As for the goods which were suspected to be smuggled previously, it was very difficult to satisfy the requirements of the law. Therefore, stricter provisions have been introduced so that a declaration has to be given in regard to the notified goods and anybody who is selling these goods outside on the payments without proper declaration will be liable to action under the law.

As far as the Bill is concerned, export of silver and silver coins has been specifically covered. As far as import is concerned, it has notified certain articles such as watches, synthetic yarn, other yarn fabrics, cigarettes, cosmetics, electric appliances, shavers, photographic cameras, flash guns, colour prints etc. It is only with respect to these articles that action lies within the purview of the Bill. At the same time, power has been given under the Bill to notify certain more articles, if found necessary.

Cl. 11 (1) seeks to prevent export of specified goods. This is relatable to an entry in List One. There is, therefore, no encroachment on the State sphere. As far as the interest of the general public is concerned, within the meaning of art. 19(5), Parliament is entitled to enact legislation.

Many other points have been raised. Shri Goyal spoke about the validity of the Ordinance. I have already replied to that. Then he raised certain matters about two or three persons, specially Shri Gaokar, Shri Advani etc. As for Shri Gaokar, he has been already prosecuted. Shri Advani's is a very old case. Prosecution had taken place and the person concerned was sentenced. Therefore, the desired information is given herewith.

There were other suggestions made regarding strengthening of measures of security and the forces which operate. Ample measures are being taken. If necessary

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we would not hesitate to come before Parliament to ask for more money for the purpose of helicopters or some speedy vehicles or more scientific instruments for carrying on these operations.

As for the object of this Bill, it will be realised that immediately after the promulgation of the Ordinance, the price of silver came down. It was ruling at about 584 previously.

**SHRI N. K. SOMANI :** Not the smuggling. Only the price.

**SHRI P. C. SETHI :** Because the prices were higher and the smugglers were paying for it. It was a natural corollary and therefore, the prices were going down. They were ranging at about 584. After the issue of this ordinance . . .

**SHRI S. R. DAMANI :** According to my information, the price of silver in the foreign market is also declining.

**SHRI P. C. SETHI :** I will come to that. Therefore the prices were ranging in the range of 510 to 516. This indicates that the smuggler is now less secure with the silver.

As for as the seizure of silver is concerned, after the introduction of this ordinance, the seizure is on the high side and within the last 3 months itself, about Rs. 85 lakhs worth of silver has been seized and the total seizure last year is about Rs.4 crores.

**SHRI N. K. SOMANI :** It is only 1% of the smuggling.

**SHRI P. C. SETHI :** The total figure given by the hon. Member includes both official import and the import from Dubai as well as other countries including Pakistan. Of course, it is an admitted fact that silver was being smuggled out on a very big scale. That is why we felt the necessity of bringing this legislation. That is why stringent measure of notifying 50 kilometers on the western coast and in Tamil Nadu in the eastern coast because, they are the vulnerable areas wherefrom silver was being smuggled out. Hon Member Shri Lobo Prabhu has

Particularly said about the limit of Rs.15000. This Rs. 15,000 limit is concerned only with silver and besides this, if anybody wants to transact in silver and if the payment is made by cheque, then there is no bar. This is with regard to cash transactions on silver and, therefore, Rs. 15000 limit is quite reasonable.

As far as the small artisans are concerned, daily sale of Rs. 2500 is permitted. Even on that ground there should be no difficulty. As far as the honest dealers or artisans are concerned, there will be no Particular thing which hampers the industry or routine work.

**SHRI N. K. SOMANI :** Question.

**SHRI P. C. SETHI :** Shri Lobo Prabhu has also raised the question of the Study Team. I have got the recommendations of the Study Team, before one. Out of the recommendations of the study team, I would like to say that Government has accepted about 136 from Part I and about 114 from Part II. Most of them are in the process of implementation and we are making every possible effort in this direction to implement the Study Team's recommendations.

Hon. Shri Madhu Limaye has particularly raised the question about the Indo-Nepal border. Hon. member, Shri Somani also raised this. According to the 1960 treaty goods of origin in India or goods of Nepalese origin can be freely brought in either taken to Nepal.

According to this treaty, a point arose as to whether goods manufactured out of the imported raw material will be treated as goods originating either in this country or originating in Nepal. A view has been taken that if any particular item is manufactured out of the imported raw material, it will be considered as an item originating from that particular country. This has brought in certain difficulties with regard nylon fabric and stainless steel. That is why we are concerned about this because the total imports by Nepal through the Calcutta port were considered to be much higher than what could be consumed here. We do not have the particular figures of consumption of this particula,

fibre in Nepal. It was considered on the high side. That is why we have been taking up the matter with the Nepal Government. Broadly on principal this has been agreed to that whatever goods of this particular variety from Nepal-nylon fabric and stainless steel in 1967-68 we will try to restrict the same to those years.

A suggestion about stamping was made by Mr. Limaye. He also wanted that it should be taken up through the S. T. C. We have taken it up with the Nepalese Government but it was not considered feasible by them and so it was not pursued. We shall certainly take into consideration his suggestion about stamping etc . . . . (An Hon. Member : Seal the border) Operations on the Indo-Nepalese border have increased and we have taken measures so that our seizures which were worth Rs. 3,21,000 in 1966 in the Allahabd-Patna-West Bengal area have increased to Rs. 25,73,429 in 1968. Therefore, all possible efforts as made in that regard. We are also taking up the matter with the Nepalese Government and with their co-operation we shall try to find out some way so that goods coming from Nepal would have their seal or authority or permit. All these questions are being taken up with them. We must also remember that our relations with Nepal are friendly and we shall try to get their co-operation and confidence in matters affecting Indo-Nepalese trade. The trade treaty comes to an end in 1970 when they shall be re-examined and these matters will be gone into at that time. Yesterday Mr. Limaye and today also both he and Mr. Damani in a Hindi couplet said that the officers are colluding with smugglers. It is not correct. If he has got proof of something, we shall examine it.

**SHRI S. R. DAMANI :** I have not said that the entire officialdom is so. It is not my intention. I said that smuggling goes on with the knowledge and support of some of the officers. The senior officers are very honest and I appreciate their work.

**SHRI P. C. SETHI :** I thank Mr. Damani for clarifying. It is possible that there are blacksheep among all categories of people including us. It is, therefore, wrong for us to assume that all officers are bad. If we

take up an attitude like this, it will be difficult for them to function.

I am sorry that one officer was named yesterday, Mr. Anand, when he is not present here to defend himself. He is the Chairman of the Board and one of the most honest and good officers who is known for his integrity and honesty. If there is some positive proof against anybody, the Government are prepared to go further into it. But if things are flung like this without positive proof it will be difficult for the officers to function especially in the capacity of a semi-judicial body. Every day some seizures are made and examined and there is a body where they goin appeal. If that body which is a semi judicial body is not allowed to function with out pressure from this side or that side, it will be difficult for it to function.

Certainly, the Government would welcome any suggestion or any criticism or anything with some positive proof, and the Government would examine it and would do what is necessary.

Having said this, I would now like to tak some other points which have been mentioned by some hon. Members. I am ver grateful to Shrimati Sharda Mukerjee for having supported this measure. Similarly, I am also grateful to Shri Randhir Singh and Shri Bohra other Members who have supported this Bill.

As for as Dr Ranen Sen is concerned, he has said that we are trying to water down the provisions of the Bill. It is not correct. On the contrary, Shri Lobo Prabhu says that our measures are very stringent. Dr. Ranen Sen says that we are trying to water down. Actually, it is neither watering down nor very strict. We have adopted certain measures which were absolutely necessary and we are moving in that direction so that smuggling could be checked.

Shri Jyotirmoy Basu has particularly raised certain points about the BOAC and Bird & Co. case as well as the shortage in the foreign exchange earned and received. As far as Bird & Co. case is concerned, it is before the Supreme Court, and being *sub judice* I would not like to go into the



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details of the case. After the judgment comes, certainly the Government will look into it. As far as the BOAC question is concerned, we have already accepted a short notice question, and the Government will come before the House with details of this particular case. As far as the question about the shortage of foreign exchange earned and received is concerned. Under the Foreign Exchange (Regulations) Act, there is a gap of six months which is laid down and therefore this gap could be explained, and it is not as if something wrong is going on there.

Shri Jyotirmoy Basu and two other hon. Members have painted a picture as if India has been become a smuggler's den and as if everything is very bright outside. Smuggling is bad and smuggling is not only in India but there are international gangs who are operating. The bigger the country, the bigger the gang. Therefore, I am not saying that we should not adopt measures to check smuggling, but we should not paint such a dismal picture as if everything is absolutely wrong in India and other countries are doing very well. Certainly we should make all possible efforts to check smuggling.

I may give the figures relating to seizures and the punishment awarded and the goods confiscated during the last few years. In 1965, the total seizure was of the order of Rs. 4.70 crores; in 1966, it was Rs. 6.61 crores; in 1967, it was Rs. 16.40 crores; in 1968, it was Rs. 20.68 crores. These figures will go to show that seizures are mounting up and all possible efforts are being made to bring to book the offenders who indulge in smuggling. But certainly this is a gigantic task and the gangs are quite powerful and their operation is not only in India, but there are international gangs, and therefore, we will have to take certainly more effective measures and provide more facilities and equipment and also provide more staff and certainly by taking stringent measures and creating a consensus and a proper atmosphere, we would be able to move in this direction. Our aim and object should be to completely eliminate the smuggling. If we are not able to eliminate, smuggling imme-

diately, we should certainly move in the direction of checking it as best as we can. That is why we are moving rapidly in this direction and the object of this Bill to move in that direction.

Shri Somani has particularly mentioned that silver could be exported officially. This problem was posed by the hon. Member before the Deputy-Prime Minister and Finance Minister. This was thoroughly gone into; I have no details but it was thoroughly gone into and it was decided that it would not be in the public interest nor in India's interest to allow silver to go out of the country officially.

SHRI N. K. SOMANI : Why?

SHRI P. C. SETHI : That was the decision taken. (*Interruptions*). That does not mean that we allow it to go by smuggling; we do want to check smuggling.

So far as silver price is concerned, it is 512 here, 436 in London and 435 in New York. These are official rates and the smugglers do not operate on the basis of these prices. What they get is the extra money. That is why there is a tendency to bring in gold and take out silver. That is why we have taken precaution in this Bill about the export of silver and import of certain articles I have mentioned.

SHRI S. R. DAMANI : What about export through STC ?

SHRI P. C. SETHI : I would certainly put forth the suggestions made by hon. members before the Deputy-Prime Minister for his consideration and rethinking on the matter.

This limit of 50 kms is made applicable to the western coast and to the eastern coast only in Tamil Nadu because there were the vulnerable areas from where silver was smuggled out. A suggestion was made that 50 kms. is a very limited area. But as I said, this is only with regard to export of silver and silver coins. About other import-

ed articles, the whole of India is there. Wherever unauthorised articles are found, except a watch or transistor etc. meant for personal use . . . .

Sir, I am just concluding. You are looking at your watch.

MR. CHAIRMAN : When you are referring to smuggled watches, I am looking at my HMT Watch!

SHRI P. C. SETHI : Wherever unauthorised articles are found, undeclared-either on the pavements or on the Indo Nepalese border or in any town moving without proper voucher, they will be not only confiscated, but under sections 135 and 136 of the original Customs Act, stringent punishment of imprisonment for 2 or 3 years and fines are provided.

Mr. Kandappan made some contradictory observations. He said in one place "Hang the smugalers" and in another place, he said that repatriates from Burma should be relieved.

SHRI S. KANDAPPAN : The repatriates from Burma got some concessions from the Government and they brought certain things. They are doing business. They are illiterate people. You can send your men and identify those materials. If there is any further smuggling, you can check it.

MR. CHAIRMAN : Is it your case that they are continuously bringing things from Burma and there is no time-limit ?

SHRI S. KANDAPPAN : Some of them were recently repatriated. I said, you have tortured goldsmiths for the sins of the smugglers; why not hung the sumgglers ? Where is the contradiction ?

SHRI P. C. SETHI : Even if they were given concession to bring certain household things and personal belongings: it could not be that have a permanent licence to sell the imported articles.

If the Parliament in its wisdom considers that the Present Punishment is not enough certainly it can be gone into and hon. Members are most welcome to give their suggestions.

SHRI ONKAR LAL BOHRA : What about the resale of confiscated goods ?

SHRI P. C. SETHI : As for as resale of goods is concerned we have already appointed a committee to go into it. At present we are selling them through the cooperative sector because our idea is not allowing private people to sell the goods is that the goods will pass from one hand to the other and the prices will go up. After the report of the committee appointed to go into this aspect as to what should be done in regard to the procedure of selling these confiscated articles we would again go into this.

Sir, I have practically covered most of the points raised by hon. Members. I have also explained why the Ordinance was necessary. Most of the articles particularly referred to here by hon. Members have also been explained by me. Therefore, Sir, I commend the Bill for adoption by this House.

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BUSINESS ADVISORY COMMITTEE  
 Thirty Second Report

THE MINISTER OF PARLIAMENTARY AFFAIRS, AND MINISTER OF SHIPPING AND TRANSPORT (SHRI RAGHU RAMAIAH) : Sir, I beg to present the Thirty-second Report of the Business Advisory Committee.

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18.32 hrs.

RESOLUTION RE : CUSTOMS (AMENDMENT) ORDINANCE, AND THE  
 CUSTOMS AMENDMENT BILL

--Contd.

SHRI SHRINIBAS MISRA : Sir, is it in order for a Minister while replying to a debate in Parliament to say that he will