

सभापति महोदय : रूलिंग के बारे में बात हो चुकी है, अब उस पर कोई नया प्वाइंट नहीं है, इस लिए हम एलाऊ नहीं करेंगे।

श्री शिव चन्द्र भ्वा : आप सुन तो लें।

सभापति महोदय : नहीं, हम रूलिंग दे चुके हैं, उस पर कोई बहस नहीं होगी। आप बैठ जाइये।

श्री शिव चन्द्र भ्वा : आप सुन लें कि मैं क्या कह रहा हूँ।...

सभापति महोदय : आप मेहरबानी कर के बैठ जाइये, चेयर को डिफाई मत कीजिए। रिकार्ड पर कुछ नहीं लिखा जायगा...

श्री शिव चन्द्र भ्वा : X X X

सभापति महोदय : आप समझदार आदमी हैं, पढ़े लिखे आदमी हैं, प्वाइंट आफ आर्डर तब उठता है जब हाउस के सामने कोई सबजैक्ट हो। इस वकत यही सबजैक्ट है कि मैंने गोयल साहब को पुकारा है, अगर उस पर प्वाइंट आफ आर्डर है तो सुन सकता हूँ।

श्री शिव चन्द्र भ्वा : X X X

सभापति महोदय : इस पर हम रूलिंग दे चुके हैं, आप बैठ जाइये। श्री गोयल।

14.29 hrs.

STATUTORY RESOLUTION  
AND  
FOREIGN EXCHANGE RECUL-  
TATION (AMENDMENT)  
BILL

SHRI SHRI CHAND GOYAL (Chandi-  
garh) : Sir, I beg to move :

“This House disapproves of the Foreign  
Exchange Regulation (Amendment)

Ordinance, 1970 (Ordinance No. 5 of  
1970) promulgated by the President  
on the 20th September, 1970.”

Sir, you will recollect that our last session  
was adjourned *sine die* on the 3rd of Sep-  
tember, 1970. (Interruptions)

श्री शिव चन्द्र भ्वा (मधुवनी) : X X X

सभापति महोदय : मैं रूलिंग दे चुका हूँ। अब श्री गोयल ने जो कहा है, उस पर कुछ कहना है तो कहिए। आप से प्रार्थना है कि मेहरबानी कर के बैठ जाइये।

श्री शिव चन्द्र भ्वा : X X X

सभापति महोदय : अगर आप डिस्टर्ब करेंगे और हाउस को नहीं चलने देंगे तो मैं रिक्वेस्ट करूँगा कि आप हाउस से बाहर चले जायें।

श्री शिव चन्द्र भ्वा : X X X

सभापति महोदय : आप बैठिये या बाहर चले जाइये।

SHRI SHRI CHAND GOYAL : Having  
moved my Motion for disapproval of the  
Ordinance, I was submitting that our House  
was adjourned *sine die* on the 3rd Septem-  
ber and it was prorogued on the 7th  
September, 1970. This Ordinance has been  
issued on the 20th September, 1970. The  
plea taken is that since the period of one  
year which has been prescribed for the  
return of the documents was expiring some  
time in October and the Parliament was  
not to meet during this period, this Ordi-  
nance has been issued.

Sir, it is a matter of some satisfaction  
that this time very many Ordinances have  
not been issued during the intervening  
period. Otherwise, it has become a practice  
with the Government to issue many

Ordinances and to pass legislation through the machinery of these Ordinances. Now they are making a sparing use of this and it is a matter of some satisfaction.

But, Sir, since this power of issuing Ordinances have been given to the President only to be exercised in very exceptional circumstances, I would appeal to the Government that they must be vigilant to pass legislative measures, and only when they must, only when there is no other way out, they should issue Ordinances. What are the circumstances of this case? The circumstances of this case are that writ petitions had been filed, and perhaps an order had been issued by the court sealing those documents, and, therefore, those documents could not be available to the Director of Enforcement for scrutiny; since the period of one year for the return was expiring, therefore, this, ordinance was issued.

I want to know from the hon. Minister the circumstances under which the order was issued. Why could Government not anticipate? Why could they not make a judgement that the period of one year for the return of the document was expiring? They could easily have brought forward a legislative measure during the monsoon session, because, after all, no new development had taken place, and the High Court had sealed those documents much earlier, and as far as my information goes, Government had not moved for the vacation of the stay order. Government even did not move to have the scrutiny of the documents, after breaking open the seal. In the Civil Procedure Code, there is a provision to the effect that if Government want to scrutinise a particular document, then they can apply to the court and the court would permit the scrutiny. So, it was not at all a difficult affair. I would also like to know from the hon. Minister whether he had actually moved the High Court for the vacation of the stay order so that they could take hold of those documents and have a copy thereof. I know from my practice in the High Court that the High Court in writ matters does not require all these documents in original; even certified copies could be made available for the High Court's record. Therefore, it was open to Government to move the High Court that since they had to

return those documents to the particular firm or firms, therefore they should be permitted to supply certified copies of the document for the use of the court and withdraw the original, so that they could return the documents in time. But it appears that they had not taken any step, because they know that they can issue any ordinance. If they had realised that ordinances should be issued only under exceptional circumstances, then they would have taken those steps, they would have either moved the court for the return of the document or they would have moved the court for taking the original and supplying the court with certified copies. Or they would have applied for the vacation of the stay order. I would like to know from the hon. Minister whether any such step had been taken.

Sub-clause (a) under the Explanation to section 2 of the Act reads :

"the said document could not be examined fully for the purpose of determining whether it would be evidence of the contravention of any of the provisions of this Act or of any rule, direction or order made there under."

I would like to know when this document came into their custody. When did they seize all these documents? When were the writ petitions filed, and when was the order sealing the document issued by the court? I want these dates in order to know whether Government had sufficient time to have a scrutiny of the document or not. When did the High Court issue the order either withholding the availability of the document to Government or sealing the document? I would like to know this particular date, because the suspicion arises from the expression that the document could not be examined fully. How long was the document in their possession before it was actually sealed by the court? In sub-clause (b) it is said :

"the said document could not be used for commencing any proceedings under section 23."

I would also like to know whether proceedings under sec. 23 have started because it was open to Government to start

these proceedings. If actually these proceedings had started or have started, they could have retained these documents with them until these proceedings concluded, because there is another provision which says that either it has to be returned within one year or if proceedings under sec. 23 have commenced, they can return these documents till the conclusion of these proceedings. So have proceedings under sec. 23 started? if not, what are the reasons therefor? Under (O), if an injunction order is issued, the period of the year is excluding the period of that order.

In the statement it has been said that before the Directorate could scrutinise these documents and initiate proceedings against the firm, a writ petition was filed by several firms before certain High Courts and interim orders restraining the Directorate from taking action on the documents were obtained. I have already made my submission in this behalf and have requested the hon. Minister to throw light as to how long the documents were actually in their possession before they were sealed by the court.

Since this eventuality arises in various cases under various enactments, would the hon. Minister consider the desirability of incorporating a clause in the General Clauses Act to the effect that where a period of one year is prescribed, if there is intervention by the court, it would be presumed that that period is to be excluded in calculating this one year? Just as you have provided in the Limitation Act that time spent in pursuing a matter in other courts and time spent in obtaining certified copies are automatically excluded from the period of limitation, instead of bringing these amendments from time to time under various enactments, would he consider putting in such a clause in the General Clauses Act? This can certainly be done. By this you will be saved of all this trouble of bringing these amending measures from time to time. After all, each time they have to ask the President to promulgate an Ordinance; now they are taking two or three hours of this House's valuable time on this little thing which can easily be arranged in the manner as I have suggested.

With these observations, I would appeal to the House to accept my Resolution disapproving of the Ordinance so that in future Government become careful and take timely note of the periods which are likely to expire instead of utilising the power of issuing Ordinances, and come to this House with measures which this sovereign body has the exclusive power to legislate upon.

THE MINISTER OF FINANCE (SHRI Y. B. CHAVAN) : I beg to move :

"That the Bill further to amend the Foreign Exchange Regulation Act, 1947, be taken into consideration."

The purpose of the Bill is very simple. The hon. Member has unnecessarily tried to make it complex and complicated. The Bill proposes to amend section 19G. What is section 19G? It is a section which enables the Director of Enforcement or his officers, when certain documents are seized, to retain them for further scrutiny for not more than a year or the completion of the proceedings under section 23.

So far, this section has worked very well, but human ingenuity is such a powerful thing that sometimes it makes the Government and the legislature find out way so that we can also overcome these difficulties created by people's ingenuity.

SHRI KUNDU (Balasore) : You mean the Judges also?

SHRI Y. B. CHAVAN : I am talking about ingenuity. I am not commenting on the judgment as such, it is not my job.

What happened is that in a particular case—I do not want to go into the details of that case...

SARI S. KUNDU : You must tell us something about that case also.

SHRI Y. B. CHAVAN : It is a case about the Birla group. Certain raids had taken place and certain documents were seized. I think they were about 7,000 in number. They had to be scrutinised to

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take further action in the matter. Some writ petitions were filed by the people concerned, two in the Calcutta High Court and one in the Bombay High Court. The major issue that was raised in the writ petition was dismissed, but the stay order was continued, and the petitions were given time of nearly two months to make an appeal in the Supreme Court or before a Full Bench. Therefore, the difficulty arose that the very purpose of the investigation was being defeated. The time was supposed to end by the 3rd October or so.

Therefore, the main point to be considered here is whether we are going to allow the investigation to go to waste, and whether we should not find some other method, so that, while the courts will have the authority to pass stay orders, the purpose of the investigation will not, at the sametime, be defeated. Therefore, what we propose here is to give a clear one year for the scrutiny. The period during which the documents are sealed or action is stayed, will be excluded so that a period of one complete year is available for the officers of the Director of Enforcement to scrutinise them. This is such a simple thing.

Shri Goyal asks why Government could not come before the House earlier. We were expecting that when the writ petitions were heard and rejected on merits, the stay order would also be vacated, but unfortunately it was not done, and the party has also been given further time to go in appeal. So, there was no alternative but to go in for an ordinance. He says the Ordinance should be over-ruled. That is exactly what we are doing when we pass this Act. The Ordinance will cease to exist. I am requesting the House to accept this proposal so that the Ordinance now becomes an Act.

I have nothing more to say. Do we want to allow this sort of tactics to be adopted by people so that they can put obstruction in the process of investigation? This hon. House has always urged that in such matters investigations should be effective and prompt. This is exactly what we propose to achieve by this amendment. I do not think that I need more arguments to convince the House about it.

MR. CHAIRMAN : Now, both the Statutory Resolution and the motion regarding the Bill are before the House.

The time allotted for this Bill is two hours. I request hon. Members to be brief. Is Mr. Jha moving his amendment ?

SHRI SHIVA CHANDRA JHA (Madhubani) : I move :

"That the Bill be circulated for the purpose of eliciting opinion there on by the 30 January, 1971." (1)

SHRI KAMALNAYAN BAJAJ (Wardha) : Mr. Chairman, the Finance Minister has just now said that human ingenuity is great ; that is correct. But human failures are equally great and that is also true. If there is some loophole or defect in the law, that has to be rectified. For that purpose we are all with him. But our objection is only to this. The documents which were seized were seized sometime last year in October. There was one year time for them, That does not mean that every case has to be proved or all actions should be taken or punishments should be given in the last month. When the writ petition was filed, there must have been sufficient time before the Government to judge and anticipate things, and to foresee what be the result. Whatever it is if there has been some omission in the law, and if you want to rectify it, that should be rectified for the future and not retrospectively. Supposing somebody had committed a crime and the punishment for that crime was six months imprisonment and the trial goes on. During the course of his trial if you think that the punishment should be more you can decide that for a similar crime the punishment may be greater thereafter in further. But you cannot punish that person more than what it was provided at that time.

Here, because of the intervention of the court the scrutiny could not be made. There have been certain lapses, as my hon. friend Shri Goyal pointed out. Have the Government gone and asked the Court for permission to scrutinise the documents? The answer has not been given. Under section 23 there is an alternative way; it has been explained and I do not want to take the

time of the House. The answer to that also has to come. When the last session was continued up to the 4th September, the Government should have known that the court proceedings would not be over by October and they could have come with legislation before parliament. But they were indifferent; they had no time for this as there their time was taken in their party manouvres. We see the way the Government functions by what happened today to the Sheduled Castes Bill. The amendments of the Government themselves ran into hundreds. If they could not come to any definite decision, why bring the Bill. The Joint Select Committee had already approved it. If they wanted to make a few vital changes one could have understood. But they did not do so. They have adjourned the discussion. Similarly, here also, if the Government had applied their mind and anticipated things, they need not have approached the President. The President's is an exalted office. That office should be used only to a very little extent, to the minimum possible extent, and our record should be that we have not ruled the country with the promulgation of ordinances. Even for a day, if it is found unnecessary, it should not be done. With all due respect to the office of the President, I am supporting the motion of Shri Goyal for the simple reason that there has been undue indifference on the part of the Government. Again, as has been suggested, there is only one party which has been involved, and because of one party, if you are not able to do something, you are going to change the law! Of course, there is an omission which should be set right for the future: If it is done for the future, we have no objection whatsoever to it. But we should like to know from the Finance Minister if it is proper to promulgate a law like this—they have done it in the past also—and if they are going to do like this, does it not show that because of one person, however big or however small, you are changing the law and making it applicable retrospectively? If it is for the future, it is nothing. But if you make it applicable retrospectively, does it not show some vindictiveness in the whole affair? A big House like this—the Parliament—which is the main law-making body in the country, should not be reduced to such a farce where we can or change the laws only because one

party or one individual is concerned about it. On this ground, we support the motion of Shri Goyal and we think that the Finance Minister will give proper explanation for giving retrospective effect to the law that is being made now.

SHRI N. K. P. SALVE (Betul) : Mr. Chairman, Sir, I support this amending Bill. I submit that it is wholly erroneous, it is not right, to determine whether there is necessary or otherwise for this amendment with reference to a particular writ matter or a particular case or with reference to the predicament of the Government in one particular matter pending before the court. I think that was purely mentioned as one instance where hardship was caused to the Government or the Enforcement Directorate on account of the law that then existed. The matter will have to be determined and the amendment will have to be collated in juxtaposition with the entire Foreign Exchange Regulation Act, and then determined whether or not this amendment helps to achieve the very purpose and the objective so very ably explained by the Finance Minister in the matter. After all, there was some lack of human ingenuity— one is sure that human ingenuity is not so great that it can foresee everything every-time is advance.

श्री मधु लिमये (मुंगेर) : आप जैसे वकील हों तो सरकार क्या करे। श्री नरेन्द्र साल्वे ; मधु लिमये जो कि इनने काबिल होते हुए भी उनसे कितनी ही गलतियां हो जाती हैं। हम लोग तो छोटे आदमी हैं ; हम लोगों से ज्यादा गलतियां होती हैं।

I was submitting that it is not fair to determine the merits of this amendment with reference to one particular case. The rationale will have to be judged, as I said, in the context of the larger objective.

Then, I am surprised at the contention raised by the hon. Shri Bajaj, that there should be no retrospective operation of this measure, for, it may have the odour of vindictiveness. I am surprised, because he is a very fairminded Member. Why should there not be retrospectivity? After

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all, if there is a particular document to which the Enforcement Director has not been allowed access for a period of one year, because, during that period, the court's injunction or court orders stultified him from getting the access, the position must be rectified. He should be given access. but what is of importance is to determine whether or not there has been an infraction of law, and every possible help must be given by this House to the Enforcement Director to detect the infraction of law under the Foreign Exchange Regulation Act.

**SHRI KAMALNAYAN BAJAJ :** If they have failed to approach the court for scrutinising the document, they have no right to come and ask the privilege of this House like that. If they have not failed, your contention is right.

**SHRI N. K. P. SALVE :** The Finance Minister is capable of taking care of that point. I am on a larger issue, *viz.*, the retrospectivity of this legislation. Mr. Bajaj has accepted in principle that a court's order must not be used as a handle by anyone, howsoever ingenious he may be, to stifle the enquiry of an officer of the Enforcement Directorate from detecting the infractions and commercial offences. It must be a retrospective law and I do not think there would be any vindictiveness whatsoever.

The scope of the Bill has been very ably explained by the Finance Minister. It seeks to amend section 19G. The main feature has been explained in the Statement of Object the Reasons, *viz.*, one year's duration is generally adequate for the Enforcement Directorate to determine whether a particular document is necessary to determine the guilt or infraction of any of the provisions and for proceedings under section 23. But in exceptional cases, where because of some court order the Enforcement Directorate cannot get at it, the one year period must start after the court injunction is vacated. There is a similar law in income-tax. There are limitations on taking penalty proceedings. But the income-tax department sometimes issues notices indis-

criminate and writs are filed. The matter is stayed by the court. Now penalty proceedings have to be completed in two years. But the law provides that in proceedings stayed as a result of court injunctions, that period has to be excluded in determining the limitation. In fact, I welcome the suggestion made by Mr. Goyal why not have a clause in the General Clause Act itself? That may take care of this situation.

I would like to take this opportunity to make a few observations on the working of the Foreign Exchange Regulations Act. It is a very important Act to ensure that the invaluable foreign exchange, very much needed by our country, is properly accounted by all those who earn it abroad to the Government, so that Government may be able to divert it according to its own plan and priorities. Considering the continuous infractions of this law, one would feel that these who are responsible for accounting under the Foreign Exchange Regulations Act observe this Act more in its breach than adherence. There is a growing tendency towards increased commercial offences. We seem to feel that the only way we can curb it is to make our laws more and more stringent. However, human ingenuity works both ways. You want to make it more strict to make sure that those who are contumacious and recalcitrant are punished heavily. Very heavy fines are postulated and there is imprisonment also. But human ingenuity works the other way also. The more you make it stringent, there is the human tendency to be more ingenious in devising means to avoid or evade it. Infraction becomes more skillful. Therefore, my submission is that a more pragmatic view may be taken. After all, this Act has a very basic purpose to serve in economy. But considering the way it is being administered, the infraction of this law is ravaging and devastating our economy.

This has a nexus with one activity in the country which is the most pernicious activity for our economy, namely, smuggling. Smuggling of gold is entirely the outcome of what we seek to do to our foreign exchange by regulating it; in other words,

since foreign exchange has come to acquire a certain preciousness and rarity in the hands of those who earn it, they want to amass it in all possible ways.

There is a very well organised gang in Dubai blessed by the Sheikh there himself. Banks finance the bringing of gold from Dubai to India. From there gold is smuggled into India and that gold is sold at a fabulous price. I do not know but I was told that smuggled gold is sold at 183 for 10 grammes whereas its price abroad is 32 an ounce. It is fantastic profit. Still, whether we like it or not, among Indian there is a weakness for gold. When we purchase gold at such a fantastic price, what happens? Every sort of device is fallen back upon to amass foreign exchange in India and to smuggle it outside. Smuggle gold in India and smuggle foreign exchange outside India in violation of the Foreign Exchange Regulation Act.

This has a very intimate bearing on the value of the rupee itself. Even those who are going to abroad purchase foreign exchange at Rs. 13 a dollar and a pound is purchased at Rs. 31. If we really want to achieve the objective of the Foreign Exchange Regulation Act, I would make two suggestions. I would not have made these suggestions were I not sure that the Finance Minister is a person who is capable of dynamic thinking and of having a new look over the whole matter...*(Interruptions)*

**श्री मधु लिमये :** अब एनफोर्समेंट डायरेक्ट्रेट इन के नियंत्रण में नहीं है। वह प्रधान मंत्री ने ले लिया है।

**श्री नरेन्द्र कुमार साल्वे :** मेरे लिए प्रधान मंत्री महोदय और वित्त मंत्री कोई अलग-अलग नहीं हैं।

**श्री कमल नयन बजाज :** अधिक समय नहीं लगेगा जब कि आप भी इनको अलग-अलग देखेंगे।

**MR. CHAIRMAN :** My difficulty is that you are yielding every time there is an interruption.

**SHRI N. K. P. SALVE :** Shri Madhu Limaye is a very able man and I am enable to resist yielding to him whenever he wants to interrupt. But his difficulty is that on every matter he superimposes his political philosophy and that is how he ruins it.

I want to make two suggestions to the Finance Minister. Firstly, he should consider liberal import of gold by the Reserve Bank and making it available in restricted quantities at reasonable price so that smuggling itself becomes unremunerative and unrewarded. Thereby it would tremendously help restore the purchasing power of the rupee. Secondly, either you do not allow people to go abroad or, if you do let them go abroad, for God's sake give them sufficient foreign exchange.

**SHRI R. K. AMIN (Dhanduka) :** Mr. Chairman, I am not convinced by the introductory speech of our Finance Minister nor am I convinced by his supporter, Shri Salve's speech. On the contrary, I find his supporter, Shri Salve from the Treasury Benches, to be going against the Finance Minister himself. He suggests that the entire smuggling should be stopped and an Act should be passed in order to stop smuggling.

**SHRI GEORGE FERNANDES (Bombay South) :** The Board of Central Excise and Revenue must be scrapped.

**SHRI R. K. AMIN :** But here we are having an amendment of only three or four lines. He does not bring forward a comprehensive Bill to plug the holes in the Act for removing smuggling. Such a dynamic man or a dynamic Finance Minister brings forward only an amendment of three or four lines by way of an explanation. That is why he is not supporting him; on the contrary, he is going against him.

The second thing which my hon. friend, Shri Salve, suggests is to import gold and

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sell it at a reasonable price as was done during the war time by the Britishers. But the very purpose of having control over gold, which is an unproductive investment, will be defeated. The purpose for which we are having this Act is to stop the import of gold, and now Mr. Salve is asking him to import gold and defeat his own purpose. How can the Finance Minister accept his suggestion ?

But in this case my own difficulty is that by applying the touchstone of reasonableness or commonsense, one would certainly ask the Government that for an exceptional case for which you have some difficulty, are you going to issue an Ordinance which is to be done when there are grave difficulties ? Secondly, having issued an Ordinance, are you going to bring the Bill for such a small thing about which for 23 years you did not find any difficulty whatsoever ? The Act has been in operation from 1947. You must convince us that for all these 23 years, this difficulty was not visualised. But I am sure that you must be having a number of cases in which you must have seized the foreign exchange documents and other things. Did't you find any such case so far where the obstruction from the court was coming in the way ? If you had found such a difficulty, what prevented you from coming to the House in time ?

The Finance Minister has not convinced us that by the 5th September, when the House was adjourned *sine die*, it was not possible for him to visualise it and to bring the amendment at that time so that he need not have resorted to the issue of an Ordinance ? From what he says, we are not convinced that on 1st or 2nd of September, it was not possible to visualise that this would happen. He must convince us that by 5th September he was not in a position to visualise this and that something happened between 5th and 20th September that made him to go in for the Ordinance.

Another thing that you must convince is : Was it not possible to ask the court to show the documents which were sealed by

the court ? Was it not possible for the Government to ask for their examination ?

Then, he has not convinced that during the time the Government had documents with them, it was not possible for the Government to examine them thoroughly and bring whatever case they would like to bring against the individual.

Further, I ask : Is this an exceptional case which is so important as to impel you to go in for the Ordinance and bring an amendment with retrospective effect ?

Do you convince us that by having this Ordinance you were able to find out a particular guilt which you would not have been able to find out had there been no Ordinance like this ? By issuing this Ordinance and by keeping the documents longer, you were in a position to find out certain guilts which would not have been possible for you to find out from the seized documents without resorting to an Ordinance ? Will you be able to convince us about that ?

What benefits have you got in a particular case for which you issued this Ordinance ? Have you been able to prove certain things in a particular case of a particular individual, in so far as foreign exchange forgery is concerned which you could not have proved during the time the documents were with the Government ? You must convince us about the benefits you have got by this. Otherwise, what is the use of posing a question : Do you want a stricter and more severe application of a particular law ? When a law of any type is adopted, it is presumed that we want an application of it. We stand for rule of law. But we do not want that only one or two cases like this should impel you to give more and more powers to the Enforcement Department, even to retain a document longer than one year and tamper with it. That will jeopardise the freedom of the individual in this country. We will not stand for it. Is not one year a reasonable period ? Was it not possible to go to the court for examining the document ? Was it not possible for you to find out during the period you had the documents ? You



convince us about all that. You tell us also about the benefits you have accrued from a particular case which without this ordinance you could not have got.

On the face of it, by our own common-sense, it is not possible to accept the reasonableness of this Ordinance or the reasonableness of the explanation given by way of this amendment. That is why, in spite of the support given by his own party Members to it, I am not convinced about its reasonableness and I support my hon. friend, Shri Shri Chand Goyal in disapproving the Ordinance as well as the Bill.

SHRI S. M. BANERJEE (Kanpur) : Mr. Chairman, Sir, I have gone through the provisions of the Bill and Section 19G of the Foreign Exchange Regulation Act, 1947 which is going to be amended. If you read Section 19G, it says :

“Where in pursuance of an order under sub-section (2) of section 19 or of the provisions of section 19A, 19C or 19D, or of a requisition or summons under section 19E or 19F, any document is furnished or seized and the Direction of Enforcement or any other officer of Enforcement has reason to believe that the said document would be evidence of the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder, and that it would be necessary to retain the document in his custody, he may so retain the said document for a period not exceeding one year...”

My hon. friends, Shri Amin and Shri Goyal have pleaded that they oppose this ordinance. We are generally opposed to ordinances when this House is supreme and sovereign and it can enact any law. But, Sir, in this particular case, I would request the hon. Members to kindly consider certain cases.

For instance, I would say the famous case of Associated British Machinery Manufacturers of Calcutta. This particular company was cheating and huge documents

were recovered from their Calcutta office and then what happened?...*(Interruptions)* They were supplying all kinds of machinery to the Ordnance Factories. They are one of the biggest suppliers to Ordnance Factories in the matter of machinery, both automatic and semi-automatic. Now, what happened? Huge documents, two truck-loads of documents were seized and they were kept in the Calcutta office and naturally they had to be sent to Delhi for further investigation. What happened? They wanted certain documents back. Their representatives were asked to come to the Calcutta office and take photostat copies or copies of those documents which were needed, in consultation with them. In one year period it is not possible to scrutinise so many documents when these companies keep two or three sets of ledgers and four or five account books. Naturally their accounting procedure is such that all of them try to have so many books and it is very difficult. I must congratulate and thank those officers. They are only a handful, their number should be increased, who daringly seized the documents whether in the ABMDM or that famous case of Hind Motors. In Hind Motors it was done with the help of the local police officers because the staff was so lazy. A truck load of documents was seized. Naturally, one year may look more. But, to do justice to that particular firm and justice to the cause it is but necessary that the documents should be kept. Otherwise, somebody goes and files a suit in a court of law, almost a writ. Naturally, without disposal of that writ, they cannot touch the documents at all. This was done in the case of one industry headed by Sahu Jain. So, what I feel is that this amendment will help. If we are really sincere and earnest in stopping the foreign exchange racket which is going on unabated and unchecked, this is necessary and I would request the hon. Minister to kindly see that the staff is increased. The young Enforcement Officers, the Asstt. Enforcement Officers and even the Directors, and Asst. Directors—they are handful in number...

SHRI R. K. AMIN : You will solve unemployment problem.

SHRI S. M. BANERJEE : I am not talking of unemployment. I know the reality.

[Shri S. M. Banerjee]

I know certain cases, I know what happened, where certain important documents were seized at the airport long ago, that gentleman swallowed the entire document. He made it like this and swallowed it. You know, Sir, Mr. A.M. Chatterjee who is retired now, got him and that famous case is there.

I would request this hon. House to kindly apply its mind really. Because an Ordinance has been brought, it should not be condemned. . . (Interruptions) Power is there no doubt. But the question is: if they are forced to retain these documents for one year only, no big company can be raided, I can assure you, with my little experience in Government jobs, I know even taking of copies of files and even taking copies of important documents takes month and months together. While extending my support to this Bill, I would request the hon. Minister to throw light on two points. I want to know what are those particular cases. I want to know what are these cases which are pending, which necessitate this particular Ordinance. I want to know how many cases are pending today.

It is my submission that we should give more powers to these officers. The difficulty that we find is this. There are so many sincere and honest officers like for instance Mr. Srivastava, Director of Intelligence who was catching big shorts like Bird and Company or any other Company which were flying away with foreign exchange, and he was putting his hand on the various nefarious and nasty activities of these business houses. But what happened? He was transferred. From Calcutta he was transferred to Bombay; from Bombay he was brought here; and from here he has suddenly been transferred to some other place, on whose recommendation, I do not know. So, this is position, Sir. Instead of giving him some award, he has been transferred. He was daring enough to put his hand into the pockets of those big sharks. So, what I want to say is that these officers should be given more powers, and they should be suitably rewarded.

Also, the staff position should be reviewed once for all. Staff should be increased

if the aim is to run the department effectively. They should be properly rewarded and promoted. Otherwise, what is happening today is this. These few officers are not able to deal with the foreign exchange racket which is increasing. Their power and their numbers should be increased.

Also, I would like to know about one point from the hon. Minister. I want to know whether it is a fact that in 1969 the cases of foreign exchange violations were much more than in 1967 and 1968. If so, what is the reason?

With these words, I support the Bill and I would request the hon. Minister to throw some light on the various points I have raised.

श्री कंवर लाल गुप्त (दिल्ली सदर) :  
सभापति जी, जो इस विधेयक के भाव हैं मैं उस का समर्थन करता हूँ। आर्डिनमें का विरोध हो सकता है कि उस के वगैर भी यह शायद हो सकता था या कोई और इस की शकल हो सकती थी। लेकिन जो भाव हैं इस बिल में उन का मैं पूर्णतया समर्थन करना चाहता हूँ। मेरा एतराज दो तीन बातों पर है। एक तो यह कि यह फारेन एक्सचेंज की स्मॉलिंग जितनी मात्रा में हमारे देश में बढ़ रही है कि शायद हमारे देश की एकोनामी पर उस का एक जबर्दस्त प्रभाव हो रहा है। आप को आश्चर्य होगा कि एक साल में करीब सौ करोड़ से ले कर 150 करोड़ तक की स्मॉलिंग हमारे देश में होती है। ... (व्यवधान) ... यह सरकार ने जो फिगर मानी है वह है। मेरा ह्याल है कि चव्हाण साहब ने यह कहा है। इस से ज्यादा भी होगा। तो जब इतनी बड़ी मात्रा में यह सब कुछ हो रहा है तो सरकार को एक पीसमील लेजिस्लेशन लाने के बजाय एक काम्प्रीहेंसिव बिल लाना चाहिए था और उस के लिए उन

को चाहिए था कि इस की एक स्टडी पहले करवाते। एक साइंटिफिक स्टडी इस की होनी चाहिए कि यह स्मॉलिंग क्यों होती है, मोडस ऑपरेंडी इस का क्या है? जो बड़े बड़े स्मॉलर्स है उन्होंने इस के बड़े बड़े तरीके निकाले हैं, उस के अन्दर क्या लूपहोल्स हैं, कैसे उस को पकड़ा जा सकता है, इन सब बातों की स्टडी होनी चाहिए थी। पर मुझे दुख है कि इतनी बड़ी प्राबलम होने के बाद भी सरकार ने अभी तक इस प्रकार की स्टडी नहीं की। मेरा कहना यह है कि यह इनकम्प्लीट बिल है और मैं सहमत हूँ इस बात में कि सरकार को इस में अधिकारियों को और ज्यादा अधिकार देने चाहिएं। अभी क्या है? सजा का है या जुर्माने का है। उस में फिजिकल इम्प्रोजनमेंट जरूर होना चाहिए। मैंने कई सवाल इस पर पिछले तीन सालों में किए हैं। बड़े बड़े लोग काफी इस में पकड़े जाते हैं लेकिन किसी न किसी तरीके से वह छूट जाते हैं या थोड़ा बहुत जुर्माना देकर वह छूट जाते हैं। तो यह एक आश्चर्य की बात है।

मैं यह मांग करूंगा कि सरकार इस की एक साइंटिफिक स्टडी करे कि किस तरीके से इस को रोका जा सकता है। इस बात की भी जांच की जाय कि कहां ओवर इंडाईसिंग होता है; किन किन तरीकों से स्मॉलिंग होता है। मैं एक उदाहरण आप के जरिये मंत्री जी के सामने रखना चाहता हूँ। इस सम्बन्ध में मैंने उन को लिखा भी है। रामपुर के जो पहले नवाब थे, वे स्मॉलिंग करते हुए पकड़े गये, वे कलकत्ता से प्लेन में पाकिस्तान जा रहे थे और अपने साथ अपने जवाहरात स्मॉल करना चाहते थे। उस समय श्री रफी अहमद किदवई साहब को सूचना मिली—यह देश हमेशा उन के गीत गाता रहेगा उन्होंने मौके पर उन को पकड़ लिया। नतीजा यह हुआ कि उन के सारे जवाहरात स्टेट बैंक आफ इन्डिया, दिल्ली में रखे गये। होम

मिनिस्ट्री ने उन की इवेन्ट्री बनाई, उन की फोटो ली गई और होम मिनिस्ट्री के विशेषज्ञों ने उन का तीन करोड़ रुपये का एस्टीमेट लगाया। उन के मरने के बाद जब दूसरे नवाब आये, तो उन को 1966 में सरकार ने कुछ जवाहरात वापस कर दिये। ऐसा क्यों किया गया, क्या कारण था, उन पर कार्यवाही क्यों नहीं हुई—इस का सरकार के पास कोई जवाब नहीं है।

सभापति महोदय, एक और बड़ी सेंसेशनल चीज आप के सामने रखना चाहता हूँ, उस के बाद उन के जो एन्सेसट्रल हीरे, (Heirloom) मोती और जवाहरात थे, वे बदल लिए गए और उन को बिदेशों की कुछ पाटियों को बेच दिया गया। नतीजा यह हुआ कि जिन जवाहरात की कीमत उस समय 3 करोड़ लगाई गई थी। आज उन की कीमत 8 करोड़ रुपये होती है। मैं जानता हूँ कि सरकार एन्कवायरी कर रही है, लेकिन मैं सरकार से पूछना चाहता हूँ कि इस तरह कैसे हुआ। जब उन जवाहरात को इम्पाउन्ड किया गया था, तो उन को वापस क्यों दिया गया, उन के खिलाफ कार्यवाही क्यों नहीं की गई? इस में कुछ बड़े अफसर शामिल हैं और उन की हमदर्दी उन के साथ है। मैंने संबस्टीचूशन को जो चार्ज लगाया है, मुझे मालूम है कि हिन्दुस्तान में यू० एस० ए० और जैनेवा के दो बड़े ज्वेलर्स आये थे, उन के नाम हैं—ओस्कर गार्डन आफ जैनेवा और वलेडे आर्लज आफ यू० एस० ए०, उन्होंने नवाब रामपुर से उन जवाहरात को खरीदा और वे उन जवाहरात को ले गये, इस तरह से करोड़ों रुपये का फौरन एक्सचेंज का स्मॉलिंग हुआ।

सभापति जी, आज कुछ लोग पॉलिटिकल प्रेशर डाल कर उस वोट हूश अप कराना चाहते हैं। नवाब रामपुर पहले ओल्ड कांग्रेस की तरफ से यू० पी० में एम० एल० ए० थे, लेकिन

अब वह नई कांग्रेस में चले गये हैं। इस तरह से अगर आप स्मगलिंग को हश-अप करेंगे तो काम कैसे चलेगा। मेरी इन्फॉर्मेशन तो यह है कि दो लाख रुपये में इस मामले को खत्म करने का सौदा हो गया है...

**सभापति महोदय :** आप बिल पर नहीं बोल रहे हैं, बिल पर बोलिए।

**श्री कंवर लाल गुप्त :** बिल पर ही बोल रहा हूँ। रूलिंग कांग्रेस के कुछ लोगों ने, जो पदाधिकारी हैं, इस बात का वायदा किया है कि इस मामले को हश-अप करा देंगे। मैं मंत्री महोदय से कहूँगा कि इस तरह के लोगों को छोड़ना नहीं चाहिए।

सभापति जी, अभी हम ने अखबारों में पढ़ा है कि महाराष्ट्र के एक डिप्टी मिनिस्टर \* \* \* 600 पौंड यहां से स्मगल कर के इंग्लैंड ले गये...

**सभापति महोदय :** यहां यह नियम रखा गया है कि अगर आप किसी के बारे में हाजम में एन्वेषण लगाना चाहते हैं तो आप स्पीकर को लिख कर भेज दीजिए, अगर वह परमीशन देंगे, तब रिकार्ड पर आयेगा..

**SHRI JYOTIRMOY BASU :** It is there in the papers, and it has been widely publicised.

**सभापति महोदय :** रिकार्ड पर से नाम हटा दीजिए। नाम न लिया जाय।

**SHRI SONAVANE (Pandharpur) :** The report in the newspapers may be contradicted. But what the hon. Member says here cannot be contradicted, because the person concerned is not here to defend himself.

**श्री कंवर लाल गुप्त :** मैं नाम नहीं लेता हूँ। महाराष्ट्र के एक मिनिस्टर ने यू० के० के अन्दर एक बैंक को 600 पौंड के फोर्ड्स डाक्यूमेन्ट्स दिये, जब गिरफ्तार करने के आर्डर दिये गये तब यू० के० पुलिस ने गिरफ्तार कर लिया और हमारे हाई कमिशन के इन्टरफीयरेंस से उन का छुटकारा हुआ। अगर मिनिस्टर लेवल पर, एम० एल० ए० लेवल पर, पार्टी लेवल पर इस तरीके से स्मगलिंग में सहायता देंगे, तब तो मैं सकम्भता हूँ कि छोटी छोटी मछलियों को पकड़ने से कोई फायदा नहीं होगा।

इस लिए मैं मंत्री महोदय से कहूँगा कि नवाब रामपुर के मामले में जो पोलिटीकल इंटरफीयरेंस हो रहा है, उस को व्यक्तिगत रूप से देखें। मैंने सुना है कि होम मिनिस्ट्री ने पूरे कागजात एन्फोर्समेंट डाइरेक्टोरेट को नहीं दिये हैं, वहां कुछ बड़े बड़े आफिसर्स उन कागजात को दबाये बैठे हैं, न इन्वन्ट्री दी है, न फोटोग्राफ दिए हैं, क्योंकि फोटोग्राफ के देने से जो नकली हीरों का सव्स्टीचूशन हुआ है, वह मालूम हो जायगा। इस लिए मंत्री महोदय व्यक्तिगत रूप से रुचि ले कर इस मामले को देखें और फिर सदन के सामने सारी तस्वीर आनी चाहिए कि किस तरीके से नवाब रामपुर को छोड़ा गया है, उन को वे जवाहरात क्यों लौटाये गये, उस का सव्स्टीचूशन कैसे हुआ, उन के खिलाफ अभी हाल में जो रेड हुआ था, वह भी इसी कड़ी की एक लड़ी थी।

मैं चाहता हूँ कि सरकार एक कम्प्रीहेन्सिव बिल लाये, इस की साइंटिफिक स्टडी करे और एक कमिशन बैठाया जाना चाहिए जो इस तरह के सब पुराने केसेज को देखे, बड़े बड़े इन्डस्ट्रीयलिस्ट्स, बड़े बड़े व्यापारी, मिनिस्टर,

किसी भी बलास के लोग हों, जो इस तरह की गड़बड़ी करते हैं, इन सब मामलों को स्टडी कर के तब यहां पर बिल लायें। इस में ज्यादा से ज्यादा सजा देनी चाहिये। मैं बनर्जी साहब का समर्थन करता हूं कि जो आप के यहां ईमानदार लोग हैं, जैसे अभी 58 लाख रुपये का स्मॉलिंग का मामला पकड़ा गया, इस के लिए मैं उन अफसरों को बर्खास्त देना चाहता हूं, जिन्होंने ईमानदारी से, मजबूती के साथ यह काम किया। क्योंकि कई बार मुझे आश्चर्य होता है, आज कल के जमाने में, इस बेइमानी के युग में भी कुछ ऐसे अफसर हैं जो करोड़ों लाखों रुपये के स्मॉलिंग रैकेग को बिना किसी लालच की परवाह किये पकड़ कर सामने ले आते हैं। मैं चाहता हूं कि मिनिस्टर महोदय उन को रिवाइंड करें, इनाम दें और कहें कि जो भी इस तरह के काम करेगा सरकार उन की सजा देगी।

**SHRI JYOTIRMOY BASU (Diamond Harhour):** My party will support any real measure to stop the drainage of the countrys' wealth, the Foreign Exchange Regulation Act could easily be called a law of loopholes. It has been deliberately kept that way.

We have not the least doubt that this Government has no intention of stopping the looting by foreign monopolists, that if why it has deliberately kept this Act as a law of loopholes, because this Government is supported by foreign monopolists and also their Indian counterparts. So they can not possibly be expected to upset or put hindrance in their field of plunder.

We have been suffering from a basic evil from the time the Britishers came. This is the under-sale of our products and over-buy of theirs. In both cases, you had no say. You sold your commodity at their price and you—bought their commodity again, at their price. So the plunder was there both ways.

Take, for example, one item, export of iron ore. It is being done at a cost struc-

ture where there is no real value of the precious metal included. In one case, in paradeep, even the cost of exploitation and transportation is not fully covered. You are losing at the rate of Rs. 15 per f.o.b. paradeep but are trying to shield it from the people of the country. The same thing is happening with tea and jute.

From Goa iron ore is exported. You do a little manipulation with Llyods World Register of ships and mark a 15,000 tonnes as a 12,000 tonner. You load 15,000 tonnes of iron ore and send it to Japan invoiced for 12,000 tonnes and have the value of 3,000 tonnes in Japan untouched by income-tax, untouched by foreign exchange regulations.

**SHRI N. K. P. SALVE :** It is not done that way, it is very crude.

**SHRI JYOTIRMOY BASU :** Another way is that if the metallic content of the iron ore is 75 per cent, you show it as 62 or 60 per cent. If the landed value of a particular ore in a European Port for a metallic content of 80 per cent is Rs. 400 you show it as having a content of 40 per cent and invoice it at Rs. 120 and retain Rs. 280 in a foreign country untouched by Mr. Chavan, his Directorate and Mrs. Gandhi because they are greatly in love with those people who are doing it.

I would cite one example. I am quoting from the prospectus issued by the Imperial Tobacco Company. That is how I would like to call them because they are nowhere Indian. If you look at page 9 when you go back to office and send for a copy, you will find how you are allowing us to be plundered. Goodwill and trade marks—something which does not exist, is valued at Rs. 4,90,34,487. It does not involve importation of machinery or anything else, it is something which your country generated. You prefer to have "King of Kings" as a smoker, and there is goodwill generated. You not only pay 10 times the cost of production or what the tobacco grower gets, you give another unseen amount. Profit at the rate of seven to twelve per cent, seen, unseen, backdoor, front door, all these you are allowing them to repat-

riate every year on an item which does not exist to the extent of Rs. 15 lakhs in foreign exchange because politically for your own existence you dare not touch them. Therefore, you must allow them to plunder us here.

I was talking the other day with one of your brilliant Secretaries, Mr. K. B. Lall.....

**SHRI PILOO MODY (Godhra) :** Please do not mention names.

**SHRI JYOTIRMOY BASU :** I am going to say nothing against him.

**SHRI PILOO MODY :** I am telling you that you should not do it. I am objecting. Point of order. Better withdraw.

**SHRI JYOTIRMOY BASU :** We are talking about the importation of rubber, Mr. Vasudevan Nair, a very dear friend of mine, said, "Oh, the State Trading Corporation is handling it, you do not have to worry about over-invoicing." But an item which cost Rs. 20 is shown as Rs. 50 or Rs. 100 by over-invoicing. This is how it is done. Dunlops are the ultimate consumers of rubber in this country. They have a Subsidiary firm with its office in 'Plantation House', Menzing Lane, London. They are running a rubber plantation. Dunlops say they want Latex variety X-1 which costs internationally Rs. 100 landed Calcutta. Their subsidiary will agree and the STC; a beast of burden, comes in between. Actually, the subsidiary firm will send Latex X-3, the international value of which is Rs. 70, and mark it X-1 and take Rs. 100 for it. This is how over-invoicing done. It is done through value, through quality, through quantity and in a hundred and one other ways. You know all these things, but you keep your eyes shut because it goes against your interest.

The Administrative Reforms Commission has very mildly put it that the drainage due to over-invoicing and under-invoicing is to the tune of Rs. 200 crores. I have been closely associated with international firms and I know the stories of both sides of the river. I can say safely that your under-invoicing and over-invoicing is

taking not less than Rs. 400 crores. a year in foreign exchange and you are losing income-tax also to that extent. Today because we have a blind love for the foreigners and foreign manufacturers, we are paying 42 per cent of our export earnings as interest and service charges on foreign loans. Quoting world Bank officials, I can tell you that within 15 years it will become 100 per cent and you will have no foreign exchange earnings left with you unless you borrow again from them. In Rajya Sabha yesterday, there have been speeches. There have been 38 companies penalised and 175 suspected cases amounting to more than Rs. 30 lakhs; all soft pedalling and gross underestimate. From the list which I collected from the Library this morning I could see to very well-known set of people. One is Jardin Henderson Ltd. I was once associated with them and they pushed me to this faith and belief that unless the foreign hand of exploitation is stopped in this country, we shall never survive, not to speak of prosper. The other is Thomas Duffer and Company. I should tell Mr. Chavan that they are very good friend of yours. Sir John Brown told me Mr. Jyotirmoy Basu, what can you do? I am a great friend of Finance Minister so and so; I shall write to him; if you want a job as a commercial attachee in an embassy, I can arrange it but do not try to harm us. That is what he said. You must read the article I wrote in *Blitz* in 1960-61.....(*Interruptions.*) This is Jardin Henderson and Company have been sworn smugglers and they are agents of the Indo-China Steamship Company. If you read a very world renown book titled, *Foreign Mud*, written by an Englishman you will know this. The indulge in opium smuggling. Their ships smuggle gold, silk and silver. Since 1950 their ships had been caught times without number carrying on gold and smuggled goods and so many other things. They had been been penalised 101 times. At the last stage they get out; come to Delhi where they maintain a high-powered contact office and you cannot touch them. I should like to know from Mr. Chavan either here or afterwards in a letter; what are they going to do against this really sworn smugglers and evaders of the laws of the soil? Mr. Girdharilal Mehta is a director of Jardin

Henderson Ltd. and also a director of the Thomas Duff—Company.

go in for some petty legislation to hoodwink the people of the country.

**SHRI KAMALNAYAN BAJAJ :** On a point of order, can he mention the name of a person like this ?

**SHRI JYOTIRMOY BASU :** I have every right to do so. I shall show past precedents from our records.

**MR. CHAIRMAN :** There is a convention that if you want to bring a charge against somebody you must write to the Speaker ; or you can quote from some documents.

**SHRI TENNETI VISWANATHAM (Visakhapatnam) :** If this rule is pushed to its logical extreme what will happen is that we cannot name anybody except 523 Members of the Lok Sabha. We shall be stultifying ourselves if we do so. Really the rule means that where there is a Minister to defend, do not use the name of the officer. If something goes on in the market and if there are smugglers and if you say that we cannot mention their name, what is the point in it ?

**MR. CHAIRMAN :** He can name them after writing to the Speaker in advance and getting his permission,

**SHRI JYOTIRMOY BASU :** Now, another group of people. Goenka's of Calcutta, R. P. Goenke and all that. They purchased Balmer Lawrie and Duncans. They had to struggle with Mr. Wahi of the UPCC and to fight for securing foreign exchange in London. How much and how quickly they could do it, they competed with each other. Government must enquire and tell this House how these persons have acquired control of foreign business houses on payment of their dues in foreign exchange ?

About the Hindustan Motors, the Birlas, we have heard about them. Cases about foreign exchange transactions are going on. They can hire very big lawyers and hoodwink the laws which are full of loopholes. You cannot touch them because they are your masters and patrons, You will only

Then, about shipments to banned areas at a fantastic premium. This Jardin and Henderson was caught smuggling things to Portuguese, East Africa with whom you have a trade ban. They have also created a dummy firm to cheat East Germany ; a firm called Nelson and Kelson ; Jacker and Alibrook. The name of the firm is Nelson and Lyons in Humburg. The business was to go to an Indian firm, and it diverted to their own people.

**MR. CHAIRMAN :** The hon. Member's time is up.

**SHRI JYOTIRMOY BASU :** Sir, I will finish in five minutes.

**MR. CHAIRMAN :** No, no. Do you know how much time you have taken ? More than the time allowed for your party. *(Interruptions.)*

**SHRI JYOTIRMOY BASU :** I will take just two minutes more. Then there is the question of Mundhras shifting all their wealth to England. How is it being done right under the nose of the Government ? Because he can pull out a cheque from his pocket and blackmail any Minister because he is collecting funds for them.

What about Modella Woollen Mills' scandal, committing fraud in the importation of wool ? What are the Government doing about it ? ...*(Interruption)* A former Auditor-General, who is is director in the Modella Woollen Mills a involved in this fraud. You are hand in glove, and that is why Bird and Co., could run away and Mr. Sachin Chowdhuri reduced the fine.

**SHRI N. K. P. SALVE :** Sir, on a point of order. The hon. Member every-time has insinuated that something is, being done right under the nose of the Minister and said that there is also an unholy alliance. Once he said—I am pointing this out because I have been able to check it—something about Imperial Tobacco Co.

[Shri N. K. P. Salve]

I have nothing to do with it, and I have no sympathies with it. The sooner it is wound up the better. But one statement he made, and let us see how irresponsible it is. I want to bring to your notice one thing. Here is the prospectus. In accordance with section 24 (2) (b) of the Companies Act, they are required to determine the total assets less liabilities and determine the net wealth. That is how they have determined the net wealth. One of the items of the asset is goodwill, trade mark at cost, at Rs. 4.90 crores which they must show as required by the Companies Act. Now, where is the smuggling of foreign exchange, and how is he saying that it is done under Mr. Chavan's nose? If it is possible for him, let him explain it.

SHRI JYOTIRMOY BASU : I am coming to it.

MR. CHAIRMAN : No, no. There is one thing. This has become the habit of the House to attack anybody with motives.

SOME HON. MEMBERS : Not the House.

AN HON. MEMBER : Some say.

MR. CHAIRMAN : That is wrong. It is not proper.

SHRI JYOTIRMOY BASU : I will quote from the published document.

MR. CHAIRMAN : In the House, you should not raise that matter, and you cannot go on maligning anybody and everybody at any time. I request you to finish the speech. (*Interruption*)

SHRI JYOTIRMOY BASU : I do not know why there is so much passion for those who are running the economy of the country. In the capital structure, that amount has been shown, and it is shown as the capital which they never brought. (*Interruption*)

It was never genuinely created, and they are taking dividends out of that money, what is the wrong I have talked about it? Mr. Salve is objecting. I really fail to understand him. (*Interruption*)

MR. CHAIRMAN : Your time is up.

SHRI JYOTIRMOY BASU : I am concluding, Sir. I wish to draw the attention of the House to the 56th report of the Public Accounts Committee, wherein they have said that in one case, overinvoicing was done to the extent of 2,000 per cent. I can quote 10 instances where money has been drained out.

Now, the remedy is, start with nationalisation of international trade, and set up checkpoints at every port abroad where you have business dealings.\*\*

MR. CHAIRMAN : This will be expunged.

SHRI JYOTIRMOY BASU : Why Sir?

MR. CHAIRMAN : You cannot impute motives always to the Ministers.

SHRI JYOTIRMOY BASU : I am sorry you are curbing our rights.

MR. CHAIRMAN : That is not curbing your rights.

SHRI JYOTIRMOY BASU : I am saying, do not expunge those words. I have made a remark at the Government and they can certainly get up and reply. Mr. Chavan is here. All this is happening because of the political patronage. Sir, please do not curb our rights. (*Interruptions*).

MR. CHAIRMAN : You must observe some decorum in the House. Mr. Jha.

\*Expunged as order by the Chair.



श्री शिवचन्द्र भा : सभापति महोदय, यह विधेयक बहुत ठीक है, लेकिन इसका जो शीर्षक है वह बहुत अहम है। उस की अहमियत है कि इसमें लिखा हुआ है फारेन एक्स्चेन्ज रेगुलेशन (अमेंडमेंट) बिल। इस की अहमियत इस के लिख देने से ज्यादा हो जाती है। मैंने संशोधन दिया है कि इसको सर्कुलेंट कर दिया जाए जनता की ओपीनियन के लिए 30 जनवरी, 1971 तक। इसके सर्कुलेशन के जरिये जो खास मुद्दा है इस बिल में उस के बारे में जनता की राय मालूम हो जायेगी।

इस विधेयक में लिखा गया है कि जो भी कागजात पकड़े जायेंगे उनको सरकार इन्वेस्टि- गेशन के लिए एक साल तक रोक सकती है और अगर कोई सुपीम कोर्ट या हाई कोर्ट में इस के खिलाफ अपील करेगा तो उसमें लगने लगने वाला समय इस एक साल के अलावा होगा। इस मुद्दे के अलावा होगा। इस मुद्दे के अलावा फारेन एक्स्चेन्ज रेगुलेशन का जो वायोलेशन होता है, उस में जो धांधलियां होती हैं उन सब के मुतालिक बातें आ जायेंगी यदि इस को सर्कुलेंट कर दिया जाये। उचित होगा कि यह जनता के सामने तफसील के साथ जाये। इस लिए मैं चाहता हूँ कि इस पर जनता की ओपीनियन ले ली जाये।

मंत्री महोदय ने विधेयक को पेश करते हुए अपने भाषण में कहा कि एक खास घटना हुई बिड़ला ग्रुप के द्वारा, जिसके कारण विधेयक को लाना पड़ा। लेकिन मैं कहना चाहता हूँ कि एक बिड़ला ग्रुप ने ही नहीं, पिछले सालों में कई दफे आप के रेगुलेशन्स को वायोलेट किया गया है। जरा आप अपने हिसाब को तो देखिए क्या यह बात सही नहीं है कि फारेन एक्स्चेन्ज के वायोलेशन का केवल यही एक तरीका नहीं है। जब 1966 में रुपये का अवमूल्यन हुआ तब सीक्रेटली बिड़ला ग्रुप को उस के बारे में

पता चल गया और इस सीक्रेट के मालूम होने के कारण बिड़ला ग्रुप ने करोड़ों रुपयों का मुनाफा कमाया। मैं मंत्री महोदय का जवाब चाहता हूँ कि क्या यह बात सही नहीं है। चौबीस घंटे पहले बिड़ला ग्रुप को पता चल गया और उन्होंने करोड़ों रुपये बना लिये।

फारेन एक्स्चेन्ज रेगुलेशन के वायोलेशन की जो बात है उस को ग्रुप को ह्यूमन इन्जेनुइटी नहीं कहना चाहिये। आप को कहना चाहिए कि यह कैपिटलिस्ट इन्जेनुइटी है। पूंजीवादी पालिसी की वजह से फारेन एक्स्चेन्ज रेगुलेशन का वायोलेशन होता है और उस पर आप कड़ाई करना चाहते हैं। आप ह्यूमन इन्जेनुइटी को बदनाम न करें। आज के अखबार में दिया हुआ है कि फारेन एक्स्चेन्ज का 54 लाख रुपये का रिकेट है, जिसके मुतालिक कल कालिग अटेंशन आ रहा है और उसका जबाब मंत्री महोदय देंगे। इस तरह के रिकेट चल रहे हैं।

राष्ट्रपति के पिछले दौर में नहीं, उस के पहले के दौर में जो लोग गये थे उस पार्टी के लोगों के मुतालिक फारेन एक्स्चेन्ज रेगुलेशन के वायोलेशन की बात आई थी। मैं जानना चाहता हूँ कि क्या मंत्री महोदय ने उनके खिलाफ कोई कार्रवाई की है इन बातों के मुतालिक कुछ साल पहले तिवारी कमेटी मुकर्रर की गई थी। उस की खोज है कि हर साल 100 करोड़ रुपये के लासेज होते हैं।

**एक माननीय सदस्य :** कौन से तिवारी ?

श्री शिवचन्द्र भा : श्री डी एन तिवारी। आप बतलायें की तिवारी कमेटी की रिपोर्ट के बाद मंत्री महोदय, किसी हद तक आगे बढ़े हैं या नहीं। श्री कंवर लाल गुप्त ने कहा कि इस की स्टडी होनी चाहिए। लेकिन मैं कहना चाहता

[श्री शिव चन्द्र झा]

हूँ कि आप कमेटी बनाएं जो इन तमाम बातों की तपसील में जाए जो इस फारेन एक्सचेन्ज की चोरी के मामले में जाए और बताए कि कितनी फारेन एक्सचेन्ज की चोरी हो रही है और उस को रोकने के लिए मौजूदा परिस्थितियों में कौन से कारगर कदम उठाये जाने चाहियें। यह जो रैकेट है, यह बन्द होना चाहिए।

सभापति महोदय, मे समझता हूँ कि सरकार की फारेन एक्सचेन्ज के मुताबिक जो नीति है वह बुनियादी तौर पर गलत है। इस का कारण यह है कि फारेन ट्रेड जो है, इंटरनैशनल ट्रेड जो है, उस पर इस सरकार का बिल्कुल भी कब्जा नहीं है। छोटी मोटी बातें तो सरकार ने की हैं। लेकिन मोटे तौर पर असल बात यह है कि इंटरनैशनल ट्रेड पर सरकार का कब्जा नहीं है और यही बजह है कि ये सारी धांधलियां होती हैं।

दूसरी बात यह है कि जो अर्थ व्यवस्था है उस में पूंजीपतियों को आपने इस तरह से छूट दे दी है कि वे जब चाहें और जैसे चाहें कानून का उल्लंघन कर सकते हैं। आप उस में कुछ भी नहीं कर सकते हैं। इंटरनैशनल ट्रेड के बारे में जो आपकी नीति है वह बुनियादी तौर पर गलत है। उस में सुधार लाने की बुनियादी आवश्यकता है, उस में परिवर्तन की जरूरत है साथ ही साथ अर्थ व्यवस्था में बुनियादी परिवर्तन लाने की जरूरत है। आपने मुनाफाखोरी को बढ़ावा दिया है। मुनाफाखोरों को आपने खिलाया है, पिलाया है, बड़ा किया है। इस बास्ते जरूरत इस बात की है कि आप इस सब की जड़ में जाएं। आपने ह्यूमन इंजिन्यूइटी की बात कही है। क्या आप समझते हैं कि इसको जब आप पास करवा लेंगे तो इस को वायोलेट वे नहीं करेंगे? इसको भी वायोलेट करने के रास्ते भी वे लोग खोज निकालेंगे।

इस बास्ते अर्थ व्यवस्था में आप सुधार लायें। अगर हकीकत में आप चाहते हैं कि फारेन एक्सचेन्ज का जो समाज को लास हो रहा है वह न हो तो पहली बात तो यह है कि आप एक कमेटी बनाएं जो तफसील में इस समस्या में जाए। वह कमेटी सुझाव दे कि जिस तरह की घटनाये घटी हैं जो जो स्थितियां पैदा की गई हैं, उन में कौन कौन से कारगर कदम उठाए जा सकते हैं। साथ ही इंटरनैशनल ट्रेड पर जो पूंजीपतियों ने अपना पूरा कब्जा कर लिया है, उन से इस कब्जे को आप वापिस लें। जो मुनाफाखोरी का सिलसिला है, इसको भी आप खत्म कराने की कोशिश करें। जब तक कमांडिंग हाइट्स आपके हाथ में नहीं होंगी, बिडला ग्रुप, टाटा ग्रुप आदि को आप अपने हाथ में नहीं लेंगे तब तक कुछ नहीं होगा। यह फारेन एक्सचेन्ज की तो मामूली बात है और भी बड़ी बड़ी अनुचित बातें इसके बगैर हो जाती हैं। अगर इनको अपने आपने हाथ में लिया तो अर्थ व्यवस्था के लिए और भी बड़ी प्राप्तियां होंगी, और भी बहुत से लाभ होंगे।

जहां तक इस विषय का सम्बन्ध है इसके जरिये आप चाहते हैं कि एक साल या इससे ज्यादा जब तक केस चलता है, तब तक आप कागजात को रख सकते हैं यह मामूली बात है। इस में असहमत होने की कोई चीज नहीं है। लेकिन जनता के जो विचार हैं फारेन एक्सचेन्ज रैकेट के बारे में उससे बहुत यह होगा कि आप इसको सर्व्यूलेट करें और तीस जनवरी तक लोगों की राय जानें। सरकार द्वारा पूंजीपतियों को जो प्रोत्साहन मिला है और जिस तरह से फारेन एक्सचेन्ज की चोरी हो रही है, उन तमाम बातों की जांच के लिए आप एक कमेटी बनाएं जो स्ट्रुटेजी निकाले की किस तरह से इस चोरी को रोका जा सकता है, कौन से कदम इसके बारे में उठाए जा सकते हैं और सुझाव कमेटी से लेकर आप उन पर अमल करें।

**SHRI S. KUNDU :** Mr. Chairman, I welcome this Bill but while welcoming this Bill, I think, it is necessary that we should also incidentally go into the question of regulation of foreign exchange and the entire Foreign Exchange Regulation Act, 1947.

I have submitted an amendment to this Bill. Since this Bill came up so suddenly, because the discussion on the other matter was adjourned, I request you to use your discretion profitably and to allow my amendment to come over here.

This Bill, as has been explained, is a very simple one. The period for which the Judges hold up certain documents should be excluded from counting the period provided in the earlier Act, that is, about one year. But when this Bill was brought before this House, I do not understand why Shri Chavan did not look up the recommendation given by the Estimates Committee in 1967-68. The Estimates Committee went in depth into this point particularly of foreign exchange regulations. It recommended that the entire Act needs comprehensive, foolproof, changes. That was in 1967. Now, we are at the fag end of 1970. I do not understand why Mr. Chavan rushes through only an innocuous portion of this Foreign Exchange Regulation Act. I will come to this point later. Coming to the provisions of the Bill, I would like to draw the attention of Mr. Chavan to various provisions. Personally, I think, there is no need of this provision. If he wants to eliminate the time which has already been consumed by the court or the time consumed by an order or an injunction of the court in holding up these documents, he should have simply said, as I have given in my amendment, that the time which has been used by the court in holding up these documents should be excluded from calculating one year. Here, he has given so many ifs and buts. One of them is that this document could not be examined fully.

The question whether the documents have examined fully, half-fully or partially can be interpreted differently. It will be open to the court to interpret it as they like. The court may also refuse it by saying, "We feel this document has been examined fully. Therefore, you cannot get it."

Coming to another provision, he has said that the document could not be used for commencing any proceedings. Now the court may also interpret it by saying that any commencing of the proceedings may start right from the initiation of the investigations or from the time the document was seized. So, I do not understand why so many ifs and buts have been put here. It should have been simply put, in 1 line or in 2 lines, that the time which has been consumed by the court, by its order an injunction, should be deducted from one year.

The amendment which I have given is that this provision should be deleted and I have suggested that the time of the continuance of the injunction orders granted under authority of law by the courts, the day of its passing or issue and the day on which it was withdrawn shall be excluded. This will make it simple and quite clear. Otherwise, Mr. Chavan will be coming to this House whenever he finds some pinpricks here and there. To avoid this, I think, some serious thinking should have been done.

**SHRI N. K. P. SALVE :** Have you given the amendment ?

**SHRI S. KUNDU :** Yes. I have requested the Chair to allow it and to circulate it.

**MR. CHAIRMAN :** Your amendment has not come in time. I have my difficulty in allowing it.

**SHRI S. KUNDU :** You have the discretion to allow it and you can circulate it. Since the Bill came up suddenly for discussion. I gave notice of it a bit late. Let it be discussed. Let Mr. Chavan look into it. It is a simple one.

**MR. CHAIRMAN :** It should have been given on the previous day. You have given it only today.

**SHRI S. KUNDU :** I explained why I could not give it earlier. You have got the discretion. In many cases it has been done.

**MR. CHAIRMAN :** All right. I allow it. But it will not be circulated.

SHRI S. KUNDU : This is the amendment I have given :

“Pages 1 and 2,—

for lines 15 to 18 and 1 to 6, respectively *substitute*—

“the time of the continuance of the injunction order granted under authority of law by the courts, the day of its passing or issue and the day on which it was withdrawn shall be excluded.”

As I explained, once you accept my amendment, this will not go against the spirit of this Bill. On the other hand, it will support the real intention of this Bill. It will eliminate the various ‘ifs’ and ‘buts’ which are there.

In this clause and the provisos (a), (b) and (c), as I explained to you a little earlier, one of the ‘ifs’ which is there is that if the said document which has been held up by the court, could not be examined fully, the court can only grant exemption or the exemption can be granted once the court thinks that that document could not be examined fully. Now it will depend upon different courts to interpret how it was examined fully or how it was not. It will create a chain of litigation.

Similarly, in (b) also the said document could not be used for commencing any proceedings under Sec. 23. If you want to get the exemption, you have to convince the court that you could not commence the proceeding. Now ‘commencing’ is such an elaborate word that nobody knows when the court and at what particular time, it will think as to what is the meaning of this word ‘commencing’. As I said, ‘commencing’ could be considered right from the time the documents were seized or when some investigation was started. Such other complications will arise. Therefore, I thought that these (a), (b) and (c) could be easily eliminated and a straight and simple language can be put in saying that the period when the court holds up these documents under injunction order, should be excluded.

Coming to the earlier point about the provisions of the Foreign Exchange Regulation Act, my hon. friend, Mr. Salve, said ‘Yes,’ when I asked him, “Are you satisfied that this Foreign Exchange Regulation Act is foolproof and is deterrent?”

SHRI N. K. P. SALVE : Sir, I am misunderstood. I was asked, ‘Are the punitive measures contemplated sufficiently strict and stringent?’ To that I said, ‘Yes’

SHRI S. KUNDU: I take it. He said ‘Yes’. What are the punitive measures provided in this Act? Anybody who smuggles crores of rupees gets a maximum punishment of 2 years rigorous imprisonment. I will just give you the example of Pakistan under martial law. The Pakistan administration has announced a deterrent punishment and said that anybody who does not surrender his earnings abroad under their Act will be punished with 7 years rigorous imprisonment and this information was given in the Estimates Committee meeting. The Estimates Committee said that this entire Act has to be completely changed.

Now that is the power of the Director of Enforcement? The Director under Sec. 23 will decide what sort of proceeding has to be initiated. The Director can assume jurisdiction and try himself or if the Director wishes, he can file a complaint. When he assumes jurisdiction and tries, the maximum punishment is a fine of Rs. 5000. He cannot give imprisonment. He decides whether the case should be sent up. Otherwise, it cannot be done. The Director means the Government. The Government decided whether this will be sent up or it will be decided by the the Director. So it gives a lot of elbow room for the Government to decide individual cases and help those people who come and move around Delhi get some sort of excuse from it.

So all this sort of shouting is going on here as to why these people are allowed. The real thing is that there is a defect in the law and this defect has been very deliberately kept in there.

Then there is the second proviso about appeals. These cases linger on for years and

once it lingers on for years, documents are there and evidence is eliminated and no evidence is traceable. Why? Because in the provisions you have given the right of appeal. Like Income Tax Appellate Board you have constituted another Board. Again there is an appeal to the High Court. When there is appeal to the High Court, that man can go to the Supreme Court as well. I do not know why you have kept an Appellate Board. What is the function? If you file prosecution and if there is any punishment that man goes to the High Court. Why should there be a Board? The Board is appointed by the Central Government. When he comes to the Board again he comes to you. He wields certain political influence and somehow he wins his case and gets the relief. There are many such things happening.

The hon. Minister would have seen the Estimates Committee's report. It is really very strange, Sir, that the Reports of our Sovereign Parliament's most important Committees like the Public Accounts Committee and the Estimates Committee are not given their due weight. When such Bills are brought in, the foolproof changes suggested by the Committee are not given due regard.

I wish to say something on foreign collaboration and foreign remittances. These are all inter-connected matters. What is our attitude to foreign collaboration? In 1967-68 only, the foreign companies here have remitted Rs. 67.55 crores to their friends and to their brothers outside India. During the fourth Plan, it has been assessed that Rs. 666 crores would be remitted outside the country. There are various cases of smuggling which are indulged in by these people and they find out some excuse or the other. I do not say that foreign collaboration should be stopped. But, I only say that we should not have foreign collaboration for biscuit factory or chocolate factory or brassiers. I do not want to shut away foreign collaboration completely, knowledge of Technology and improved techniques should come from foreign country and it is necessary for the country's development and progress. You should see that modern technology is used by dynamic entrepreneurs and not by old hags who are working only for profit. There are various cases involving smuggling and other activities and I would

like to cite a few of them. I hope Shri Chavan will tell me as to what happened to the case of R. Manilal Saha who smuggled away Rs.40 crores worth of money. (*Interruption*) These are cases where they have filed prosecutions. Rs. 40 crores worth was involved in these racket, but what happened? He was bailed out for Rs.20 lakhs. He would like to give Rs.20 lakhs and become another Dharma Teja! There is the case of another Nainmal Panjaji Shah who got himself photographed with Mr Sukhadia...

MR. CHAIRMAN: Are you quoting cases?

SHRI S. KUNDU: Yes, these are various cases in which action has been taken. What has happened to the case of Messrs. Aminchand Pyare Lal? What has happened to the Mundra Case? In case of Aminchand Pyare Lal, there was *prima facie* case under Section 4 (1) of the Act; but no action was taken. There is another case of Misrilal Jain, who has been alleged to have exported or imported or smuggled diamonds in violation of the Act. What has happened to these cases? The hon. Minister should give a reply about these cases. These and other big cases are still lingering. People would like to offer smaller amount for bail and get out of such violations, unless you change the law radically. Thank you.

SHRI Y. B. CHAVAN: In some of the speeches made by hon. Members, they have made interesting suggestions and would look into them.

A suggestion was made by Shri Shri Chand Goyal that instead of amending these individual Acts, why cannot we include some Clause in the General Clauses Act, covering all such cases. It is rather too wide a suggestion for me to say yes or no, because, one will have to find out the implications of having this general clause in the General Clauses Act. Wherever it was found necessary administratively and also legally, the individual Acts had made this provision, and a reference to this was made by Shri N.K.P. Salve in the case of income-tax Act. Possibly, this is a much better thing. If some sort of blanket law covering every thing under the sun is there then possibly it may lead to unnecessary in-

[Shri Y. B. Chavan]

convenience and hardship. But anyhow, since the hon. Member has made the suggestion, one will have to go into it.

Many hon. Members have mentioned certain individual cases and the names of certain individuals. I hope you would not expect me to answer in respect of all those cases, because I am not fully posted with all the facts, but I shall carefully peruse the speeches of the hon. Members and see what I can do about it.

Coming to the legislation itself, there are one or two amendments. One is an amendment by Shri Shiva Chandra Jha seeking to circulate the Bill for eliciting opinion thereon. I do not know what is the advantage of sending it for circulation. Really speaking, that means undoing the Bill itself. This Bill has been brought forward here to replace the ordinance which had already been issued. So, if his amendment is accepted, the very purpose of bringing forward this legislation will be ultimately defeated. So, it is very diviuos that I cannot accept that amendment.

Certain very important points were made by my hon. friend Shri N.K.P. Salve. He has raised a very basic issue namely whether the law of foreign exchange regulation is serving its purpose. He has said that this Act has resulted in increasing the scope of smuggling. I do not deny that there is smuggling and quite a sizable amount of smuggling. But I do not know how I can link up the Foreign Exchange Regulation Act with smuggling.

In order to restrict or avoid the possibility of smuggling and other such illegal activities, one has to have something like foreign exchange control. If it were the position that foreign exchange was not a scarce commodity, in our country, then perhaps there may have been no need for such control, but I think many other countries and some of the richer countries are also having this foreign exchange control. If foreign exchange control was not there, then there would have been complete economic anarchy in this country.

So far as smuggling is concerned, it is a serious question and it will have to be faced, and one has to find some remedies against it. There, I entirely agree. The real point is that it is not merely the Foreign Exchange Regulation Act or any particular which would suffice, because there is a blackmarket economy in the country and it has its own operation in the foreign exchange field as well. This is a fact and this has to be faced not only by the Finance Minister, but by the nation as a whole and also by this whole House.

SHRI S. KUNDU : Let him do his job first.

SHRI KAMALNAYAN BAJAJ : The Finance Minister can do a lot of things to minimise it.

SHRI Y. B. CHAVAN : I am trying to do that, but my hon. friend is opposing it.

SHRI KAMALNAYAN BAJAJ : But the method is wrong.

SHRI Y. B. CHAVAN : He is trying to oppose even what little I am trying to do, and yet he says that everything should be done to minimise it. What a logic !

SHRI KAMALNAYAN BAJAJ : His method is wrong, because he wants to do it retrospectively. If he wants to do it prospectively, then we have no objection.

SHRI Y. B. CHAVAN : What is retrospective is to cover what really speaking is a loophole in the law. It is demonstrated by one single case, and it is an illustrative case. I am not against any particular individual. It is not a question of prosecuting or causing harassment to any particular individual. But when a loophole in the working of a law is demonstrated, then I think it is the duty of every wise man to correct the situation. This is exactly what we are doing. I am merely mentioning this as an illustration. I entirely agree with the reply that was given so very ably by Shri N.K.P. Salve on this question.

Coming back to the question of foreign exchange troubles, there was mention about

gold. This is one of the very important matters which need consideration by all those who think in terms of the economic prosperity of the country. Many a time, this question has been discussed on the floor of the House, when the Gold Control Act was passed, and later on, when the administration of the Gold Control Act came to be discussed here, and this point has been fully explained. The difficulty about gold in this country is that there is a very heavy demand for it. The real solution to the problem of gold smuggling lies in the direction of seeing how we can reduce the demand for gold. Because of this very unreasonable and overwhelming demand for gold, there is a gap between the internal and international price of gold. We wanted to do something about it. Therefore, we had enacted Gold Control Act, but we found it difficult and impractical to administer.

SHRI KANWAR LAL GUPTA : Then scrap it.

SHRI Y. B. CHAVAN : To a certain extent, it is restricted. Many things have been restricted in that. The basic approach in regard to gold control is to reduce the demand for gold in the country. Unless we do that, whenever there is a gap between the two prices, naturally there is bound to be this problem. When this much of demand is there, supply also takes place.

He made a suggestion for dynamic action on my part : why not import some gold through the legal processes and make it available to the people ? If we look at this problem alone, superficially it seems rather a good suggestion. But may I ask : when you are looking at the entire economic field, can you afford to invest your very scarce foreign exchange, blocking your capital in foreign exchange in an unproductive activity like gold import ? This is the difficulty before us. We have scarcity of resources in the country and every ounce of the resource available has to be used for developmental and productive purposes, may be in industry, may be in agriculture, may be in other things. Therefore, there is no choice.

SHRI KAMALNAYAN BAJAJ : We are prepared to discuss this with him.

SHRI Y. B. CHAVAN : I am always prepared to discuss any good proposal with anybody.

SHRI GEORGE FERNANDES: Do not discuss merger.

SHRI Y. B. CHAVAN : Any good suggestion coming from any quarter is always welcome.

SHRI KAMALNAYAN BAJAJ : He is very much wiser. So I will not be able to go together with him.

SHRI Y. B. CHAVAN : I expect certain co-operation from him.

SHRI KAMALNAYAN BAJAJ : I can only talk with commonsense.

SHRI KANWAR LAL GUPTA : We welcome merger.

SHRI Y. B. CHAVAN : The suggestion may be a good one. But I do not think we can go through with it. These are very complicated and complex questions. Merely to oversimplify them and say they are capable of a simple solution is, I am afraid, not a practical proposition.

Another criticism made or question asked was : what is being done about the suggestion of the Estimates Committee about a comprehensive legislation on this subject ? This is exactly what is being considered now. In connection with a series of problems, very detailed discussions had to be held; many times inter-ministerial groups have sat together, and I think they have taken some view, and legislation on comprehensive lines is, if I may say so, on the anvil, in the process of being drafted. I have no doubt that the Act will have to be comprehensively amended, because we have learnt through many years that certain new problems have to be faced and new methods evolved and certain loophole plugged.

SHRI S. KUNDU : When is it likely to come ?

SHRI Y. B. CHAVAN : It depends ; there are many prices of legislation before the House. We know what happens.

SHRI S. KUNDU : But it is not introduced yet.

SHRI Y. B. CHAVAN : It is yet to be ready. But I will try and expedite that process.

I think I have tried to touch the important points raised. I do not want to go into details on this occasion as this is not the time to go into other discussions. But there is one point which I would like to touch upon.

Shri Kundu has suggested certain amendments. First, when I heard him, I thought them plausible in the sense that we have provided certain conditions under which this exclusion operators. But when I saw the draft itself, he wanted to make some sort of blanket exclusion. That gives me an occasion to reply to Shri Bajaj also. As a matter of policy, we do not want to vest in Government or government officials blanket power.

SHRI S. KUNDU : On this, he and Shri Bajaj both are one—I agree.

SHRI Y. B. CHAVAN : If I find some good reasons or good suggestions made for a particular course of action by Shri Bajaj I am not going to reject them.

SHRI S. KUNDU : He would agree with him only on good points.

SHRI Y. B. CHAVAN : Wise points, good points.

That is the approach of any democratic person. When we try to take more powers in the hands of the executive and officials, we have to see whether we are taking them under certain conditions or not. Taking blanket powers for the executive is certainly a matter to be carefully considered. Therefore, we do not want to extend operation of this clause to every case. His amendment does not cover stay orders also.

SHRI S. KUNDU : Order includes stay order.

SHRI Y. B. CHAVAN : You are giving further scope to the ingenuity of lawyers also. Why do that ?

The main point is that we wanted to balance the interests of the citizen and the effective and efficient functioning of the executive. I see the point that the hon. Member had in mind. When I heard his speech, it looked rather good, but when I see the amendment in cold print before me, I am sorry I am unable to accept it.

SHRI KANWAR LAL GUPTA : Will you have a scientific study of this problem? Secondly, will you reward those officers who are honest ? Thirdly, will you give an assurance that the cases mentioned here will be looked into and a thorough enquiry will be made ?

SHRI Y. B. CHAVAN : I cannot give a blanket assurance because it is a serious responsibility. I can peruse these cases and shall see what I can do. As far as a scientific study is concerned, it is entirely right. Who can refuse to have a scientific study made of the problem ? It is a good suggestion that officers doing good work should be rewarded. I shall certainly consider it.

SHRI S. KUNDU : There is an omission in my amendment. After "injunction" the word "or" has been omitted. It may be corrected.

MR. CHAIRMAN : You will have an opportunity to say later.

SHRI SHRICHAND GOYAL : The hon. Minister has stated that he will look into the matter whether an amendment can be brought to the General Clauses Act so that this House and the Government can be saved a lot of trouble. I hope he will get it examined in the near future in consultation with the Law Ministry.

In his reply the hon. Minister has explained why they could not for see that they would have to bring forward this sort of legislation and he has not given the date



on which the High Court allowed an appeal to be filed in the Supreme Court without vacating the stay order. Unless that is indicated we will not be able to say whether the Government was negligent or could have foreseen and brought forward a legislation when Parliament was in session. Since they are in the habit of bringing ordinances whenever an urgent need arises, they did not take the timely step. I would request the Government to be more careful in future so that these ordinances may not become routine.

MR. CHAIRMAN : The question is :

“This House disapproves of the Foreign Exchange Regulation (Amendment) Ordinance, 1970 (Ordinance No. 5 of 1970) promulgated by the President on the 20th September, 1960.”

*The motion was negatived.*

श्री शिवचन्द्र भ्वा : मैं अपने संशोधन पर एक शब्द कहना चाहता हूँ। मंत्री महोदय ने जो जबाब दिया है, उस में सब बातों का जबाब नहीं दिया है। इन्होंने कहा कि बिरला ग्रुप ने एक बात उठाई थी, हाई कोर्ट में मूव किया और उस में कुछ दिक्कतें, उनको हटाने के लिए यह संशोधन लाया जा रहा है। लेकिन इन्होंने यह जबाब नहीं दिया कि इसके पहले कितने कैसैज में बिरला ने वायोलेशन किया ?

दूसरा सवाल था कि तिवारी कमेटी के बाद सरकार के पास कितने आंकड़े हैं, कितना फौरन-एक्सचेंज का रिकेड प्रति साल हो रहा है—इस का जबाब भी उन्होंने नहीं दिया।

सभापति महोदय, चूंकि फौरन एक्सचेंज के मामले बढ़ रहे हैं, इस लिए मैं समझता हूँ कि जनता का ओपीनियन लेना जरूरी है। इन्होंने सक्कुलिट करने के खिलाफ जो दलील दी है, वह भी संतोषजनक नहीं है। इस लिए मैं चाहूंगा कि मंत्री महोदय इसको पहले सक्कुलिट करवायें।

SHRI Y. B. CHAVAN : As I said in my reply, once we send it back the very purpose of having this power in the hands of the government will be defeated. Therefore, I cannot accept his amendment.

MR. CHAIRMAN : I shall put the amendment to the vote of the House.

*Amendment No. 1 was put and negatived.*

MR. CHAIRMAN : The question is :  
 “That the Bill further to amend the Foreign Exchange Regulation Act, 1947, be taken into consideration.”

*The motion was adopted.*

*Clause 2 (Amendment of section 19 G)*

MR. CHAIRMAN : We shall now take up clause 2. There is an amendment by Mr. Kundu.

SHRI S. KUNDU : I am moving my amendment. There is a correction and I shall move it as corrected, I move :

Pages 1 and 2,—

*for lines 15 to 18 and 1 to 6. respectively substitute.*

“the time of the continuance of the injunction or orders granted under authority of law by the courts the day of its passing or issue and the day and which it was withdrawn shall be excluded.” (2)

I am glad that Mr. Salve appreciated this amendment.

SHRI N. K. P. SALVE : I say that the suggestion is good. But the amendments is not properly worded.

SHRI S. KUNDU : You give a draft.

SHRI N. K. P. SALVE : The draftsman of the law Ministry are there and they can suitably reward it necessary.

SHRI S. KUNDU : I can visualise even now that Mr. Chavan has to come here

[Shri S. Kundu]

again for an amendment. With so many 'its' and 'buts' the real attention of this Bill would not be fulfilled if we pass the Bill as it is now before us. Therefore, I have suggested that the provisions which restrict the operation of the complete exclusion of the time when the court was holding up these documents should be excluded. If that is not done the Bill will be redundant. I again plead with him that he should accept my amendment. During his reply he said that 'order' does not mean whether it is a stay order. I can point out to him with all humility that the Bill which he is piloting also contains the word 'order'; so it means stay order. Let us forget about that. Order always includes stay order. Would he agree with Mr. Kamalnayan Bajaj who wanted that the documents should be held up on certain pleas and certain considerations by the court and it should assume that jurisdiction? If he agrees with that, I have nothing to say. I still request him in the greater interest of the country and in fairness to officers who may want to work more effectively, he should accept this amendment.

**श्री जार्ज फरनेन्डीज :** अध्यक्ष महोदय, इस क्लज पर जो संशोधन पेश किए गए हैं उन पर मैं भी अपनी कुछ राय आपके सामने पेश करना चाहता हूँ। इस सदन में इस बिल पर काफी बहस हो चुकी है और उसके दरमियान कई किस्से भी यहाँ पर बयान किए गये हैं। प्रश्न यह है कि जिस कम्पनी या बड़े पूंजीपति के मामले को लेकर आज यहाँ पर मन्त्री महोदय या सरकार को यह विधेयक लाना पड़ा है वे श्री बिरला साहब हैं जिनका कि समाज में और आज देश की सारी व्यवस्था में महत्व है, कि जिनकी एक ताकत है, एक दबदवा है इसको जब हम देखते हैं तो मन में एक डर लगता है कि क्या सरकार इतनी हिम्मत करेगी, इस किस्म के घन्थों को करने वाले, गलत काम को करने वाले तमाम लोगों के खिलाफ जितनी सख्ती से कार्यवाही करनी चाहिए वह करेगी? इस मामले में हमारा मन कुछ परेशान है चूँकि

हम कई ऐसे मामलों को जानते हैं जहाँ सिर्फ अदालत में जाकर बिड़ला जैसे आदमी ने स्टे-आर्डर ले लिया और जिस को लेकर सरकार को परेशानी हो गई। इतनी ही बात नहीं है सरकार की तरफ से भी इन लोगों के खिलाफ मुकदमे चलाने के बारे में जो निर्णय होना चाहिए। वह नहीं होता है। खम्बाटा एविएशन और इस रोज सिनेमा को लेकर एक भंडाट हुआ लेकिन आज तक आपने बम्बई के इस बहुत बड़े पूंजीपति के खिलाफ कार्यवाही करने के लिए कदम आगे नहीं बढ़ाया। इसी तरह से बम्बई के एक मशहूर वकील मर्जमान मिस्त्री के मामले को लीजिए—आपकी तरफ से जो ठोस निर्णय जाना चाहिए या वह नहीं गया। ये दोनों फारेन एक्सचेंज वायलेशन के मामले हैं। उनके विदेशी एकाउंट्स हैं और उनके एकाउंट्स की सारी जानकारी आपके हाथों में है। एक असें से फौला करने के लिए आपके पास पड़े हुए हैं। हो सकता है कि वह प्रधान मंत्री के पास हों चूँकि आपके अर्थ मंत्री बनने के पहले के यह मामले हैं। लेकिन जो असल काम इस चीज को लेकर के करना है वह शायद प्रधान मंत्री के हाथों में हो। बम्बई के खम्बाटा एविएशन और मर्जवान मिस्त्री के लोग हम बात को कहते हैं कि हम लोगों की पहुँच प्रधान मंत्री के ब्रेक फ्रास्ट टेबिल तक है उनकी कितनी ताकत है उसका एक उदाहरण मैं आपको देता हूँ। वैसे ही श्री मनु नारायण हैं जिन्होंने एम्बेसेडर होटल को खरीद लिया। 12 साल पहले दिल्ली के इम्पीरियल होटल के बाहर फुटपाथ पर एन्टीक्स बेचने वाला आदमी आज बम्बई शहर में दो करोड़ रुपए का मालिक बन गया है और अब तो वह फिल्म का हीरो बन रहा है—राईजिंग स्टार मनु। क्या किया इस आदमी ने? वही फारेन एक्सचेंज वाली भंडाटें चलाई। इस सदन में प्रधान मंत्री ने मेरे प्रश्नों का उत्तर देते हुए कहा था कि सी बी आई के मुकदमे इस आदमी के खिलाफ चल रहे हैं लेकिन उसकी पहुँच भी

इतनी सख्त और इतनी तगड़ी की कोई हिम्मत नहीं कर सकता है ... (व्यवधान) ... सभापति महोदय, इस पर ओर तो कोई बोलने वाला नहीं है। इस कलाज पर सेकेन्ड रीडिंग चल रही है, थोड़ा सा समय और बीजिए।

तो ऐसा व्यक्ति मनु नारायण समाज का एक प्रतिष्ठित आदमी है। चव्हाण साहब को शायद मालूम न हो लेकिन महाराष्ट्र मंत्रिमंडल के तमाम मंत्री या अधिकांश मंत्री उसके दोस्त और वह उनका दोस्त। हो सकता है कि मंत्रियों को शायद मालूम न हो कि इस आदमी के साथ क्या क्या भ्रष्टाचार चल रही हैं। लेकिन आप का सिर्फ यही कानून नहीं बल्कि आप के जितने भी कानून हैं उन तमाम कानूनों का उल्लघन करने वाला यह व्यक्ति है।

श्री वेंकटराव हीरे का मामला भी यहाँ पर आ गया। मैं कोई राजनीतिक प्रश्न के रूप में उसको नहीं उठाना चाहता हूँ। मैंने इस मामले को लेकर बम्बई में पूना में औरंगाबाद में और नासिक में बयान दिया। श्री हीरे ने उसका खण्डन जरूर किया है। उन्होंने अपने बयान में कहा है कि :

“If I have committed an offence, I am prepared to face the consequences.”

वे यह कबूल करते हैं कि 565 पाउंड का बैंक ड्राफ्ट वे लंडन बैंक के सामने ले गए। वह बैंक ड्राफ्ट फ्राड निकला। तब उन्होंने बम्बई के एक मित्र का नाम लिया जिस ने उन को वह ड्राफ्ट दिया था। आगे चल कर उन्होंने अपने वक्तव्य में कहा है कि यह जो ड्राफ्ट है वह उनके इस मित्र ने बैंक आफ न्यूजीलैंड की लंदन ब्रांच पर कुछ सामान खरीदने के लिए डाक से भेजा था। मैं खुद बैंक में गया और जब वह ड्राफ्ट दे दिया तब मुझे पता चला कि यह बैंक ड्राफ्ट बोगस है। इसलिए मैंने खुद जाकर पुलिस में शिकायत की लेकिन यह झूठ बात है। आप कहते हैं कि

मेरे मित्र ने सामान लाने के लिए ड्राफ्ट भेजा। लेकिन वह बैंक ड्राफ्ट झूठा निकला। और जब नकली निकला तो आप जा कर दोस्त के खिलाफ लंदन के पुलिस स्टेशन में शिकायत करते हैं। यह आदमी बेवकूफ बना रहा है। एक तो इसने खुद बेवकूफी की ओर अब दुनिया को बेवकूफ बनाने का काम कर रहा है। अब प्रश्न केवल इतना ही नहीं है कि वह ड्राफ्ट कैसे ले गए। बल्कि प्रश्न यह भी है कि क्या ऐसा आदमी मंत्री मंडल में रह सकता है और हिम्मत से हम को चैलेन्ज देकर कह सकता है :

I am prepared to face the consequences.

मुझे अर्थ मंत्री से पूछना है। अगर आप के पास न हो तो गृह मंत्री से पूछा लीजिएगा कि क्या यह सही नहीं है कि उनको लंदन के पुलिस थाने में ले जाया गया और क्या यह कानून जिन पर आज बहस हो रही है कि उसका प्राइमफेसी उल्लघन श्री हीरे ने किया है या नहीं और फिर भी मंत्रिमंडल के मंत्री बन कर क्या वह रह सकते हैं? मैं पूछता हूँ कि फिर इस कानून की क्या कीमत रहेगी; और कौन आप की परवाह करेगा? तो यह समाज में जो इतने बड़े प्रतिष्ठित लोग हैं और उन प्रतिष्ठित लोगों की खिलाफत करने के लिए आप यहां पर विधेयक लाए, उन का मुकाबला करने के लिए, विधेयक लाए उस पर अगर आप सही मानो में अमल करना चाहते हैं तो उसके लिए आप के पास बड़ी हिम्मत और ताकत होनी चाहिए जिस का कि आज मुझे इस समय अभाव दिखाई देता है।

अर्थ मंत्री ने साल्वे साहब के जबाब में कहा कि स्मगलिंग और फारेन एक्सचेंज का बँसा कोई रिश्ता नहीं है।

श्री यशवंत राव चव्हाण : ऐसा मैं ने नहीं कहा। मैंने कहा

Smuggling is not the result of foreign exchange regulations.....

**श्री जार्ज फरनेन्डीज :** आप ने एक बहुत बड़ी बात आज कही है। आप ने कहा कि हिन्दुस्तान में ब्लैक मार्केट एकोनामी चल रही है। आज इस विषय पर हम ज्यादा नहीं जायेंगे। लेकिन इस सरकार के अर्थ मन्त्री के मुँह से यह बात आज इस सदन में कही गई कि हिन्दुस्तान में ब्लैक मार्केट एकोनामी चल रही है तो फिर उसके बाद क्या रह जाता है? इंदिरा गांधी को समाजवादी सरकार ब्लैक मार्केट पर आप-रेट कर रही है।

**श्री यशवन्त राव चव्हाण :** It is wrong. This is not fair. I must protest against it.

**सभापति महोदय :** आप रांग इन्टरप्रेशन दे रहे हैं।

**श्री जार्ज फरनेन्डीज :** ठीक है। जो भी सफाई हो जाए वह हो जाय। मैं उस पर झगड़ा नहीं करूँगा।

He said "we have a black market economy operating in the country"...We have socialist economy in the country. In addition we have a black market economy.

हो सकता है कि इस को.एन्विजस्टेंस में जैसे पब्लिक सैंडटर और प्राइवेट सेक्टर हैं ऐसे ही सोशलिस्ट एकोनामी में ब्लैक मार्केट एकोनामी भी चले। खैर, उस पर अलग से कभी बहस हो सकती है। लेकिन इस समय मुझे मन्त्री महोदय से बहुत आग्रह से कहना है कि तस्कर व्यापार और फारेन एक्सचेंज की स्मॉलिंग एक ही सिक्के के दो पहलू हैं। क्यों कि फारेन एक्स-चेंज की चोरी और बदमाशी के बिना विदेशों से कोई भी चीज हिन्दुस्तान में तस्कर ला नहीं सकता है। यहाँ पर अन्डर-इनवायसिंग और ओवर-इनवायसिंग करो, हसीस सिलवर और तमाम चीजों को बाहर भेजो। फिर वहाँ विदेशी मुद्रा को जमा करके रखो और उस

विदेशी मुद्रा से फिर सोना, लज्जरी गुड्स नायलान और तमाम चीजों को लाने का काम करो। यह बिलकुल गुड़ा हुआ मामला है। मैंने जब भी इस सदन में इस को उठाने का काम किया तब आपने रोका है। पिछले दो सालों में हम प्रधान मन्त्री को आग्रह के साथ चिट्ठी लिखते लिखते थक गये और अब तो लिखना भी छोड़ दिया है। हमने कहा कि एक कमिशन आफ एनक्वायरी बिठाइए जो यह देखे कि तस्कार का मामला हिन्दुस्तान में कितना गहरा है। सेंट्रल ब्रोड आफ एक्साइज से ले कर नीचे के इंसपेक्टर तक, राजनीतिक नेताओं से ले कर मन्त्रि-मन्डल के मन्त्रियों तक और साधारण व्यक्ति से लेकर बम्बई के मवालियों तक कहां कहां कौन कौन लोग इस में फंसे हैं? तस्करी का जमीन व्यापार करने वाला गरीब आदमी होता है, लेकिन उसकी तमाम पूंजी का फायदा उठाने वाले हिन्दुस्तान के सब से बड़े और सब से प्रतिष्ठित समाज में वह लोग होते हैं जिन की बेटियों और बेटों की शादियों में आपके प्रधान मन्त्री और आप लोग प्च जाते हैं। वह लोग उसमें फंसे रहते हैं और यह मामूली मामला नहीं है।

इस लिए अगर हम इस विधेयक का सही मानों में अर्थ समझना चाहते हैं और इस विधेयक की जो असलियत है उस को पूरी करना चाहते हैं, तो वित्त मंत्री से मेरा बहुत ही नम्रता के साथ यह निवेदन है कि इस तस्करी के व्यापार को बन्द करने के लिए आप कुछ ठोस और सख्त कदम उठावें। उन को इस सदन के सामने रखें और उनका हम समर्थन करेंगे, लेकिन जो यह सारा मरहम पट्टी करने वाला मामला है उस से न तो तस्करी को रोकने का काम होगा और न देश का भला होगा। केवल ब्लैक मार्केट एकोनामी और स्मॉलर्स एकोनामी हिन्दुस्तान में चलेगी।

**SHRI Y. B. CHAVAN:** Sir, I do not want to reply to every arguments that he made;

will mention only one or two things. One thing he mentioned was about Shri Hiray. I had deliberately not said about it in my previous speech. The matter is under investigation.

**SHRI GEORGE FERNANDES :** He should resign in the meantime.

**SHRI Y. B. CHAVAN :** That is a matter for him and the Chief Minister of Maharashtra.

**SHRI GEORGE FERNANDES :** You can certainly advise him both as the Union Finance Minister as well as the leader of Maharashtra Congress.

**SHRI Y. B. CHAVAN :** That I will see.

**श्री जाजं फरनेन्डीज :** इतना तो कीजिये ।

**श्री यशवन्तराव चव्हाण :** यह उन के सोचने की बात है मैं यहाँ से कोई इंस्ट्रक्शन दूँ, या सलाह दूँ यह ठीक नहीं है ।

The matter is under investigation and whatever the results of investigation are will be given a consideration. There is no question of protecting or hiding or concealing anything in this matter. Only because he is a Minister I do not think he will get any special privilege to have some sort of an exemption in these matters. But as long as the facts are under investigation, I think it would be fair not to criticise a young man out of proportion. This is all that I can say.

The second point he mentioned was this. I think, arguments are very welcome because in this House it is only by exchange of arguments that we can try to convince each other. But why make unnecessary allegations and other aspersions against the Prime Minister? He said that black-marketers go to the breakfast table.

**श्री जाजं फरनेन्डीज :** वह कह रहे हैं हम नहीं कह रहे हैं । मैंने नहीं कहा वह जाती हैं । मैंने कहा कि आप लोग इस में सक्ती के

साथ और तत्काल कोई कदम नहीं उठाते । जब आप ने पिछले अप्रैल महीने में कम्वाटा ऐक्टिवेशन पर रेड किया और जब पिछली अप्रैल में मजद्वान मिस्त्री का मामला आया तो शायद वह वित्त मंत्री साहब से छिपा हुआ नहीं है । सार्वजनिक तौर पर उस बहस होती है । मैं नाम नहीं लेता हूँ, लेकिन कम्वाटा ऐक्टिवेशन के एक बड़े आदमी ने मुझ से खुब कहा कि कि हम लोगों की पहुँच वहाँ तक है । उन को यह कहने का मौका मत दीजिये । हमें यह अच्छा नहीं लगता कि इस देश के प्रधान मंत्री के बारे में या हिन्दुस्तान की सरकार चलाने वालों के बारे में बम्बई के तस्करों की तरफ से इस तरह की बहस चले ।

**SHRI Y. B. CHAVAN :** I have some faith in the wisdom of Shri Fernandes. If any crook claims any relation with the highest person in the country, do you believe that?

**श्री जाजं फरनेन्डीज :** ऐक्शन नहीं हो रहा है ।

**MR. CHAIRMAN :** How do these crooks come in your association?

**श्री जाजं फरनेन्डीज :** हमारा तो घन्घा है उन का पीछा करना ।

**SHRI Y. B. CHAVAN :** I do not want to carry on the debate with him. But I would say that if we are to function through argument, because this House is meant for a dialogue—you make an argument and convince us; we make an argument and convince you—merely bringing in aspersions and allegations amounts to unfairness. That is all I have to say.

As far as the amendment is concerned, I have said already that I do not accept it.

**MR. CHAIRMAN :** I shall now put Shri Kundu's amendment No. 2 to the vote of the House.

*Amendment No. 2 was put and negatived.*

MR. CHAIRMAN : The question is :

“That Clause 2 stand part of the Bill”

*The motion was adopted.*

*Clause 2 was added to the Bill.*

*Clause 3 was added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRI Y. B. CHAVAN : I beg to move :

“That the Bill be passed.”

MR. CHAIRMAN : Motion moved :

“That the Bill be passed”.

श्री मधु लिमये : सभापति महोदय, असल में जिस उद्देश्य से मंत्री महोदय ने विधेयक रक्खा है उस के बारे में कोई विवाद नहीं है। लेकिन सवाल यह है इस विधेयक के पास करने के बाद या इस तरह के पचास विधेयक पास करने के बाद क्या वित्त मंत्री स्थिति में रहेंगे कि विदेशी मुद्रा की जो बड़े पैमाने पर चोरी चल रही है उस को वह नियन्त्रित कर सकें ? इस के कई कारण हैं। सब से पहला कारण तो प्रशासन के इन्तजाम में है। उसमें मुझे कुछ दोष दिखाई दे रहा है। जैसे फारेन एक्स्चेन्ज रेगुलेशन ऐक्ट की तहत कार्रवाई करने के लिये डिरेक्टोरेट बनाया गया है उस के ऊपर वित्त मंत्री का नियन्त्रण अब नहीं है। यह विधेयक तो वह अवश्य ला रहे हैं, लेकिन इस विधेयक की तहत, इस कानून की तहत कार्रवाई करने वाला जो डिरेक्टोरेट है वह प्रधान मंत्री के नियन्त्रण में है। क्या वित्त मंत्री यह आश्वासन देने की स्थिति में है कि उन की इच्छा के अनुसार इस डिरेक्टोरेट के जरिये काम होगा क्योंकि उस पर उन का नियन्त्रण नहीं है ?

दूसरा सवाल मुझे यह उठाना है कि उन के मंत्रालय का और उन का पूरी अर्थ-

व्यवस्था पर नियन्त्रण है क्योंकि वह वित्त मंत्री हैं, लेकिन अर्थव्यवस्था में सब से बड़ा स्थान विदेशी व्यापार का है, और विदेश व्यापार मंत्रालय प्रधान मंत्री जी ने एक ऐसे विशेष व्यक्ति के हाथ में दे दिया है जिस की विदेश व्यापार को बढ़ाने में शक्ति कितनी है, शक्ति कितनी है, यह अलग बात है, लेकिन किसी राजनीतिक उद्देश्य से प्रेरित हो कर यह महकमा उन्हें दिया गया है।

मैं तीन चार साल से यह विदेशी व्यापार का मामला उठा रहा हूँ। असल में इस में तीन नामले हैं। एक तो आयात निर्यात का मामला जिसमें अन्डर इन्वायसिंग और ओवर इन्वायसिंग का मामला आ जाता है। इस में मंत्री महोदय का अधिकार ही नहीं चलता है। स्टेट ट्रेडिंग कारपोरेशन बनने के बाद भी अगर आप के अधिकारी और आप के सरकारी लोग भ्रष्ट हैं तो जो निजी क्षेत्र में चोरियां होती हैं, तमाम चेनलाइजेशन के बाद भी होती हैं। उन को आप रोक नहीं सकते हैं। उदाहरण के लिये नेपाल का मामला है। इधर तीन सालों से मैं इस के बारे में लिख रहा हूँ। सभी लोग जानते हैं कि नेपाल नाइलोन फिलमेंट याने पैदा नहीं करता। सारा माल जो बनता है रेडी मेड गारमेंट्स से लेकर, मैं ने उस का सवृत दिया है पिछले साल दशहरे की एक भेंट मैं ने विदेश व्यापार मंत्री, श्री भगत, को दिया था। वह माल जापान से आया था। उस के ऊपर मेड इन नेपाल की मोहर लगी थी और यहां पर वह बेचा जा रहा था। इतना ही नहीं, मैं ने अशोक कारपोरेशन सर्कुलर को पकड़ कर आप के पास भेजा था इस में कहा गया था कि रेडी मेड गारमेंट्स के बारे में कोई रोक नहीं है। आप जानते थे कि माल मंगवा सकते हैं, हम दे सकते हैं। बम्बई के बाजार से खरीद कर हम ने उस को रक्खा था और आप के पास भेजा था

16.57 hrs.

[MR. SPEAKER in the Chair]

अभी भी नेपाल क साथ संधि वाला मामला चल रहा है। मेरी समझ में नहीं आता है कि आप इसके बारे में सत्ती से काम क्यों नहीं लेते हैं। नेपाल की सहायता करने का मैंने कभी विरोध नहीं किया। आप हर साल पच्चीस करोड़ उनको दें, मुझे कोई एतराज नहीं है। उनके कच्चे माल का, उनके साधनों का विकास करने के लिए आप जितनी सहायता चाहे उनको दें। लेकिन आप विदेशी मुद्रा की बचत तो करें। कारण यह है कि फारेन एक्सचेंज रिजर्व के ऊपर ही तो आपकी इकोनोमी चलती है। यह आपकी जिम्मेदारी है। उस में से अगर लीकेज होता है और नेपाल के जरिये होता है तो क्या वित्त मंत्रालय उसके बारे में कुछ नहीं कहेगा? लेकिन जिस ढंग से आप नेपाल के साथ बात कर रहे हैं, उस पर हमारा एतराज है। आपको उनकी मदद करनी है तो बजट में उसकी घ्यवस्था करके आप मदद करें। और भी करनी है तो करे। मेरा खयाल है कि इस सदन में कोई ऐसा गैर जिम्मेदार आदमी नहीं है जो पड़ोसी देश की सहायता करने के बारे में आपका विरोध करे। लेकिन यह तरीका नहीं है कि स्टेनलैस स्टील, नायलोन फिलेमेंट, माइका, रेडी मेड गारमेंट्स आदि के बारे में इस तरह से तस्करी चले। कई किसिस सरकार के सामने हमने पेश किये हैं। जूट का नेपाल को निर्यात होता है, माइका का निर्यात होता है। क्या नेपाल में माइका पैदा होता है? इसके लिए क्या कमिशन की जरूरत है? क्या किसी सबूत की जरूरत है, समझ में नहीं आ रहा है। नेपाल में माइका पैदा नहीं होती लेकिन नेपाल के जरिये माइका विलायत में कैसे निर्यात होता है, उसकी विदेशी मुद्रा नेपाल में कैसे जाती है? आखिरकार भारत के व्यापारी ही वहां जा कर यह सब काम करते हैं। इसके बारे में वित्त मंत्री जी के ऊपर मुझे रहम है।

आप यह भी देखें कि विदेश व्यापार मंत्रालय पर इनका कोई कब्जा नहीं है, कोई नियंत्रण नहीं है, इनकी बात कई सुनता नहीं है। यह चलता रहेगा? क्या यह सरकार हमारे सामने इसी तरह से विधेयक पेश करती रहेगी? अगर ऐसा होता है तो कोई नतीजा निकलने वाला नहीं है।

औद्योगिक विकास और कम्पनी विभाग भी अलग है। हमारी अपनी राय है कि नीतियों के मामले में वित्त मंत्रालय से बातचीत करके इनको काम करना चाहिये क्योंकि वित्त मंत्री एक नीति 'चलाए' और उसके विपरीत नीति अगर उद्योग मंत्रालय या कम्पनी कानून मंत्रालय चलाए तो यह सरकार चलेगी कैसे, देश चलेगा कैसे, यह समझ में नहीं आता है...

श्री अटल बिहारी वाजपेयी (बलरामपुर):  
सरकार चल रही है।

श्री मधु लिमये : अगर इसको चलना या प्रशासन का चलना कहते हैं तो मुझे कुछ नहीं कहना है।

श्री अटल बिहारी वाजपेयी : चलती का नाम गाड़ी है।

श्री मधु लिमये : उस माने में यह सरकार चल रही है। उद्योग विकास मंत्रालय के एक नहीं कई मामले इस वक्त में विदेशी कम्पनियों के बारे में और एकाधिकारशाही के बारे में उठाए। क्या वित्त मंत्रालय की इस में कोई दिलचस्पी नहीं है? मैं जानना चाहता हूँ कि ब्रिटानिया विस्कुट—कम्पनी क्या आने वाले पांच साल में पंद्रह करोड़ रुपया और विलायत भेजने वाली नहीं है? श्री दिनेश सिंह को यह सब मैंने लिख कर दिया है। क्या आप उस

*Regulation (Amdt.) Bill*

[श्री मधु लिमये]

में दिलचस्पी नहीं लेंगे ? क्या आप कहेंगे नहीं कि हम लोगों की नीति ऐसी होनी चाहिये कि विदेशी कम्पनियों का प्रभाव हमारी अर्थव्यवस्था में कम हो ? इम्पीरियल टोबैको का मामला चल रहा है। वजीर मुल्तान टोबैको कम्पनी को साठ लाख रुपये में इन लोगों ने खरीदा है, विदेशी कम्पनी ने खरीदा है और आज वह छः करोड़ की मालिक बन गई है। क्या तमाशा है? समाजवाद की आप बातें करते हैं। साठ लाख में जिस कम्पनी ने खरीदा वह छः करोड़ की मालिक बन गई है। मैंने सुना है कि हमारे तेलैगाना के कुछ सदस्य अपना पत्र भेज रहे हैं और पूछना चाहते हैं कि क्या वजीर मुल्तान की फैक्ट्री तेलैगाना में नहीं रहेगी ? मैं कहता हूँ कि आप राष्ट्रीयकरण करें। उसके बाद कितना विस्तार वजीर मुल्तान कम्पनी का आपको करना है करें, मैं खिलाफ नहीं हूँ। मैं चाहता हूँ कि तेलैगाना का विकास हो। मैं चाहता हूँ कि वहाँ भी तम्बाकू पैदा करने वाले जो किसान हैं, उनको उचित दाम मिलें। विदेशी कम्पनी के द्वारा उनकी जो छूट हो रही है, उसको रोकना जाए।

17 hrs.

यह हिज् मास्टर्ज वायस कम्पनी का जहाँ तक ताल्लुक है, यह साठ साल से चल रही है (व्यवधान) यह हिज् मास्टर्ज वायस नहीं हर मास्टर्ज वायस गवर्नमेंट है, आप ठीक कहते हैं। उस ग्रामोफोन कम्पनी आफ इंडिया की सी प्रतिशत एकाधिकारशाही है। इनके सारे काम एक हजार डीलर्ज के जरिये होते हैं और उनके जरिये ही यह काम करती है। इन डीलर्ज के बारे में उनका यह कहना है कि अगर किसी भी दूसरी कम्पनी के ग्रामोफोन रिकार्ड आप बेचेंगे तो आपकी डीलरशिप को हम रद्द कर देंगे। आपने जो मोनोपोलीज एंड ट्रेड रेस्ट्रिक्टिव प्रेक्टिस एक्ट बनाया है, उसके तहत यह जुर्म है। लेकिन इस जुर्म में इस कम्पनी के खिलाफ कार्रवाई कौन करेगा जबकि औद्योगिक मंत्रालय के अफसर राठ

दिन काम कर रहे हैं कि ऐसी कम्पनी के खिलाफ कोई कार्रवाई चले ही नहीं और उसके लिए वे सबूत इकट्ठा कर रहे हैं। मैं जिम्मेदारी के साथ यह कह रहा हूँ। मैं जानना चाहता हूँ कि क्या वजह है कि आठ बम्बई के डीलरों के खिलाफ कार्रवाई एच एम वी के द्वारा कि गई है और इस वास्ते की गई है कि उन्होंने पालीडाल नाम की जो नई कम्पनी निकली है उसके रिकार्डिंग को बेचना पसन्द किया है। क्या एक हजार डीलर इस कम्पनी के इस तरह से गुलाम रहेंगे, सारे संगीतकार इस कम्पनी के गुलाम रहेंगे ? पांच पांच और दस दस साल का—काट्रेक्ट उनके साथ किये रहते है। उनको कहा जाता है कि कैसे आप दूसरी कम्पनी को अपना संगीत दे सकते हैं ?

श्री नरेन्द्र कुमार साल्वे : क्या डीलर्ज को कम्पीटीटिव विजर्नस करने से रोकना जा सकता है ?

श्री मधु लिमये : रोकना जा सकता है अगर हिम्मत हो, इच्छा हो। यह जुर्म है। मैं यहाँ किसी की वकालत नहीं कर रहा हूँ। मैं चाहता हूँ जब तक कि आप पूरा समाजवाद नहीं लाते है तब तक विदेशी कम्पनियों के खिलाफ मैं जरूर चाहूँगा कि आप देशी कम्पनियों को आगे बढ़ाएं आज बड़े एकाधिकारशाह, मोनीपोलिस्ट उनके खिलाफ चल रहे है। नए लोगों को आप आगे बढ़ायेंगे। जो संगठित उद्योग हैं, उसके बारे में मैं कहूँगा कि जो छोटे लोग हैं, ग्रामोद्योग करने वाले लोग हैं करघे चलाने वाले लोग हैं, उन लोगों को आप मदद करें। समाजवाद की तो मैं चर्चा ही नहीं कर रहा हूँ।

अगर वित्त मंत्रालय को इन चीजों में दिलचस्पी नहीं है तो यह काम कौन करेगा ? इसका दुसरा पहलू है। मैं समझता हूँ कि जिन चीजों का सामरिक महत्व है, जो ऐसशल सेक्टर है, जिस के बारे में हमारे यहाँ जानकारी नहीं है, तकनीक नहीं है, उसके बारे में आप विदेशों से कॉलैबोरेशन करें। वह बात तो समझ में



आती है। लेकिन जिन चीजों के बारे में कोई विदेशी सहायता की या कोलंबोरोशन की जरूरत नहीं है आप ऐसी चीजों के बारे में भी फारेन कोलंबोरोशन लेते चले जा रहे हैं इस देश में सी साल से बीअर बन रही लेकिन अब बीअर बनाने के लिए एक डेनिश कम्पनी के साथ कोलंबोरोशन किया गया है। यह कुछ नहीं है, यह ब्रांड नेम है, नाम का दुरुपयोग किया जा रहा है। विडला बंधुओं से जुड़ी हुई एक कम्पनी है जो आर्टिस्टों के लिए रंग बनाती है, कलर बनाने का काम करती है। रीव्ज के साथ उसको कोलंबोरोशन करने की इजाजत दी गई है। रीव्ज नाम का इस तरह से इस्तेमाल न किया जाए जिससे ऐसा आभास हो कि यह कम्पनी विदेशी कम्पनी है या विदेशों में माल ला कर बेच रही है। यह विडला की कम्पनी है लेकिन कौटन वगैरह जो होते हैं, उनके ऊपर रीव्ज है। आपके देश में ऐसे नौजवान लोग हैं जो विदेशों से विद्या हासिल करके सीख करते आते हैं और चाहते हैं कि वे कुछ करें। लेकिन उनको कोई काम नहीं है, मौका नहीं है। एंटरप्राइज की बात की जाती है। इन बड़े लोगों को कितनी सहायता पब्लिक इंस्टीट्यूशंस से मिलती है? अगर यह सहायता न हो तो इनका एंटरप्राइज कहां जाए? क्या छोटे लोगों को, नए लोगों को यह मौका मिलता है? इस तरह का मौका नहीं मिल रहा है। एंटरप्राइज वाली बात भी मैं मानने के लिए तैयार नहीं हूँ। मैं चाहता हूँ कि स्पर्धा रहे, एकाधिकारशाही खत्म हो और जो ग्राहक लोग हैं उनको भी मौका दिया जाए ताकि उसको भी राहत मिले।

फारेन कोलंबोरोशन के साथ साथ सरकार के बारे में भी मैं एक बात उठाना चाहता हूँ। अभी इन्होंने कहा कि यहाँ पर आरोप प्रत्यारोप नहीं होने चाहिये, उससे कोई लाभ नहीं है। लेकिन एक सवाल मैं पूछना चाहता हूँ। यहाँ

मैं ने फ्रेडको का मामला उठाया। आप जानते हैं किननी मुश्किल होती है इन लोगों को पकड़ना। लेकिन आपके अधिकारियों ने सुप्रीम कोर्ट तक जा कर सजा दिलाई। आपके महाराष्ट्र के मुख्य मंत्री ने क्या किया? उस समय आप वित्त मंत्री नहीं थे। मोरारजी भाई वित्त मंत्री थे। उन्होंने मुझ को कहा कि मैंने उनको लिखा है। यह बहुत बुरा हुआ है। लेकिन उन्होंने कुछ किया क्या? न प्रधान मंत्री ने कुछ किया और न उन्होंने कुछ किया। मैं जानता हूँ कि आप भी कुछ करने वाले नहीं हैं। एक दिन में सब लोगों को दिल की बीमारी हो जाती है, एक साथ सभी भाइयों को हो जाती है और उनको छोड़ दिया जाता है।

अभी अभी कुली मस्तान का मामला हमारे मित्र जार्ज फरनेंडीज ने उठाया और उसके बारे में प्रधान मंत्री को लिखा था। उन को अस्पताल में रखा गया और एक हजार, डेढ़ हजार रुपया उन पर एक दिन में खर्चा किया गया, इतना उनका एक दिन का खर्चा था। जब वह जेल में थे तो महाराष्ट्र सरकार ने उनके साथ कैसा व्यवहार किया और हम लोगों के साथ उत्तर प्रदेश की सरकार ने कैसा व्यवहार किया, दूसरे लोगों के साथ बिहार की सरकार ने क्या व्यवहार किया, यह जानने की बात है। राजनीतिक दलों के कार्यकर्ताओं के साथ इस तरह से व्यवहार जेल में होता है और जो सुप्रीम कोर्ट के द्वारा दोषी पाए गए हैं, विदेशी मद्रा की जिन्होंने चोरी की है और जो समाजद्वीहों हैं उनको दिल की बीमारी हो जाती है या कुछ और हो जाता है तो उनको छोड़ दिया जाता है।

यहाँ पर श्री कानूनगो का मामला उठाया गया था। उन्होंने प्रधान मंत्री को कहा कि मेरे हस्ताक्षर से जो पत्र कुली मस्तान ने दिखाया

[श्री मधु लिमये]

या, जिस के बल पर उन्होंने पासपोर्ट पाया, वह फोज्ड लैटर है। मैं ने प्रधान मंत्री को कहा कि अगर यह फोज्ड लैटर है, तो क्या वजह है कि सरकार कुली मस्तान के खिलाफ फोज़री का केस नहीं चला रही है।— इस लिए कि वह फोज्ड लैटर नहीं है। बिहार का गवर्नर झूठ बात बोल रहा है। मैं मंत्री महोदय को चुनौती देना चाहता हूँ कि अगर वह फोज्ड लैटर है, तो वह फोज़री का केस चलायें और अपराधी को सजा दिलायें। लेकिन सरकार ऐसा नहीं कर रही है और हम को कहा जाता है कि वह फोज्ड लैटर है। इस तरह के आदमी को यह सरकार गवर्नर बनाती है। उन की टर्न खत्म हो गई है, लेकिन सरकार उन को उस पद से नहीं हटा रही है, क्योंकि बिहार में प्रशासनिक संकट है और सरकार चाहती है कि वहाँ ऐसा गवर्नर रहे, जो बिहार में उसके दल की सरकार को बचाये।

इसी लिए मैंने कहा कि चव्हाण साहब पर मुझे दया आती है, रहम आता है। न एनफोर्समेंट डायरेक्ट्रेट उन के हाथ में है। न विदेश व्यापार मन्त्रालय उन की बात सुनता है, न कम्पनी कानून मन्त्रालय उनकी बात सुनता है और न औद्योगिक विकास मन्त्रालय में उनकी बात चलने वाली है। इस स्थिति में यह बिल पास करें—मैं भी इस के पक्ष में वोट दे दूंगा—, लेकिन इस से कोई नतीजा नहीं निकलने वाला है, जब तक बुनियादी परिवर्तन नहीं होता है।

SHRI Y. B. CHAVAN : The hon. Member has made general points, but I do not think that they related to this Bill, except the one point which he made namely that this Bill was a good and innocent Bill,—which was more or less the summing up of his argument—but it was not going to solve the entire problem facing the

country. I never made that claim. This is the only thing that I can say. He has very sympathetically said : “मुझे उन पर दया आती है।” ईश्वर की दया है कि हम पर उन की दया है।

MR. SPEAKER : The question is :

“That the Bill be passed.”

*The motion was adopted.*

17.07 hrs.

#### ARCHITECTS BILL

THE MINISTER OF EDUCATION AND YOUTH SERVICES (DR. V.K.R.V. RAO) : I beg to move:

“That the Bill to provide for the registration of architects and for purposes connected therewith, as passed by Rajya Sabha, be taken into consideration.”

As the House knows, this bill was introduced in the Rajya Sabha on 10th December, 1968. The motion for reference of the Bill to a Joint Committee of both Houses was discussed in the Lok Sabha on the 16th May 1969 and concurred in by the Lok Sabha on the same day.

The Joint Committee held nine sittings in all, and after considering all memoranda, representations, references and so on, and after hearing a number of witnesses submitted its report on 28th November, 1969. I would like to take the first opportunity in this House which is available to me to thank the chairman and the members of the Joint Committee for their fine report which is practically a unanimous document. Only one member of the Lok Sabha has thought it worth-while to append a minute of dissent.

I would now like to refer to some of the more important provisions of the Bill as amended by the Joint Committee. The original Bill visualised the definition of an architect as a person qualified to de-