

**THE PUBLIC PREMISES (EVICTION
OF UNAUTHORISED OCCUPANTS
AMENDMENT BILL, 1976**

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH) : Sir, I beg to move for leave to introduce a Bill to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

The question was put and the motion was adopted.

SHRI K. RAGHU RAMAIAH : Sir, I introduce the Bill.

**THE INSECTICIDES (AMENDMENT)
BILL, 1976**

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND IRRIGATION (SHRI ANNASAHEB P. SHINDE) : Sir, I beg to move for leave to introduce a Bill further to amend the Insecticides Act, 1968.

The question was put and the motion was adopted.

SHRI ANNASAHEB P. SHINDE : Sir, I introduce the Bill.

**THE CONSERVATION OF FOREIGN
EXCHANGE AND PREVENTION OF
SMUGGLING ACTIVITIES (SECOND
AMENDMENT) BILL, 1976**

THE MINISTER OF REVENUE AND BANKING (SHRI PRANAB MUKHERJEE) : Mr. Chairman, Sir, I beg to move:

"That the Bill further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, as passed by the Lok Sabha, be taken into consideration."

Sir, as hon. Members are aware, in December, 1974 Parliament enacted the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, to detain persons engaged in smuggl-

ing, foreign exchange racketeering and related activities. When the Proclamation of Emergency, necessitated by internal disturbances, was issued on the 25th June, 1975, it became necessary to further strengthen the provisions of law to effectively deal with the aforesaid persons during the emergency. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, was, therefore, amended on the 1st July, 1975, by the insertion of a special provision in the form of section 12A of the Act. This section enables the Government to issue a declaration in respect of a person detained under the principal Act to the effect that the detention of such person is necessary to deal effectively with the emergency. Wherever such a declaration is issued, the statutory requirements of communication of grounds of detention to the detenu within five days of his detention and reference of his case to an advisory board within 35 days of his detention are frozen during the period the declaration remains in force. The main purpose behind the incorporation of the special provision was that some of the smugglers and foreign exchange racketeers had been posing a serious threat to the economy and thereby to the security of the nation owing to the vast resources and influence at their command. During the present emergency, observance of the aforesaid statutory procedural requirements was not considered to be in the larger interests of the nation. The special provisions would have in the normal course ceased to have effect from the 25th June, 1976. If this had been allowed to lapse, there would have been a serious set-back to the operations designed to combat the smugglers and foreign exchange manipulators. It is, therefore, proposed to extend the period of operation of the special provisions contained in section 12A of this Act for another twelve months.

For the removal of doubts it is proposed to clarify that every declaration made under the aforesaid section before 15th

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June, 1976 would also continue to remain in force during the extended period. In view of the urgency of the matter, the President promulgated the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance (6 of 1976). The Bill seeks to replace the provisions of the Ordinance.

Sir, I move that the Bill be taken up for consideration.

The question was proposed.

(Mr. Deputy Chairman in the Chair.)

SHRI BHUPESH GUPTA (West Bengal): Now, as far as this Bill is concerned, there cannot be two opinions that the measure has to be supported. But the problem remains. This again extends the life of this measure during the period of emergency because I think it is said here that the provisions shall have effect for a period of twenty-four months (instead of twelve months) from the 25th day of June, 1975, or the period of operation of the Proclamation of Emergency issued in 1971, or the period of operation of the Proclamation of Emergency issued in 1975, whichever is the shortest. Therefore, all that we are doing is to extend the life of the Bill. And we do not know how long the emergency will last. At the present moment they are asking for extension of the whole thing by a period of 24 months.

Now, Sir, first of all, I must admit—and I have to admit this—that this measure has produced some good results and the Government has not done too badly in dealing with smuggling in the country and smugglers, in particular. But for these stringent measures which we have been demanding for many years, the present situation would not have been so good in the matter of foreign exchange or conservation of foreign exchange resources of the country. Therefore, such steps need to be welcomed and I have no doubt in my mind that the Government can always

count on the support of all sides of the House in dealing with the problem of smuggling. What is necessary for the Government now is to have a permanent legislation to tackle the problem. Ad hocism will no longer work here. And no doubt it is necessary to take the smugglers by surprise and therefore in the first instance the Ordinance had to come. It was also necessary for a measure of this kind. Now that we have gathered experience. I think it is necessary for us to apply our mind to formulate important laws and if necessary incorporate them in the Indian Penal Code so that the problem of smuggling is tackled without any hindrance or obstruction legally or otherwise. This is what we should do. There is a tendency in emergency to rely mainly on emergency powers or exercise of such powers created by emergency. Sir, from the point of view of expediency, this may be understandable. But, if we take into account the problem that we have to tackle insofar as smuggling is concerned, we should have a more basic and sustained and enduring approach than what we have had so far or what we have today. This is my first suggestion.

Sir, I think there should be a law against smuggling and a law for the conservation of foreign exchange and that law should make smuggling a grave offence, severely punishable under the Indian Penal Code. Also, the Government should be authorised to carry out searches and take other administrative actions that are called for for dealing with smuggling and, if necessary, amendments may be made in the Criminal Procedure Code also. It is quite possible to pass a permanent law. Sir, in this country, the MISA is a permanent law now. So, why should not there be a permanent law of the land to deal with smugglers, to deal with the smuggling or similar other activities? Sir, as far as smuggling is concerned, we have taken care of some of the well-known smugglers of the country. I do not know how they are

placed today. I do know how many of them are on parole, how many of them are in actual detention, how many of them are under treatment in the hospitals or how many of them are in the nursing homes looked after by the doctors and nurses. I say this because the Government sometimes shows a very generous and humanitarian attitude towards these elements. Anyhow, there are many smugglers still abroad and they are very active. Some of them are not known as smugglers. The trouble with the smuggler is that he is known as a smuggler. But there are other smugglers who are very very respectable in certain quarters and are very much admired and so on. What about these people then? Smuggling is done not merely by the Haji Mastans or by similar other persons or elements which are very well known in the underworld and also otherwise. But smuggling is indulged in by some big business houses and by the big monopoly houses in our country. What about them? How many of the smugglers of this kind have been taken care of by the Government? Perhaps, Sir, if I say that we should look into the activities of those who are indulging in under-invoicing and over-invoicing, well, I may be accused of digressing from the subject. But, is this not a kind of smuggling, a kind of invisible smuggling, when you indulge in under-invoicing and over-invoicing, when you send, say, jute goods, jute products and other things abroad and show that you have sent a lesser amount than what you have actually sent? It is in a way smuggling and it comes in the way of conservation of the foreign exchange resources of the country. Sir, the Wanchoo Committee, I think, pointed out that as a result of this kind of under-invoicing and over-invoicing, the country was losing annually to the extent of four hundred crores of rupees and this, in our view and in the view of many of the economists of this country, is an understatement. Actually,

we are losing a much bigger amount and this also is a drain on our resources, this is a drain on our foreign exchange and this is a denial to the nation of what legitimately belongs to the nation and I would say that this is crime no less severe or serious than the common-place smuggling elements is no less serious than that of engage some kind of speed boats and other things to bring certain things from the Arab countries or from the Gulf countries into our country. Well, the crime of these elements is no less serious than that of the other elements which are known as smugglers and, in fact, is a worse crime and this is what is happening in the country. Everybody knows—and Mr. Kali Mukherjee must be knowing—that at Calcutta Port, these people used to have some boats to carry their jute goods and jute products to the ships, showing much less in the accounts than what they have actually carried to the ships and because of this we lose incidentally an enormous amount of money and our foreign exchange potential gets weakened and gets depleted as a result of such methods and such activities. Sir, I would like to know what steps are going to be taken now against these elements.

Then, Sir, sometimes we hear about conservation of foreign exchange, and we are glad that today our foreign exchange reserve is of the order of more than Rs. 1000 crores. Well, we are all happy. But, then, let us remember also that our share in the world trade is going down. It was 1.19 per cent in 1961. It has gone down now to 0.53 per cent or so. Therefore, let us remember that we are not doing well if you take a bigger view of things. The fact that we have got some foreign exchange today should not blind ourselves to the fact that we are losing and as a result our foreign trade balance is a deficit. Now, of course, we have exported more than three thousand crores rupees worth of goods outside. But during this period of 1975-76 we have also imported well

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over five thousand crores rupees worth of goods from abroad, thereby showing a net deficit in the trade balance. We should view that situation with a certain amount of concern. And there is need for saving our foreign exchange because today we have to draw upon the technological advance and revolution in technology and we need foreign exchange to take the benefit of technological revolution that is in progress in order to modernise our industry and bring up our industry in line with the development, and so on. We must, as far as possible, within the limitations set up, keep pace with the technological and scientific revolution. For this we need foreign exchange.

Sir, I know what I am going to say now will not be published in newspapers. But you should hear. Recently, Mr. K. K. Birla visited England and he gave a very lavish dinner party where, I am told by people who have come from England, huge amounts were spent. My friend, Mr. Pranab Mukherjee, should enquire from his sources in England, his Mission and others, as to how much money was spent by Mr. K. K. Birla in giving that party where a dish might have cost, may be—well, I do not know how much. Will Mr. Kali Mukherjee tell us how much it cost there? Anyway, it much have been a huge amount. It has become a scandal. When we are talking about conservation of foreign exchange and saving our resources for essential imports, and so on, and when we are talking about austerity in that sector of economy, there goes our admired and revered K. K. Birla, with the blessings of the big ones in the land, to England, for giving such a party which has cost so much money. This is how our foreign exchange is dissipated in this manner. This is number one.

Secondly, wherefrom has that money come? The other day Mr. Om Mehta told us that he could not do anything with bank accounts in Switzerland because they

were numbered accounts. But the people are not numbered here; accounts may be numbered. Those who are likely to keep bank accounts in Switzerland—well, Shrimati Sushila Rohatgi will not, I believe, have a bank account in Switzerland. . . .

SHRIMATI SUSHILA ROHATGI :
Thank you.

SHRI BHUPESH GUPTA : Similarly, you know very well, who are the people likely to be. Mr. Deputy Chairman, Sir, you may be the Deputy Chairman of this House, sitting on a very high pedestal, but it is unlikely that you will have an idea of having a foreign bank account, numbered or otherwise, in a Swiss bank. Who are likely to have it? Why do we not proceed on intelligent assumptions, presumptions and anticipation? It is these very people who go there and have accounts. Everybody knows this. Everybody knows that Mr. K. K. Birla and his family members and others of the guild are having secret number accounts in many of the banks, Swiss banks in particular. What steps are you going to take? This money is lost to us. Mr. Birla and the families like that do not go to other countries to discover gold and carry the gold to the Swiss bank. They had earned this money at the cost of the nation. They had swindled our nation all along the line. What action are you going to take? Nothing. Now, Sir, let us not talk too much about smuggling in order to provide shelter to them. It is surprising, Sir, I was a little shocked—let us not get shocked; now-a-days nothing shocks us in India, and I believe, you are not shocked; and we are getting acclimatized to an abnormal situation—and you will be surprised to learn that a party was given to Mr. Birla where the Indian High Commissioner, Mr. B. K. Nehru, got up to speak. I do not know how he speaks. He is a member of the former Civil Service. He has not yet come to Rajya Sabha as a nominated Member or otherwise. But he started praising Mr. G. D. Birla at that lavish party. He was saying all kinds of

things—what great service Mr. G. D. Birla has done to the nation—almost amounting to worship. I do not know whether he had become an extrovert in this regard. He would have become a greater devotee had he entered the Lakshminarayan Temple. He has praised Mr. Birla before the audience. Well, he forgot that so many cases were pending against the Birla family—about 151 income-tax cases and some kind of commissions are investigating these things. Yet he gave such a certificate to him. Was it proper, Sir? May I ask the Government of India: "Is it your instruction to the Heads of Missions to receive the big business houses in this manner and to sing a lullaby on their service to the nation when the nation has something else to tell about them, when Parliament, day in and day after, discussed their business and other malpractices?" We should like to know something about it. Sir, somehow or other, now-a-days, I find the moment I mention Mr. K. K. Birla, many people—not many, but some people—in the Treasury Benches feel embarrassed. I do not see why they should feel embarrassed. As far as I remember, Mr. K. K. Birla, is not a member of the Government.

SHRIMATI SUMITRA G. KULKARNI: I do not know who is feeling embarrassed here. You are saying this. ...

MR. DEPUTY CHAIRMAN : She says that nobody seems to be embarrassed.

SHRI BHUPESH GUPTA: I stand corrected, Sir. Surely, Shrimati Sumitra Kulkarni is undoubtedly a lady who never feels embarrassed. I know that. But why should she think that others are also of that high quality? I would ask the lady Member, a very fine and a very active Member of the House, not to judge everything by her own standard. Well, it is good she is like that. May she live long with her quality of without being embarrassed in any situation.

Now, Sir, coming to the point, I say, Mr. Pranab Mukherjee, you should pay attention to it. We appreciate the work that your Ministry is doing in this regard. You deserve a word of. . .

SHRI KALI MUKHERJEE (West Bengal): Does he feel embarrassed when you mention the name of Mr. K. K. Birla?

SHRI BHUPESH GUPTA: No, no. Let me appreciate him. A good cheer for the work he is doing. Much more should be done. As far as Mr. K. K. Birla is concerned, well, he is a big game hunter. You see, he is a big game hunter. He does not believe in duck-shooting. One Mr. Krishnamachari described as man-eaters these Birlas and others. So, I would not like to link him up with Mr. K. K. Birla. I would advise Mr. Pranab Mukherjee not to get into that crowd a little. That is what I would advise him. In fact, then the recovery would be difficult and he would be irredeemable. That is what I say. I say that these are the people to be taken care of. Sir, now I find that the Birlas can go abroad. Because some Foreign Exchange Regulation has come into operation people who want to go from this side or that side to attend conferences and other things are not being allowed to go. They are not allowed to go. The Birlas can go because they do not take foreign hospitality, because they have accumulated enough money by swindling the nation, in some bank. He can feed not only himself but he can feed many others. But if Mr. Kali Mukherjee wants to go to attend a trade union meeting, he will have now to talk to the Home Ministry people in order to get clearance from them. They have to get clearance from various other Ministers, Finance Ministry and others. Why should it be so? After all, we live in an international community. Members belonging to both sides of the House are expected to go abroad in connection with various functions, cultural, political, economic, trade and so

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on. Why should there be such scrutiny and all this kind of a thing in the name of, well, I do not know what do you call it, while, at the same time, others are going out? Recently, I know that some Members, leading Members of the Congress Party, were to have gone to attend a certain conference but travel documents had been denied to them because the Home Ministry is now applying in its own way the so-called Foreign Exchange Regulation Act or whatever you call it. Why should it be so? Therefore, I would suggest that we must now have a comprehensive approach. That particular law, the Foreign Exchange Regulation Act, should certainly be amended to prevent this kind of misuse of power or harassment to people. Are we shutting out ourselves from the world, I should like to know. Have we decided that we must not maintain at the non-official level any contact with the forces in the world which are friendly to our country, whose help we need and whom we can also help in pursuit of common aims and objectives of peace and other things? Well, these things are not entering into the Heads of the Government. I think the Prime Minister will be well-advised to give a second look to the Foreign Exchange Regulation Act in order to bring about certain modifications and changes as would not create these sources of irritation and harassment and prevent the needed international contact between our country and other countries at the non-official level, at the public level. This is very, very important today Sir.

As you know, Sir, in times of difficulty we have always counted on the support of the people of not only of the Governments but of the people of those countries and indeed they have stood by us and we have been grateful to them. We too are supporting the African struggle and other struggles for their independence and for consolidation of their independence. It is necessary therefore that we must maintain

very close and friendly relations with them, in a spiritual sense only but in the physical sense also. Why should the Home Ministry come into this? The Finance Ministry has been already there. Now, in many ways that is their affair. But now the Home Ministry has come. Tomorrow some inspector will come and then the police will come. We do not know where Mr. Kali Mukherjee, Mr. Malaviya or Mr. Bhagwati will stand when they go, for example, to attend some international conferences where their presence is beneficial to the country. I do not understand it. Now this kind of a thing is going on today. Therefore, Sir, I say that it should be looked into. So far as these rich people are concerned, you should be extremely careful, if you want to conserve foreign exchange, when you allow them to go. They, of course, say that they are going on their own resources. They have their offices and establishments. Do you know how the offices are maintained? These offices are maintained on all kinds of accounts. The offices of Birla Brothers and others in England, they have got their own properties and institutions, which finance them. Why should it be so?

(Time bell rings)

We are told that now every year, every month, almost Rs. 120 crores or so are coming to the country. Good. More money should come to the country from our citizens abroad. But what about those citizens who have built up huge properties there? Why should they not be asked to declare all the properties they have got in buildings, in shares and other things to the Government of India and why should it not be possible for the Government of India to pass certain enabling legislation in order to compel them to repatriate whatever they can, whatever we think is in the interests of the nation? This approach should also be there in the preservation of foreign exchange.

Sir, as far as the penal measures are concerned, I only would like to stress that confiscation of the property of the smugglers should be carried out effectively, com-

prehensively and sweepingly. There should not be any 'ifs' and 'buts' about it. But, I am surprised that in some cases some of the properties are at the disposal of some eminent people; some leading personalities live in the big mansions constructed by the smugglers in Bombay which you can see along the Marine Drive. You should look into such matters.

I should like to know why they are hiding this fact. It is good you had carried out a search in the premises of Binoy Kumar Shah. You have admitted it in this House. He is connected with many businesses. I congratulate you that you have done it. Although he happens to be a very prominent fund-collector of your party, you have done it. It shows that you can do it. I hope it has not been done because of any quarrel or other thing. Now, assuming, you have done it *bona fide*, anyway the net result is good. Sir, the other day I said that some gold mohur had been found. But I am told it is not gold mohur; really cash has been found. Now, the whole matter has been hushed up. Not only that—he is taking notes—up till now we have not seen in the newspapers his name appearing either in the course of the replies to the questions or our putting the questions and I think that this part of my speech will never see the light of the day in the columns of the newspapers because informal instructions are there that Binoy Shah's name should not, in this context, appear in print. Well, why should it be so. Mr. Birla's name may appear some time; other names are also appearing. Why should Binoy Shah's name be so protected and preserved as if it is a national treasure not to be revealed to the nation and kept for the future generation to unveil it and see? Why it is not necessary that his name should be known to others? When we raised this question, what have we found? Have we not found certain papers showing sources of foreign exchange transactions? Have we not found papers which had a bearing on the foreign exchange transactions? Now, what you say I accept for the time being till I have the material to put before you and make you retract from what

you said. Therefore, Sir, these measures should be taken.

Again, Sir, smuggling should be stopped. In many areas, smuggling is still going on, in Gujarat and other places. This is a very serious menace with all its ramifications. Sir, we are glad that action has been taken against smugglers but we would have been happier if certain patrons of the smugglers, political patrons of the smugglers, had been—if I may use Mr. Subramaniam's word—identified and named and punished because smuggling in the country could not have assumed such terrible proportions, had it not been for the fact that the smugglers have lavish political patronage behind them. It is good that you are confiscating their properties; it is good that you are putting some of them in detention; it is good that you are preventing some of them from going abroad, although sometimes you are issuing passports to their patrons. It is equally necessary, and from the long-term point of view, it is particularly necessary that political patrons of these smugglers be identified, be accounted for, be named, be punished and be black-listed before the public.

Sir, I would not like the smugglers' money to go into elections. We are told and we are getting a little upset when we hear that the smugglers are again interested in elections and so on and they would be prepared to finance the elections, should they get reciprocal gesture from quarters that matter in the country. Therefore, beware of this thing. Sooner or later, elections would take place. The smugglers have already got a finger on our politics. They would like to distort and influence the electoral process in the country by patronising some people as against others so that after the elections, they have a better time. I must also give this warning.

(Time bell rings)

Sir, you have rung the bell. I do not wish to say much. Many are not here to speak. But I hope our friends from the Congress side would also speak. We can assure the Government of our full co-opera-

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ration as far as the problem of smuggling is concerned. But, then, it should not be a halting struggle. It should not be a partial struggle. The struggle must be carried forward and all the ramifications of the smuggling operations, economic, political and social, must be uncovered so that proper action could be taken. In the meanwhile, I would request the hon. Minister to tell us, roughly, how many smugglers are in prison today. He should furnish to the House the names of the smugglers who are in prison. I think we should also think of prosecuting some of them. Public prosecution would be a great deterrent. Why should it not be possible for our intelligence and investigating agencies to collect some material and evidence in order to prosecute some of the smugglers, which will be instructive from the point of view of national consciousness and for mobilising public opinion for drastic measures and continued measures against smuggling operations. Government should disclose more facts, how much money they have recovered, what properties they have confiscated and what are under consideration for confiscation. On such an occasion as this, these facts should be made known to the House because Members are interested in such facts.

Finally, I would like to know, what has happened to the Jaipur gold case. This is very very important. Gold is our important resource. We do not hear much about it nowadays. What has happened? Is there any prosecution? I would like to know from the Government. But anyhow, we say that the Government can count on our support. At the same time, Government should also take into confidence the Members of this House, this Parliament and disclose as many facts as possible with regard to the progress of their anti-smuggling campaign. We all wish it success. But we want still more vigorous, sustained and permanent measures to deal with this problem at all levels so that after some time, we can say we have done away with this problem. I hope Shrimati Sumitra Kulkarni is not embarrassed by my speech.

SHRIMATI SUMITRA G. KULKARNI (Gujarat) : Mr. Deputy Chairman, Sir, in the very first place, I would like to thank hon. Shri Bhupesh Gupta that he has at last found some measures of the Government satisfying and that good results have come out of them. We are grateful to him for this, though he gave his thanks very grudgingly. But all the same, we are happy.

Sir, I very much welcome this Bill because it is very essential. Before I go into the details, I would like to draw the attention of this august House to the situation prevailing in this country about a year ago. What was the position of the economy of this country and what problems the people of this country were facing? Before this Act came into force, smuggling and racketeering were going on on a vast scale. The result was that any amount of smuggled goods could be purchased in their original packing in the streets of Bombay in open daylight. They were not sold under the table or behind the shops. At that time, the streets were loaded with smuggled goods from foreign countries in their original packing.

The smugglers became so powerful that with their ill-gotten money, they were financing many film companies. They had acquired a status in the eyes of the society where they were parading like heroes. They were also trying to influence the cultural life of this country. This is one aspect of their activity. Another one is the foreign exchange aspect. Almost all Indians who used to live abroad used to send their money, not directly as foreign exchange through the Reserve Bank but by the method of compensatory payment. That is, they used to give dollars to some notorious companies in the foreign countries and their agents used to make payments here in India in rupees. This was a regular business going on where no dollars were coming into the country and naturally the rupees paid here were out of black money where no books of account were kept. In this foreign exchange racket a number of multi-national corporations were involved and they were encouraging this business and other illegal

activities also. I can give you the names of two such companies. The Deak and Company and Cooper and Company of the USA were notorious for this trade. They had branches in all parts of the world—in all countries. Their agents used to ensnare Indian citizens living abroad, get dollars from them and arrange for rupee payment inside India. This was how they used to operate. Of course these are only two companies. These companies were operating like a parallel Reserve Bank in India. Therefore, foreign exchange transactions used to take place in foreign countries when the foreign exchange used to remain abroad only and black money in rupees was being circulated here in India which was not a healthy thing for our economy.

Sir, the Kaul Committee was appointed in 1970. I want very humbly to correct Mr. Bhupesh Gupta : The Wanchoo Committee was appointed for income-tax purposes and the Kauf Committee was appointed to deal with the foreign exchange rackets and report about the Enforcement Directorate. However, they reported in 1970 that about Rs. 100 to 120 crores were being brought into the country by illegal methods and that this had to be stopped. I am saying this only to inform the House how vast the dimensions of this problem were. The beauty of the whole operation of the racket was that none of the big bosses, the notorious persons who were involved in smuggling and foreign exchange rackets were ever caught. Their names are famous : Yusuf Patel, Haji Mastan and Bakia. None of these persons who are detained today could be caught before and no action could be taken against them in the past because they never dealt in goods, money, assets or paper. There was no evidence against them at all. All the transactions were done by petty agents and by carriers. These carriers were paid well and were kept under absolutely strict vigilance. They dared not betray their masters. Even a whisper or even a suggestion of betrayal would mean that he would risk not only his life—he would be murdered—but also his entire family would be exterminated. Such was the vengeance which would be

taken with the result that in spite of a number of searches carried out by the police and the Government, they could not lay their hands on any individuals anywhere. Everybody knew that smuggling was going on, foreign exchange racket was going on but the police could not lay their hands on them. Normally in every kind of criminal case there is a complainant involved, there is an aggrieved party who goes out and says that somebody has been murdered or that there has been a theft in his house. But in this particular case there was no individual aggrieved party. The persons who were suffering was the entire society and the Government—and there was no evidence coming forward. Their men could not complain because they would be visited by the vengeance of their powerful masters who could reward or punish them equally well.

Now, it was against this situation which was prevailing that the COFEPOSA had to be brought in, and it was very very essential. I would like to congratulate the Enforcement Directorate for the excellent work it has done in being strict with the whole set-up of smugglers, in unearthing a number of cases and bringing to book a number of persons who were involved in them. It has done excellent work and the Minister also deserves to be congratulated for this. Of course we see that sometimes, here and there, smuggling is going on. From the City of Bombay all the smuggled goods have been completely wiped out and nobody can buy anything there now. Maybe, under the table somebody is able to get a few goods but, by and large, it is controlled. There are a few offences where, it will be my request to the hon. Minister, we may take stricter measures against the officers because whatever one or two stray cases that are coming of smuggling are due to the negligence of the officers and not because of any lack of interest or desire on the part of the Government to stop this smuggling. Therefore, it is essential that these officers should be pulled up.

But as I said, the other part is the foreign exchange racket. Here, I regret to say that still there is a lot of under-invoicing and over-invoicing going on and the

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business-men have been operating accounts secretly in foreign countries. This is going on in a very large measure. Of course, the Kaul Committee's findings are there. I would give the figures that in 1970 it was Rs. 120 crores. In 1973 the regular channel transaction through the Reserve Bank was only to the tune of Rs. 300 crores. But in the year 1975, since the COFEPOSA Act has come in it has become Rs. 1150 crores. The difference is that of Rs. 800 crores. Obviously this amount of Rs. 800 crores was going to non-official channels and was becoming the blackmoney and ruining the economy of our country. So, this is the extent to which this foreign exchange racketeering is going on. Now, it is my request that just as we took steps against smugglers, we should show courage and book these big industrialists and businessmen who are piling away dollars and foreign exchange in foreign banks.

Now, in various different States you are apprehending traders under this Act, but for what offences? For short-measuring the quantity that they are selling or not displaying the price tags. They are not the real culprits. They are doing their business only on a petty scale, where at the end of the day the total cheating that they might have done would be of Rs. 20 or 30 or at the most of Rs. 100. But here are the people who are still accumulating foreign exchange and depositing the same in foreign banks. The net result of these deposits in foreign banks is exactly same as smuggling. We have to stop this. Otherwise, our economy cannot become as strong as we want it to be.

In the light of all this, this amendment is very essential that the persons who are detained for 12 months should be detained for further 12 months, so that the total period comes to 24 months. I fully support this thing because still our economy needs much longer time to be stabilised and we cannot throw away the good results that we have achieved. Just now, Mr. Bhupesh Gupta suggested that we should give up this 'ad hocism' and we should come to the permanent measures. There I disagree with

him because we cannot make this section 12A as permanent part of the Act. We seriously want to book these smugglers and foreign exchange offenders but it will affect the fundamental freedom of a citizen of this country if it is retained permanently. So, it has to be necessarily a temporary measure for another 12 months till we can regularise and have full control over the situation. Today their network has been smashed and contained. If today we release these persons who are detained in jail for 12 months, we will again be exposing our economy to the hazard of the merciless persons. In view of all this, I would like to give four small suggestions about the operation part of this COFEPOSA Act.

The one is that we should take similar action against the foreign exchange offenders also as we have taken against the smugglers. As we have taken action against smugglers, we should also take similar action against foreign exchange offenders. Otherwise, we will never be able really to stabilise the economy. Last year the hon. Finance Minister declared the Voluntary Disclosure Scheme. This scheme should also be provided for foreign exchange deposits also. I am quite sure there will be a number of persons who would be quite willing to bring the money back. They are not confident as to how they can bring it back. An average man wants to be a law-abiding citizen. So, there is no reason to believe that they will not bring back the foreign exchange. As voluntary disclosures were made in respect of evaded income-tax, here also we will get good results. The other day on the floor of this House the hon. Home Minister stated that we have got only 299 accounts in foreign banks.

Sir, I do not agree that this is a meagre number, because not taking the metropolitan cities like Bombay, Calcutta, Delhi and Madras, even in a small city like Ahmedabad there must be more than 1000 accounts abroad. So it is a widespread thing. If we give them an opportunity of voluntary disclosure for a limited period,

we will be able to bring all legitimate accounts back to India and then we can take really stern and strong action against those who are defaulting.

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The second point which occurs to me is that today the world is shrinking. We want our exports to increase and we want our foreign exchange reserves also to increase. The foreign exchange reserves today are of the order of Rs. 1000 crores, but the demands of our business and trade are such that we are not satisfied with mere Rs. 1000 crores; we have to have much more than this. But today our businessmen are given very meagre amount of foreign exchange. If anyone wants business abroad, he has to have some money to establish his contacts, to persuade his partners and get a contract. Unless the facility of more and reasonable amount of foreign exchange is given to him, he would not be able to operate. Even if he is not getting adequate amount, the fact remains that he wants to have business and he wants to get the contract and so he has to resort to this kind of under-invoicing and over-invoicing creating some balance abroad so that he can do his business. This is the psychology of human beings. He wants to build up his reputation and he wants to establish that he is a worthy person who can take up capital investment. If the same facility is given by the Government, I am quite sure that the lot of foreign bank accounts which are springing up could be stopped and the system of legitimate foreign exchange through our Reserve Bank could be restored.

The last point I wish to make is that there is a regulation of the Foreign Exchange Branch of the Reserve Bank, that anybody from this country who goes abroad for the first time should be given \$ 100. Sir, it is a ridiculous thing. With mere 100 dollars one cannot survive even for four days in a foreign city. What is the use of asking a man, a tourist, to go from India with just \$ 100 in his pockets? We are indirectly encouraging these tourists,

who are, by and large, honest citizens of this country, to go and purchase dollars in a foreign country, live there for 5 weeks or more and then come back and pay the relatives of those persons from whom they had borrowed the foreign currency in rupees. One hundred dollars cannot support anybody for more than two or three days in a foreign city. Why don't we have a rational approach to this kind of thing?

My suggestion is that if we want to be more successful and more practical, then we must carry out these things. Give them a voluntary disclosure scheme and also adopt a more rational approach towards our business and industrial requirements abroad, towards the genuine demands of our businessmen so that they can get contracts abroad. If it is a contract worth Rs. 100 crores, correspondingly some amount could be given to the person. The details can be worked out by the Ministry. This aspect of foreign exchange regulation also should be examined by the Minister.

With these words, Sir, I fully support that we should have this for another 12 months—and that has to be temporarily and not permanently.

SHRI NRIPATI RANJAN CHOU-
DHURY (Assam) : Sir, I welcome this Bill. Since we have already authorised the Government to detain smugglers and foreign exchange racketeers without trial for some time and later for one year, or till the end of the emergency, I think there should be no objection to giving the Government more power to detain them for 24 months. Again, from the working of this Act all these days we find that the Government have proved the necessity of such an Act. After the passing of this Act by Parliament, smuggling activity has been reduced to a considerable extent and the credit goes to the Government. But, Sir, the Minister himself today admitted in the House that the smuggling activity has not been totally stopped rather it has picked up in the current period. In today's

[Shri Nripati Ranjan Choudhury]

reply the Minister said that Government are taking certain measures for stopping the smuggling activity in Indo-Bangladesh, Indo-Burma and Indo-Pakistan border areas, that they are trying to impart some special training to certain officers engaged in anti-smuggling operations. I do not know what type of training they are imparting. It is good that they are training people for that purpose. But the Minister should also admit that the working of this Act during all these days has not been able to stop the smuggling activity totally. Why? If we apply our mind, we will find that there would not have been any smuggling in this country had there been no collaboration of officers engaged in anti-smuggling operations with the smugglers. I come from a border area; I know how smuggling operations take place. Smuggling operation always take place with the collaboration of the officials concerned. Now, the officials have also been tightened up during the emergency.

Now, the Minister has got a ready reply that he has taken action against many officials. Yes, I admit that action have been taken. But even then these things are going on because there is no built-in check in the working of the various organisations engaged in the anti-smuggling operations. Sir, the Minister can very well say that action has been taken against so many customs officers and superintendents and that many people have been put behind the bar also. Many things he can say. But whatever action has been taken against the corrupt officials, that is taken on complaints. Nowhere has Government taken action *suo motu*. So, my point is, unless they evolve a built-in check in the working of the organisations engaged in anti-smuggling operations, the smuggling activity can never be checked.

In the CBI Report, we find that some Income-tax officers have been charge-sheeted for holding assets disproportionate to the known sources of their income. Side by side, there are also income-tax officers who are constructing palatial buildings

without caring for any action that Government may take against them for being in possession of assets disproportionate to

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the known sources of their income.

Sir, this thing happens because he knows that, unless somebody falls out with him, unless somebody writes against him and pursues it, nobody is going to check his corruption and stop all these things. Nobody is there. There is no such built-in check in the working of the departments engaged in these anti-smuggling and anti-foreign exchange racketeering activities. So my humble request to the Minister is that he may consider this suggestion whether any formula could be evolved to stop this type of corruption in the working of the different organisations engaged in the administration of COFEPOSA.

Sir, my second point—and it was referred to by the previous speaker, Mrs. Kulkarni, and also by Mr. Bhupesh Gupta—is about maintenance of bank accounts abroad. And Mrs. Kulkarni also referred to overinvoicing and underinvoicing. I do not know whether overinvoicing or underinvoicing comes under this COFEPOSA. But this is going on and as a result, huge amounts of foreign exchange have been accumulated by the corrupt people engaged in export-import business. The other day we had a question directed to the Prime Minister but answered by Mr. Om Mehta. In reply they said:

“Yes, a number of instances of maintenance of bank accounts abroad of persons in India, which appear *prima facie* to be unauthorised, have been detected by the Enforcement Directorate in the recent past.”

They have also said in the last part of the reply:

“Action in accordance with the relevant provisions of the Foreign Exchange Regulation Act is being contemplated.”

Now, I would like to know from the Minister whether he is aware of any such accounts being kept abroad by any Indian

capitalist or anybody. Whoever is keeping such account abroad is not an honest citizen and action should be taken against him. My humble submission is that if COFEPOSA can be directed against these smugglers, then COFEPOSA should also be directed against those who are engaged in this type of activity. I request the Minister to kindly enlighten the House about the number of such accounts, the total amount involved in such accounts and the persons involved and what action his Ministry is going to take against the persons involved in this type of activity.

Sir, my last point is, the smuggling activities and foreign exchange racketeering are still continuing because although they have put some top smugglers behind the bars, some are still at large. I do not know why those people are not taken into custody. I would request the Minister to examine this question and see whether, if some people are still at large—they have records as to who are smugglers and who are not; the Ministry is keeping a record of the smugglers—they could be taken into custody. I would also request the Minister to see that corruption in the organisations engaged in the administration of COFEPOSA is checked. With these few words I support this Bill. The working of this Act has shown good results during the past and I also hope that during the coming twelve months the hon. Minister will be able to put an end to all the smuggling activities and foreign exchange racketeering. With these words, I resume my seat.

MR DEPUTY CHAIRMAN : The House stands adjourned till 2.15 P.M.

The House then adjourned for lunch at six minutes past one of the clock.

The House reassembled after lunch at seventeen minutes past two of the clock, Mr. Deputy Chairman in the Chair.

MESSAGES FROM THE LOK SABHA

I. The Pondicherry Appropriation (No. 3) Bill, 1976

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II. The Tamil Nadu Appropriation (No. 3) Bill, 1976

SECRETARY-GENERAL : Sir, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha :—

(I)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Pondicherry Appropriation (No. 3) Bill, 1976, as passed by Lok Sabha at its sitting held on the 23rd August, 1976.

The Speaker has certified that this Bill is a Money Bill."

(II)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Tamil Nadu Appropriation (No. 3) Bill, 1976, as passed by Lok Sabha at its sitting held on the 23rd August, 1976.

The Speaker has certified that this Bill is a Money Bill."

Sir, I lay a copy of each of the Bills on the Table.

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (SECOND AMENDMENT B/LL, 1976—Contd.

SHRI MULKA GOVINDA REDDY (Karnataka) : Sir, I support the Bill that has been moved by Shri Pranab Mukherjee. It was necessary for the Government in the month of June to promulgate an Ordinance so that the people who were arrested and detained under this Act would not be released and they would have been released but for this Ordinance. This is a very necessary measure which has been brought forward by the Government now. In 1974, many charges were made against the Government to the effect that the