

Mr. Chairman: I will just try to ascertain from the hon. Law Minister about the position of this Bill, because we need not spend the time of the House on the same subject.

The Minister of Law and Minority Affairs (Shri Biswas): I have already stated to my hon. friend that the draft Bill is before me. It is only I who have not been able to examine all the clauses. Some of the clauses do not satisfy me. This is under examination, and I expect to introduce the Bill towards the end of this session.

Mr. Chairman: The hon. Member does not move it?

Shrimati Renu Chakravartty: No, I do not.

ESSENTIAL SUPPLIES (TEMPORARY POWERS) AMENDMENT BILL

Pandit Thakur Das Bhargava (Gurgaon): I beg to move:

"That the Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946, be taken into consideration."

Mr. Chairman: The motion is:

"That the Bill....."

Pandit Thakur Das Bhargava: Before you place it before the House, may I just be allowed to say a word or two?

The Minister of Commerce (Shri Karmarkar): You have already said them.

Pandit Thakur Das Bhargava: have not made a speech. I may be allowed to say something. This Bill seeks to amend section 7 and section 9 of the Essential Supplies (Temporary Powers) Act, 1946, and in regard to section 7, only a small portion of sub-section (1).

In regard to this section 7, I will call the attention of the House to the fact that this section prescribes penalties for various kinds of offences. Now, in regard to textiles, the words are:

"If any person contravenes any order under section 3 relating to cotton textiles, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine;"

I have no objection in regard to that. Further, on, the words are:

"and property in respect of which the order has been contravened or such part thereof as to the Court may seem fit shall be forfeited to the Government".

These are the words which I want may be to a certain extent modified, and the modification which I seek is given in the Act itself. In regard to foodstuffs, the corresponding provision is this:

"any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government....."

These are the words which I want to be used in relation to section 7(1). These words appear in section 7 (2). The words are these:

".....unless for reasons to be recorded the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property:"

I want that these three lines which appear in section 7 (2) in relation to foodstuffs may also be made applicable to penalties given under section 7(1) in regard to cotton textiles.

Now, as the House has observed, in regard to cotton textiles there is absolutely no discretion given to the Court. The court has perforce to forfeit the property in respect of which the contravention has taken place, though the property may not belong to the accused at all. The property may belong to "A". "B" may be in the dock, and the contravention may have taken place in regard to the property of "A", and yet the property has to be forfeited.

In regard to section 7 (2) relating to foodstuffs the law is: the offence may have been committed in respect of a certain foodstuff, yet the discretion has been given to the Court, i.e., the Court may forfeit, or, if there are good reasons, they may not forfeit. In regard to other things, things other than cotton textiles and foodstuffs, the rule is given in section 7 (3) which reads thus:

"If any person contravenes any order under section 3 relating to any essential commodity other than cotton textiles and foodstuffs, he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both, and if the order so provides, any property in respect of which the Court is satisfied that the order has been contravened may be forfeited to the Government."

So, in regard to all other things except cotton textiles and foodstuffs, unless the original order provides that the court is armed with these powers, the court cannot forfeit, whereas in regard to foodstuffs it has got a discretion to forfeit; in regard to cotton textiles there is absolutely no discretion whatsoever.

Now, the first part of the Bill is directed to amend section 7 so that the provisions which now apply in the case of foodstuffs may also be made applicable to cotton textiles.

Now, why I have given notice of this amendment is, I myself came across a case in which it was held by the courts that the owner of the property was absolutely innocent and ordinarily, unless this provision was there, the court would not have forfeited anything. This was a judicial pronouncement. The court was of the opinion that the owner was innocent and yet the court

had perforce to forfeit the property of the innocent person.

In article 19 of the Constitution we know that we have recognised private property and the owner has a right to dispose of the same. When the court itself comes to the conclusion that the owner whose property is going to be confiscated is innocent, there is absolutely no reason why such property should be forfeited.

Now, if we go to the other provisions of the Act, it will appear that the Act itself has recognised this principle. In section 7A we find in regard to animals, vehicles etc., there is a provision, and it runs thus:

"Provided that no Court trying an offence under this Act shall declare any such package, covering, or receptacle or any such animal, vehicle, vessel or other conveyance forfeited to Government, unless it is proved that the owner thereof knew that the offence was being, or was to be or was likely to be, committed."

It is clear that in respect of all these things you have got this law which recognises the principle that the person will only be put to some injury if he has done something wrong. Then, where is the necessity for having any law in which an innocent person can be put to this loss?

As a matter of fact, this law was enacted in 1946 when the conditions in India as we know.....

Mr. Chairman: I think the hon. Member will take some time.

Pandit Thakur Das Bhargava: Certainly.

Mr. Chairman: The House will now adjourn till 8-15 A.M. on Monday.

The Lok Sabha then adjourned till a Quarter Past Eight of the Clock on Monday the 6th September, 1954.