

have centres in all the big cities in different regions and the interview should be taken at different centres or the candidates must be paid T.A. and D.A. for appearing in the examination at Bombay. I would further like to mention that for recruitment to all the public sector organisations in which there is a written examination, the written examination centres should be in different regions. Only the interviews may be taken at the head offices and in that case also, the travelling allowances should be paid to the young boys. Otherwise, they will not be in a position to go for every interview to every city in India at their own expense. Thank you.

THE MATERNITY BENEFIT (AMENDMENT) BILL, 1973.

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS AND IN THE MINISTRY OF WORKS AND HOUSING (SHRI OM MEHTA) : Sir, on behalf of Shri K. V. Raghunatha Reddy, I beg to move for leave to introduce a Bill further to amend the Maternity Benefit Act, 1961.

The question was put and the motion was adopted.

SHRI OM MEHTA : Sir, I introduce the Bill.

THE FOREIGN EXCHANGE REGULATION BILL, 1973—(continued)

SHRI KALYAN ROY (West Bengal) : Mr. Deputy Chairman, Sir, there is no doubt that the foreign exchange position is extremely grave, if not desperate. Exports are certain to slow down in 1973-74. On the other hand, imports are bound to rise over the rather low level of 1972-73, because of high prices which we will have to pay for petroleum products, fertilisers, minerals, etc. A conservative calculation of the trade gap in

1973-74 would be as high as Rs. 450 crores or roughly 600 million dollars. This is actually not the earning in foreign exchange. The foreign exchange earning can be two to three times more, but for the large-scale leakage through smuggling, through over-invoicing of import and under-invoicing of export transactions being practised by big companies, remittances on account of dividends, royalties and various commissions, headquarter expenses, etc. It is not that the big, powerful Ministry of Finance and the Personnel Department of the Prime Minister, which looks after implementation, are unaware of it. Unfortunately I have to say that their entire attitude is one of callousness, collusion and lack of determination to plug the loopholes and liquidate this racket in foreign exchange once and for all. The question may be asked: Why do you not plug the loopholes? The answer is simple. They will have to go against the big monopoly houses, against gigantic export and import houses, against foreign companies. So, naturally they cannot hurt them, unless they hurt themselves. We fail to understand, when these people are committing such ghastly crimes which are leading to a drainage of foreign exchange, why the Defence of India Rules are not being used against them. Then, the question is also asked: Why has the Government brought forward this Bill? Everyday scandals are hitting the headlines, scandals regarding foreign exchange rackets. So, the Government will have to do something. Mr. Ganesh, the Bill, unfortunately, is the result of a double-talk, it is the result of a split personality. It falls far short of expectations and requirements. My criticism against the Bill and against the Finance Ministry is three-fold. One, the Bill is defective, half-hearted, full of loopholes and it is adulterated. Two, the Foreign Exchange Regulation Act came into force 1947. In 1957 the Enforcement Directorate was set up to enquire into offences committed under this Act. It is more than 18 years since this Directorate has been functioning, but I want to know whether the Finance Ministry has ever taken stock of the results achieved

[Shri Kalyan Roy]

by this Directorate. Has any assessment been made? Has any review been made? The history of the past eighteen years will show that first investigations are not taken up. If investigations are taken up at last, pressure starts from Delhi either to delay the investigations or frustrate the investigations and even kill the investigations, which I will show later on. I hope that Mr. Ganesh will agree with me when the Enforcement Directorate at last takes up courage and tries to investigate into the foreign exchange racket of big business, then the judiciary comes to help. You see—again and again, in relation to the documents of the Birlas or the Sahu Jains or the Andrew Yules, when the papers are seized, the High Court comes with a stay order saying, "You cannot open the papers." The seizure of the document is stayed; injunctions are easily received by these big tycoons who indulge in shady dealings and the cases go on and on and linger on for years and years. The time has come when you should probe into the affairs of the judiciary in relation to the foreign exchange violations. It is unfortunate. The foreign exchange racketeers have found their greatest ally in the Indian judiciary system.

So, my first point is this: As I pointed out, the implementation is a big hoax. In 1957 the Enforcement Directorate, was set up. But no assessment was made. In the present Act, not in the Bill before the House, it is written that there will be a fine of three times the amount involved. You know that. Under the Customs Act, the fine will be five times the violation. When he replies to the debate, would Mr. Ganesh tell the House in how many cases, since the vesting of the adjudication in the Directorate of Enforcement, the maximum amount of penalty has been imposed? My understanding is that there is not a single case. What was the foreign exchange loss according to the findings of the Directorate? My understanding is that the maximum penalty has not been imposed so far in any case

in which the foreign exchange involvement has been substantial. This is the unfortunate situation.

I will give only three cases. The first is, as a result of searches made in 1963 at the premises of Bird and Company, it was found that the export value of jute goods shipped to USA by them was wrong and that they had been realising and accumulating dollar with their agents in the USA by selling the jute goods at prices higher than the prices declared to the Customs authorities. The total amount of dollar so accumulated was found to be more than Rs. 1.50 crores. The Collector of Customs imposed a penalty of Rs. 1.50 crores holding that a false declaration was made. The penalty was reduced in appeal by the Central Board of Revenue to Rs. 43 lakhs. The Supreme Court, however, set aside the order of the penalty on the ground that the Customs had no jurisdiction. They, however, made it clear that Bird and Company could be prosecuted for furnishing false declaration. But no such proceedings had been started. Similarly in the case of Messrs. Bugne and Company, Rs. 22 crores were involved. The total amount of foreign exchange involved was Rs. 6.5 crores. But no proper step was taken. The question was taken up with Mr. Chavan and in a letter written on March 10, he replied to me that in the case of Messrs. Bird & Co. (Private) Limited and Messrs. Bugne & Co. Ltd., the adjudication orders have been passed by the Directorate imposing suitable penalties on the company. What is the suitable penalty? Why are you afraid of saying that you have not imposed the penalty and you have violated the law?

Second is the case of the Birlas. According to the affidavit filed by the Enforcement Directorate before the Calcutta High Court, the amount of foreign exchange evaded by Hindustan Motors would be not less than Rs. 2 crores. Mr. Jones, the Director of Supply of the company, was arrested and his statement was recorded. Several allegations have

been made, the principal one being, the suspected overinvoicing through the instrumentality of Messrs. Vauxhall and the British Motor Corporation with which Hindustan Motors has collaboration agreements. No further action has been taken. But I want to know, Mr. Ganesh, what prevents you to go into the collaboration agreement entered into by other companies like Kesoram Rayon, the Birla Jute, the Hindustan Aluminium, the Century Rayons and a host of other companies? The Century Rayon withdrew the writ petition in the Bombay High Court after Mr. D. K. Guha produced certain documents before Mr. Justice Tulzapurkar to show that the Century Rayon had been fabricating documents to obtain foreign exchange. Birlas are maintaining offices and companies like the Birla A.G. at Zug in Switzerland, American East India Corporation in New York, Traders International incorporated in Washington and East Indian Produce Co. Ltd. in London. There are allegations that higher prices charged on imports through these companies are retained abroad for the benefit of the Birlas. Tatas have also offices in New York, London and Zug. They have also a series of collaboration agreements. Other big business houses have also similar ramifications. Enforcement Directorate has not done anything so far in this direction.

In a letter to me from Mr. Chavan dated June 19, 1973 he has assured me that investigation is being made into the matter of payment of commission to overseas agents by the Birlas. Commissions are payable to the overseas agents for services rendered by them but it has been alleged that commissions have often been paid to the agents though they did not render any service. It has also been alleged that apart from buying commission, reseller's discounts have also been charged by agents by inflating the f.o.b. prices in the invoices. The documents were seized from Birla Brothers Calcutta containing correspondence with Traders

International, U.S.A., who are one of the agents of Birlas. Unfortunately, these documents have been placed under seal under the orders of the Division Bench of the Calcutta High Court. The Directorate of Enforcement are continuing the investigation and have called for the information and documents from Hindustan Aluminium Corporation. These are being furnished to them in instalments. So, this is the letter of Mr. Chavan, the mighty Finance Minister, with respect to Birlas. What have you done about it and what have you done in some of the cases of Mr. Jit Paul of Aminchand Pyarelal?

Sir, in November 1967, the Income Tax Department at Calcutta seized a number of documents from the premises of Messrs. D. B. Chhabria and B. J. Lulla—Hundi brokers. It was found that large scale illicit dealings in foreign exchange had been made by Shri Jit Paul of Aminchand Pyarelal.

Further, in April 1968, premises of Jit Paul were searched and a large number of documents were seized. Sir, further in 1968 it was found that Mr. Jit Paul was involved in illicit dealings in foreign exchange to the extent of Rs. 1.78 crores during 1966 to 1967. It is also reported that Messrs. K. P. Belani and V. P. Samtani of Majulas, notorious smugglers and foreign exchange racketeers were also involved in illegal dealings in foreign exchange to the extent of Rs. 1 crore. In 1968 the Enforcement Department sought legal opinion against Messrs. Jit Paul, K. P. Belani and other conspirators. The noted criminal lawyer of Bombay gave his opinion after perusal of the report that Messrs. Jit Paul and Belani should be arrested and their statements be recorded. The case is still pending before the High Court and Mr. Jit Paul is going free further accumulating foreign exchange abroad.

Sir, it was also submitted that Shri Jit Paul had made an illegal gain of Rs. 1.40 crores in foreign exchange from the construction of four ships with a West German shipyard. You are making more

[Shri Kalyan Roy]

and more provision but the implementation of whatever exists goes by default and your entire approach collapses. I am reading out only a few lines appearing in the 'Statesman' on 6-10-71 about Foreign Exchange Drain and smuggling and illegal remittances. It is written :

"The Finance Ministry's half-hearted efforts to curb the racket have so far produced no worthwhile results. On the contrary, the smugglers are doing far more business today than in the past. What is distressing is that the illegal remittance scheme has become an openly accepted way of repatriating the earnings of Indians. Those who use regular banking channels constitute a noble minority".

The paper further goes on to say:—

"The bigger operators have so far managed to escape, partly because of their influence and partly because of their better organisational techniques. Unless some of them are caught and punished, there is little hope of checking this foreign exchange drain."

Therefore, it is no use of your only making provisions of stringent punishment. There are already provisions existing for imposing even three times fine. You have not even imposed one time. There are provisions for fining five times. You have not dared to fine even the amount of foreign exchange involved in spite of the fact that you can do so. So, there is no use of giving you further powers unless you are really serious about using whatever powers you already have. You have miserably failed because there the big business comes, there the monopoly houses come, there the need of election expenses comes. These go side by side. Do not try to hide it, Mr. Ganesh. You have to convince the House. Show one case where you have touched them.

Then there are the court cases. I need not go into the details of these court

cases. I have got so many replies given in this House. For instance in March 1973, regarding violation of foreign exchange regulations by Hindusthan Aluminium Corporation, it was stated:

"Some of the documents relating to the investigation in the case have been placed under seal on the orders of the Division Bench of the Calcutta High Court."

Then there is another reply given on the 1st March, 1973 which says :

"The investigations against Hindusthan Motors have been stayed because of the decision of the High Court."

The time has come to go seriously into what is happening in the judiciary. Why is it so easy for any monopolist to get an injunction at any time? The houses were searched; the documents were seized: hundreds of crores of foreign exchange could have been found, but the High Court passes orders sealing all the papers seized in searches. The High Court comes in the way. Jit Pauls go on getting Rs. 2 Crores or Rs. 3 crores per month; the High Court comes in the way. Andrew Yule—the High Court comes in the way. Kalyan Basu—the High Court comes in the way. What is the relationship between the judiciary, between the judges and the racketeers and smugglers? You have to find out. Most of the cases are stayed. Cases are going on for 10 years and 15 years. It is a shame on the country, it is a shame on the judiciary. Unless you do something to probe into the matter, all your cases will go on for 10 years and 15 years. Jit Pauls, Jones, Birlas, Sahu Jains and Andrew-Yule bosses will be roaming around the High Court and not even the present Act will be able to stop them. This is the crux of the problem; this is the core of the problem. Unless the machinery is strengthened, unless the political pressure is stopped, things cannot improve. Political pressure has played havoc, particularly in your departments. Officers investigating

cases have been transferred even before the expiry of their term. You must fight this situation.

My third point about this Bill is, I was surprised to see that there is no ceiling on repatriation of foreign exchange. Why is it that a company will be declared non-resident company if the foreign shares go beyond 40 per cent? Why could you not pull it down to 10 per cent? Why is it that branches of the big monopoly companies which function in the country should not be registered? Have you got any justification why till to-day foreign monopoly companies carry on trading activities through their branches here? This is not the voice of the Communists alone. Even the businessmen, small businessmen and entrepreneurs who wish to start business have been fighting against it. But somehow you have tied yourself to the big international monopoly houses which cannot now conquer the country. So they have to come through the backdoor, and this is neo-colonialism. If you want to fight neo-colonialism, you have to change this Bill lock, stock and barrel.

Then, regarding Indian firms abroad, what is the mechanism that you have to check their activities, to scrutinise their activities? I have figures with me. By the end of 1972, the Government of India approved 150 proposals for setting up collaboration ventures in foreign countries—76 in Asian countries, 55 in African countries, 15 in Western countries and 4 in other countries. But what about their remittances of foreign exchange to India? The question was answered on the 7th August. You will be surprised to know the answer. "Information about the year-wise remittances for the last three years is not available." This is the biggest racket where crores and millions of foreign exchange is hoarded by Mafatlals, Birlas, Kirloskars, and Sahu Jains who have set up collaboration ventures abroad. The money goes into Swiss banks under code numbers. You have said you are going to take steps. Where is it in the Bill?

There is not one word mentioned about it. So, this is the loophole through which Mundhras are having two billion pounds in British banks. What about the report of Mr. Rana? Mr. Rana was sent to investigate into the corrupt and shady practices of Mr. Mundhra. And the report is lying with you, Mr. Ganesh. You dare not take a look at the report because the interest of your party will be here. What is the check?

Sir, it is surprising that the Usha Engineering Company is making a profit on paper of Rs. two lakhs in Ceylon. But the Usha Engineering Company in Calcutta one of the biggest factory in Asia is locked out. The Ceylonese labour is cheap; exploit them. The Indian labour is costly; torture them. By not allowing the collaboration...

MR. DEPUTY CHAIRMAN : You have to wind up now.

SHRI KALYAN ROY : I am winding up, Sir.

Mr. Ganesh, your Bill is not worth the paper on which it is printed. If you are really serious, if you are really sincere, please look into the Enforcement Directorate. Please stop the political pressure being carried out. Why the hobnobbing with the monopolists today? You cannot deny it. If you do not want to fight the Indian monopoly, at least please have the courage and fight the foreign monopolists who are making millions and millions of pounds sterling and taking them abroad.

SHRI JAGAN NATH BHARDWAJ (Himachal Pradesh) : Sir, I welcome this Bill, firstly because it lays down a very clear-cut procedure for handling the dealings in foreign exchange, and secondly it plugs the loopholes where foreign exchange goes waste and, in a way, it seeks to preserve foreign exchange.

Sir, in this age of sophistication, it is very difficult for any country to be self-sufficient. Therefore, foreign exchange is vital for the development, for the growth

[Shri Jagan Nath Bhardwaj]

and for the economic wellbeing of a country. So, in our country we have to see the items on which we can make a saving in foreign exchange. For example, we import heavy machinery and complicated machinery. We have to see whether we can do without such a machinery and whether we can depend on our own manufacturers. Take, for example, the computer. There is a craze to have more and more of computers. But we have to see whether we can reasonably substitute these computers with manual labour. After all, we have to deal with the question of unemployment. So, in this respect we have to see whether the computer is absolutely essential. In that case, there is no harm because as I have already said, we cannot be self-sufficient; we have to depend on one another. But like a wise householder we have to see whether our doing away with the computer in a certain case will help solve our unemployment problem. There are monopolists...

(Interruption)

SHRI KALYAN ROY : Your Party was getting money. Papers were laid on the Table that your Party got 90 per cent of it.

SHRI JAGAN NATH BHARDWAJ : Mr. Kalyan Roy, it is not a question of it. You yourself live in a glass house. How can you throw stones at others? There are so many things. I know that you are living in a glass house; you cannot throw stones at others.

SHRI KALAYAN ROY : You accept it?

MR. DEPUTY CHAIRMAN : Mr. Bhardwaj, you continue with your speech.

SHRI JAGAN NATH BHARDWAJ : So, we have to see whether we can do something and solve the unemployment problem. In that case, there is no harm in doing away with the computers. Simi-

larly, take the example of compressor in fertilizer industry. We have to see whether we can have three or four small compressors in our country itself instead of going in for a big compressor from abroad for production of 1,000 tonnes of ammonia. We can use small compressors for 200 to 300 tonnes. Instead of depending on foreign imports for a big compressor, why not use small compressors which will serve the purpose? That indirectly solves our unemployment problem which is a very burning problem in our country. In this way there are so many ways by which savings in foreign exchange can be made. And that we have to see very carefully as a wise household as I have already said. Therefore, my suggestion for saving foreign exchange is that there should be a through study of the items on which foreign exchange is spent. We should take hold of the expenditure item by item, study every item thoroughly—it should be studied by experts—and take experts' recommendations as to where foreign exchange saving is possible. In this way we can make a lot of saving in foreign exchange. This is all I have to say.

Thank you.

SHRI G. A. APPAN (Tamil Nadu) : Mr. Deputy Chairman, as matters stand today, nobody can have any doubt that everybody should support the money yielding measure that is before the House today. Foreign exchange position, rules and regulations, etc. are being discussed here. I told the House that the name of any Government depends upon the financial position of the Government. I do not think even in the human society anybody will be respected when he goes and borrows money or something from here and there. I remember, if I am not mistaken, that by the time India got independence, our foreign exchange reserves were Rs. 3000 crores and odd. But what is the position today? Is it not the duty or responsibilities of any Government to become better and self-dependent? No doubt one can become better, provided one has the capacity to utilise the national resources in building

activities, building up the stability of the country. What have we been doing in this country? How far are we indebted to other nations is a thing for us to ponder over. What is foreign exchange? Why are we worried about foreign exchange? Who is responsible for the foreign exchange position of the country? The Reserve Bank of any country is responsible for the fiscal policies, financial policies, of any Government. Its responsibility is to see that the money value in that country does not go below its parity value in other countries. We are definitely aware of the fact that the pound sterling and the dollar have been ruling the world. You will remember that there is a coin called Dinar in Kuwait which is sold all over the world, everywhere, at a premium. Sometime back even though the exchange value of the dollar was Rs. 7 odd, it was selling at Rs. 13 Rs. 14 and Rs. 15. in the business world. But now it is going down. So also is the value or the foreign exchange convertibility of sterling pounds how. Why? Because, it loses its stability. As I have told you, sometime back we had the rupee coins. Even when it was a legal tender, it was selling at 175 per cent of its face value. So, many people began to hoard these coins. I also told the Government that we are not frugal in our minting policy so far as currency is concerned, especially in regard to the metallic content of our currency when compared to the metallic contents of the currency in USA, GDR or Federal Republic of Germany. The metallic content of half a dollar of USA is equal to or a little more than our quarter rupee, that is 25 paise. When the metallic content is more than its convertibility value, people begin to hoard and melt the coins. We have been following a very bad financial and fiscal policy. When the fiscal policy is bad, our friends say that the Minister should resign. I would say one thing. The institution that manages these affairs is the Reserve Bank of India and it has to direct and advise the Government of India on proper lines. We have the Reserve Bank Governor, we have the Finance Minister and we have the Financial Ad-

visors in various Departments. What is their work? That is what I have been doubting. Government seldom care what we say here. We have had Finance Ministers like Shri Krishnamachari and Shri Shanmugham Chettiar. When there was a leakage in the budget, Shri Shanmugham Chettiar resigned and for certain reasons Shri Krishnamachari had to resign. We have seen Finance Ministers of great intellect in other countries. They have been trained in great institutions of international repute. I do not say that we should be little the standard of our people. I can only say that we should improve the standard of our people and the convertibility of our currency. Bad money always drives good money and good money goes into hoarding and hiding when we have such bad currency also in circulation, how can we expect...*(Time bell rings)* Mr. Chairman, I have not spoken even for five minutes.

MR. CHAIRMAN : That is wrong.

SHRI G. A. APPAN : Pardone me. I want your protection. I request you to give me at least 10 minutes more.

MR. CHAIRMAN : You can have two or three minutes.

SHRI G. A. APPAN : If we have to improve our foreign exchange position, what we should do is to produce more, consume less, export more and earn more. What do we do now? We produced more which will not go in the international markets. Unless we produce goods which are cheaper compared to the goods in the world market, how can you export more? Our foreign exchange has been depleted to such a great and deplorable extent and what should we do? Many of our people go to other countries and many people from the other countries come here even for sight-seeing and they are spending their money here. But our people are not allowed to go even to earn money elsewhere and send it here. It is a very wrong policy. You must curb your imports of non essential & luxury goods. You know that imports have to pay for exports and exports have to pay for imports. You know, Sir, busi-

[Shri G. A. Appan.]

ness is a two-way traffic. If we shrink our fists, how will others extend their arms? Unless we produce more and export more, it will be difficult to earn more foreign exchange. Under these circumstances, the policy of the Government to curb or restrict imports is suicidal and it is also suicidal to forbid the foreign technological know-how. When people are soaring and going to the moon, how can you ever dream of doing these things with our present standard. It will be only foolish or a folly to forbid foreign technological know-how and it will also be a folly to discourage, good and established industrial undertakings and just to boost up small mushroom organisations. I also request all the labour leaders and our people just to encourage our people to produce more. I request the Government also to see that they do not subject the people to restrictions in bringing in good items of utility into our country. Our people are being taxed, when they bring in cars and other things from the other countries. It is to the good of our nation and yet they are being taxed. This is a suicidal policy. Many of our people who stay in other countries want to send their money here and they are not permitted to do so. Why do you put a taboo? Can you not at least encourage the Indians to send their money home and invest it here? They are willing to send the money and they are prepared to send foreign exchange. But you say that you will not permit it. This is suicidal. On the floor of this House I request the Finance Minister and the Government to see that the foreign exchange policy and the trade policy are reorganised and reshaped by competent experts, competent technical people and by great financial experts of international repute.

SHRI LOKA NATH MISRA (Orissa) : Mr. Chairman, Sir, some of my friends who said that this Government is responsible for depleting a substantial amount of foreign exchange which was left with us even by an alien government are justi-

fied in their remarks. The Government should have been more cautious in dealing with the foreign exchange. They were extremely liberal and on occasions, even the care that was necessary in order to boost up the foreign exchange reserve was completely not there. I am happy that even though late, the Government is now serious about conserving foreign exchange and is trying to regulate to the extent possible the foreign exchange. But, Sir, I have my own doubts and I do not know whether the Government is serious about implementing it. The Bill has been drafted definitely, to some extent, to help the Government in regulating it. But may of these powers were already there with the Government. But it was only the will that was lacking. And the Government did not take all the steps necessary in order to regulate the foreign exchange or to stop the leakage. I am told, Sir, that in Bombay there are persons who are very well connected with high-ups—may be at the Centre, maybe at the State level....

SHRI KALYAN ROY : One Mr. Mastan...(Interruptions)...R. D. Shah..."

SHRI LOKANATH MISRA : They play host to our Ministers and the Ministers feel gratified to accept his hospitality. That is their reputation in Bombay . . .

SHRI K. P. SUBRAMANIA MENON : What type of hospitality? Accommodation?

SHRI LOKANATH MISRA : It is comprehensive hospitality. I had been told in Bombay that even our officials have developed the courage, taking the example of our Ministers, to accept their hospitality as well. Would the hon. Minister, who calls himself a great socialist, take steps in order to curb this tendency and bring down everybody to the standard of socialism, including Mr. Mastan, their host?

Sir, the R. B. I. is an administrative body, and the enforcement body is the enforcement staff. I do not know whether the

Reserve Bank and the Enforcement Directorate would be in a position to cope with the additional clauses that have been incorporated into this Bill. What is being done in order to give specialized training to the staff, both of the Reserve Bank of India and the Enforcement staff, in order to be able to cope with this task?

Sir, searches are made. I would like the searches to be made with specific orders from the Director of Enforcement so that there is no fishing expedition. On many occasions, what happens, Sir, is that huge staff is sent in order to unearth something somewhere. And ultimately what is found out is a bottle of whisky and may be a ten dollar note or one dollar note. Sir, this is only a guess-work. I would like that some specific orders are issued that such and such search has to be made for such and such purpose...

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH) : That is the existing position.

SHRI LOKANATH MISRA : Thank you very much . . .

SHRI KALYAN ROY : He is so readily accepting your suggestions. . .

SHRI LOKANATH MISRA : It is rather discouraging that after so many years the situation exists that even for our private trading we want foreign technique and foreign know-how. The extent to which we have allowed foreign techniques in our trading would manifest itself if I indicate to you that there is a company called Colgate Palmolive. Sir, it produces soaps, oils, tooth paste. There is also the Cadbury brand. Sir, in all these indigenous materials are used; indigenous know-how is used. What is only imported is the name, the trading name. The amount of foreign exchange that is repatriated or sent home is enormous. Why should this be allowed? Why don't you immediately put a curb on that thing? You allow them because 25 or 30 years ago it existed and it still exists. I would like

Mr. Ganesh kindly to note of this. There are about 30 or 40 firms like this. They are trading firms alone. They have nothing to do with industry. They have imported only the names in order to gain an edge over other Indian products. I had thought that what was expected from foreign firms through their collaboration was that they would make an attempt to diversify our exports and to explore new fields for our exports in the international market. Nothing of this sort has been done yet. The working of these foreign firms for exploiting new foreign markets so far as the Indian products are concerned, is very disappointing. The practice of getting collaboration with any of the Indian trading firms in the name of boosting the export of Indian products should be discouraged because in this way also, a lot of foreign exchange is being sent out.

Then the commission that is being allowed to our Indian exporters is to the extent of 5 per cent only. The international rate is between 10 per cent and 15 per cent. If the government really means that our exports should get a boost in the international market, the help of foreign agencies has to be taken. If the Government fixes the rate of commission at 5 per cent, then the exporters will either have to give up exporting Indian items to foreign markets or else they will have to indulge in under-invoicing, thereby saving some foreign exchange and giving the rate of 10 per cent to 15 per cent, which is the international rate, to their agents. Therefore, a reasonable amount of commission should be allowed. If the international rate of commission comes down, then you can lower it by all means. If it is higher elsewhere, then you cannot expect the foreign agencies to work for Indian firms at a rate which is lower than the international rate.

There is another clause which provides for reduction of foreign shareholding in existing companies from 75 per cent to 40 per cent. It is a very good suggestion. I appreciate this step. But the time-limit

[Shri Lokanath Misra.]

is too short. They might be put to some avoidable inconvenience and loss if they are compelled to reduce their foreign shareholders abruptly. Therefore, the Government should be reasonable in this respect and allow them a number of years in which they must reduce it.

SHRI KALYAN ROY : Should they reduce it to 10 per cent?

SHRI LOKANATH MISRA : You can ask them to get out. But, please do not be unreasonable. Once you become unreasonable, then the entire thing goes underground and the Government is put to a loss. Therefore, give them a reasonable time.

Clause 18 provides for the previous permission of the Reserve Bank of India in case of short realisation in respect of sale proceeds of exported goods. A period of 20 days has been stipulated to enable the Reserve Bank to send the reply. If the Bank, however, raises a query on the 19th day, there would be an automatic extension of the period of 20 days. This would result in a further loss in the value of the exported goods because of unpredictable changes in the international markets. It has been suggested that the Reserve Bank of India should normally accord sanction to short realisation on being satisfied that sufficient ground existed. You may kindly look into it.

Clause 30 provides that no national of a foreign State shall without permission of the Reserve Bank take up any employment in India or practice any profession etc. The obligation is placed on the foreign national to seek permission from the Reserve Bank. It may be examined whether this a right procedure and whether the obligation should not be on the person who wants to employ the foreign national.

1 P.M.

Sir, there are one or two points more. Clause 32(9) says:—

"No person shall, without the permission of the Reserve Bank,—

(i) remain outside India beyond the date or period ; or

(ii) travel to any place outside India other than such place or places."

I don't think this is a very reasonable attitude. There may be cases where because of illness a man has to proceed from one place to another for better treatment. Then, the other clauses says that the Reserve Bank, on subsequent application, may overlook this. But, I think, in this case also it should be 'shall' instead of 'may'. If there is a justifiable ground, the Reserve Bank shall accord permission on application on a subsequent date.

Then comes the Appellate Board. The qualification of the Chairman of the Appellate Board has been prescribed as being somebody who would qualify for a judgeship of a High Court. But I am sorry to note that no qualifications in respect of the other four members who will be on the Board have not been prescribed. That means at one point of time Mr. Mastan might become one of the members of the Appellate Board. There should be at least some qualification prescribed. Why don't you do it? What would you lose if you prescribe a certain minimum qualification in regard to people who would be members on this Appellate Board? Unless you do it you will not be able to enforce what you really desire to do, because there may be some political pressure. If some of the defeated Ministers ask you for a post like that, would you be in a position to refuse? Therefore, as a safeguard against any kind of pressurisation, persuasion or influence, you should prescribe it in a forthright manner so that nobody would misunderstand your intentions.

Finally, before I sit down, I would say that I wish the hon. Finance Minister well in regard to the conservation of foreign exchange and I hope that you would be in a position to do something for the country

by conserving it, by regulating it and by plugging all the loopholes to curb smuggling and do a great service to the country. Thank you, Sir.

MR. CHAIRMAN : The House stands adjourned till 2.00 p.m.

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

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

SHRI K. P. SUBRAMANIA MENON (Kerala) : Mr. Deputy Chairman, Sir, it was during the freedom struggle that such illustrious people as Lala Lajpat Rai, Romesh Chandra Dutt, R. P. Dutt, etc. made our country conscious of the loot which foreign finance capital was perpetrating on this country. Lala Lajpat Rai's famous book Britain's Debt to India opened the eyes of our countrymen not merely to the question of political dominance but also to the fact that political dominance was only an instrument to carry on economic depredation of this country. But one would have expected that after 1947, when we achieved independence, the ruling class in this country will once for all do away with this great tribute which this country has been paying to imperialism but what has happened is that the compact which the Indian ruling class entered into with British Imperialism was only a cloak to continue the economic exploitation by foreign finance capital of this country. The only thing was that Indian big business got a partnership in the loot and the Indian ruling class was satisfied with this partnership in the loot. However, since this loot cannot go on for ever and conditions are worsening every day and as the foreign exchange position becomes more and more acute the Government has been trying to put here and there some sort of a bridle on the exploitation by foreign finance capital of this country. Earlier we had the Foreign Exchange Act

but what did that Act achieve? Hardly anything. In fact all that Act achieved was to create huge new sources of what may be called black money and large scale smuggling that has been going on in this country. It is estimated by Prof. Shenoy that it is of the order of over Rs. 400 crores a year. The other people estimate that it is much more than that. This Study Team of Government officials on foreign exchange violations has come to the conclusion that another Rs. 240 crores is being drained out of this country through the mechanism of what is called underinvoicing of exports and overinvoicing of imports. In fact, what has the Government done to stop this? Is it that they did not have the power? In fact, they had enough power and if they wanted they could have stopped it. What is the guarantee that with this new Bill it will improve? There is absolutely no guarantee. Even this Bill is absolutely no improvement on the old Bill. In fact, about 54 clauses of the new Bill are as they are in the old Bill. Only a few new clauses have been added. They are mainly in connection with the mechanism of functioning. Therefore, we cannot expect that the ruling-class in India will in any way break off their compact with foreign capital in order to exploit the labour of our people and the resources of this country in order to fatten themselves. This is what has happened and this will continue to happen in future also. I will bring to your notice one or two instances which have come to the notice of the Government and on which the Government has not taken any action. It is a known fact that the Union Carbide have recently entered the field of export of marine products from this country. It has been alleged that the Union Carbide has been exporting marine products like shrimps and other products much below the prevailing rates in the US and Japan by what is called under-invoicing. That is, they have been showing big losses in their operations in India and by that method they are transferring part of the profit, which they get out of their operations in India, to foreign countries. It is also known that a number of foreign collaboration agreements have been working against the interests of this

[Shri K. P. Subramania Menon.]

country. Some time back a committee went into the question of foreign collaboration and I think it is the Committee of the Scientific Workers' Association of India. That Association has come to the conclusion that most of these foreign collaborations have resulted in a big drain of our resources and that foreign collaborators have been exporting junk machinery as new and collecting the full value for that machinery. Has the Government stopped this sort of foreign collaboration? In fact, it is not only in the case of private foreign collaboration, but even in the case of foreign collaboration with giant Indian industries this has been happening. For example, you will be surprised to know that the Indian Telephone Industries had a collaboration agreement with the famous international conglomeration named the International Telephone and Telegraph. Now, what has been the result of this collaboration? It says :

"The Union Minister for Communications, Mr. H. N. Bahuguna, today charged the Belgian Bell Telephone Company with having neglected proper implementation of its collaboration agreement with the Bangalore factory."

This is an affiliate of the ITT which tried to murder the President of Chile, Mr. Allende. This is the credential of ITT. Talking to newsmen he said because of this lapse the factory was able to utilise only 40 per cent of its installed production capacity. About seven million applications for telephone connections were pending. Then, Sir, what is the big loss to which we are subjected to because of this agreement? The BTM did not even provide complete information on the A-1000 model that it supplied to ITI, so that operational and cost parameters were beyond all estimates. The Ministry sources sadly pointed out: "Not a single one of the Pentacosta crossbar exchange is running smoothly or without interruption. The cost of operation and maintenance has been as much as eight times the estimated cost levels

with the basic design of the A-1000 revealed as defective . . ."

SHRI KALYAN ROY: The crossbar is introduced for tapping.

SHRI K. P. SUBRAMANIA MENON: Even that would not have been efficient. That is the whole trouble.

" . . . each future crossbar exchange to roll out of ITI seems doomed to be a sticky one."

This is the sort of foreign collaboration that we have and that collaboration is still continuing to be in operation, and our country will invite more and more collaborators. Does this Bill put a stop to this sort of thing, this sort of loot, by foreign finance capital? No, it does not put a stop; in fact, it gives more and more encouragement to foreign capital to come to India.

Now, what is the essence of this Bill? The only thing is that this Bill wants to restrict to a certain extent the operations of foreign capital in order to protect the big monopoly capital in this country. In this conflict between monopoly capital within India and foreign finance capital, the Government is trying to protect the interests of Indian monopoly capital but to the detriment of the people of this country because the shoreholding will continue; the only thing is that the Indian monopoly capital should get a bigger share of the loot than the foreign finance capital. This is all. Can this Bill put a stop to underinvoicing of exports and overinvolving of imports? No, because already powers have been there and they have not been properly exercised. Does it put a stop to purely trading companies working in India? No. Brook Bond, Liptons, Hindustan Lever, all these companies are there. With a capital of Rs. 1-1/2 lakhs, Palmolive Colgate has been making about Rs. 87 lakhs as profit; with a mere capital of Rs. 1-1/2 lakhs it has been making an annual profit of Rs. 87 lakhs, and it has been exporting most of this profit

outside India. What has the Government done about it?

Now, it is said that there is a restriction of 40 per cent of foreign holding in an Indian company. As you know, it is not necessary for a foreign company to hold 40 per cent to control the destinies of an Indian company. In fact, even with 10 or 15 per cent of the capital they can do it. The Tatas do not hold 50 per cent in T.I.S.C.O. but they control the T.I.S.C.O. They have got only 20 to 25 per cent of the shareholding. Therefore, foreign companies with know-how, with certain scarce raw material and other spare parts in their hands, can keep absolute control over an Indian company with less than 15 per cent, and that is why we want that it should be reduced to 10 per cent. Without that, any talk of reducing the control of foreign investors is all meaningless.

Secondly, there is absolutely no provision in the Bill for putting a ceiling on the export of profit by the foreign companies. Now, it is a well known fact that it is not only the dividend that is exported, which itself is not a big thing, but the export of profit in the name of technical fees, collaboration agreements, know-how, patent rights and royalty is there, and above all, there is the import of scarce raw materials which are charged exorbitant prices. For instance, you will recollect that two years ago a sub-committee of the American Senate presided over by Mr. Gaylord Nelson conducted a hearing on the activities of American drug companies in the underdeveloped countries. And it was revealed during the enquiry that some of the American companies have been exporting some of the drugs to their subsidiaries in India at prices rising from 1100 to 1600 per cent. higher than the thing available for the-rapypical equipment available in Europe. So 1000 times higher prices are charged by some of the foreign drug companies exporting very rare drugs to India, and

they market it at fantastic prices in this country. Companies like Lederle, Parke Davis and such other American compaines continue in the loot of this country, in the exploitation of the poor people of this country. You do not stop them. What you want is a share in the loot. That is all. You say "You take only 40 per cent but give us 60 per cent." This is the entire intent of this thing. They do not want to give the full loot to these fellows. They want 60 per cent. Therefore, I have tabled my amendment. You have already pushed the button. I do not want to go much more into details about these things. But unless this Government puts a stop to this foreign capital exploitation of this land, there is absolutely no salvation for our country. Our foreign exchange position, our resources will be inadequate to meet the needs of our people. And, in addition to this, now the Government has started giving help to the Indian big business to start enterprise abroad. When we are short of capital, when we do not have enough resources here, how is it that this Government has allowed about Rs. 160 crores to be invested abroad by the private Indian capital? How is it allowing? Is the Rs. 160 crores invested in India less useful than the Rs. 160 crores invested outside? On the other hand the Indian people will stand to benefit more by the investment of this Rs. 160 crores in this country. Because the Government is guided by the interest of the finance capital abroad and also by the big monopoly in the country, it is allowing this sort of thing. May I ask the Government: has a single paisa been repatriated by these big business houses as profit to this country? I doubt very much. In fact, they will be sending all this money to some other places. Therefore, all this is an eye-wash and it is not going to help the country as such. On the other hand, it may help a few big fellows in the country to mint more profit.

श्री भूपेन्द्र नारायण मण्डल (बिहार) : उपसभा-
पति जी, जो विधेयक अभी इस हाउस के सामने
प्रस्तुत है उसमें जो एमेन्डमेंट किए गए हैं उनके

[श्री भूपेन्द्र नारायण मण्डल]

जरिए से कुछ तो फारेन एक्सचेंज का लीकेज बन्द हो सकता है, लेकिन उससे बन्द ही हो जायगा ऐसा नहीं कहा जा सकता है क्योंकि फारेन एक्सचेंज एक्ट पहले से भी इस देश में लागू था, लेकिन उसके बावजूद बराबर उसका उल्लंघन हो रहा है। और फारेन एक्सचेंज के मामले में हम लोग कहा तक पहुंच गए हैं यह भी हमको, आपको, सभी को मालूम है। इस सरकार के पाम जब फारेन एक्सचेंज काफी मात्रा में जमा हो जाता है तो सरकार फिजूलखर्ची करने लगती है। दूसरे विश्व युद्ध के बाद इस देश में लगभग 16 अरब का फारेन एक्सचेंज मौजूद था लेकिन फारेन एक्सचेंज शुरू में ही खत्म कर दिया गया और खत्म करने के मिलसिले में जो योजना चल रही थी यह कहा गया कि उसी मिलसिले में हम खर्च कर रहे हैं और इसका नतीजा हुआ कि पिछले दिनों सरकार की भिखमंगी की हालत हो गई। और आज भिखमंगी की नाई सरकार ने हर देश के मामले फारेन एक्सचेंज के लिए हाथ पसारना शुरू कर दिया है। तो इस विधेयक के पाम होने पर भी दशा में कोई विशेष सुधार होगा इसकी आशा नहीं की जा सकती है। अभी भी देश में फारेन कैपिटल का जो शिकजा है वह कम होगा, उसमें ढील आयेगी ऐसा कोई लक्षण मालूम नहीं पड़ता है। यहाँ पर हिन्दुस्तान में जो फारेन कैपिटल है उसकी स्थिति ऐसी है कि जहाँ देशी इन्वेस्टमेंट पूंजी है करीब 80 अरब रुपये की वहाँ विदेशी कैपिटल चौथाई से अधिक याने करीब करीब 24 अरब रुपये का है। ऐसी हालत में जो इसके जरिये से मुनाफा होता है वह मुनाफा उन पूंजीपतियों को होता है जो उस मुनाफे को विदेश भेजने की कोशिश करते हैं। अकेले एक आटो-मोबाइल इंडस्ट्री है उसमें फारेन शेयर करीब करीब 80 परसेंट है। कोकाकोला कम्पनी जिसका कैपिटल 660 लाख है उसने गत वर्ष में करीब 43.2 परसेंट फारेन एक्सचेंज का रिपैट्रिब्यूशन किया है। एक कमेटी कायम हुई थी जिसको कौल कमेटी कहते हैं। उसकी रिपोर्ट है कि साल ब साल करीब 2.14 अरब रुपये के करीब फारेन एक्सचेंज का इस देश से लीकेज होता है, लेकिन जो दूसरे लोगों का कहना है उनके अनुसार 2.14 अरब ही नहीं, बल्कि करीब

करीब दस अरब रुपये के बराबर का फारेन एक्सचेंज लीकेज होता है। इसके अलावा जायज तरीके से विदेशी मुद्रा उन लोगों को लेने दी जाती है, वे टेक्निकल तो हाऊ के जरिये, परचेज कमीशन के जरिये, एक्सपोर्ट कमीशन के जरिये, रॉ मैटीरियल के और मशीनरी परचेज कमीशन के जरिये, हेड आफिस एक्सपेंसिज के जरिये, एग्रीया आफिस एक्सपेंसिज के जरिये, सर्विस चार्ज के जरिये, एडमिनिस्ट्रेटिव एक्सचेंज के जरिये और डिबिट के जरिये, रायल्टी के जरिये और पेटेंट के जरिये साल ब साल यहाँ से विदेश को विदेशी मुद्रा भेजते हैं। इसपर जो अमेडमेंट लाया गया है उसमें कुछ रिस्ट्रिक्शन लगाये गये हैं कि जो फारेन पर्सनल है उसका इंगेजमेंट हिन्दुस्तान में होगा या नहीं होगा उस पर कुछ रिस्ट्रिक्शन लगाये गये हैं। जो यहाँ के लोग बाहर जाकर प्रापर्टी एक्वायर करेंगे उस पर भी प्रतिबन्ध लगाने की कोशिश की गयी है। बाहर का आदमी जो यहाँ पर इन्व्हेस्टिंग प्रापर्टी लेगा उस पर भी कुछ रिस्ट्रिक्शन लगाने की कोशिश की गयी है, लेकिन यह सब होने पर भी जिस तरह से स्मगलिंग चल रही है उस स्मगलिंग के जरिये साल ब साल इस देश का बहुत बेशी फारेन एक्सचेंज का नुकसान होता रहता है और सरकार उसको नहीं रोक पा रही है। कहा जाता है कि सरकार की ओर से जो उसके अफसर हैं वह बहुत एफीशियेट तरीके से काम कर रहे हैं, लेकिन हम नहीं समझते हैं, कि इतनी एफीशियेसी के बावजूद भी क्यों इतना फारेन एक्सचेंज बाहर जाता है। जो भारत का पश्चिमी समुद्र का किनारा है कराची से लेकर बम्बई तक उस में लोग छोटी छोटी नौकायें ले कर जाते हैं और वहाँ पर विदेशी स्मगलर्स के जरिये से सामान यहाँ लाया करते हैं और उसकी वजह से जो फारेन एक्सचेंज जायज तरीके से आना चाहिए वह नहीं आ पाता है। इसलिए हम समझते हैं कि जो यह एक्ट बनने जा रहा है इसका अगर ठीक ठीक इंप्लीमेंटेशन हो तो कुछ दूर तक उससे लाभ हो सकता है लेकिन इंप्लीमेंटेशन के अभाव में हम समझते हैं कि जितना लाभ इस एक्ट से होना चाहिए उतना नहीं हो पायेगा।

SHRI K. A. KRISHNASWAMY
(Tamil Nadu): Sir, the Foreign Exchange

Regulation Amendment Bill has been introduced with a very laudable object, namely, the conservation of the foreign exchange resources of the country and the proper utilisation thereof in the interests of the economic development of the country. The foreign exchange leakage has been a scandalous one and any steps taken to and it should be welcomed. The Bill is welcome in so far as it attempts to regularise certain irregularities existing so far and over-flow foreign exchange. But I am constrained to say that the Bill has not gone to the root of the basic problems and the remedial measures introduced in the Bill are most ineffective. The Kaul Committee has estimated the leakage in foreign exchange to the extent of Rs. 240 crores. But this is an under-estimation. It is universally accepted that the amount is Rs. 1,000 crores a year. The Reserve Bank of India with a big set-up has failed to prevent the prevalent malpractice of under-invoicing and over-invoicing which is growing every day. The Study says that one-fourth of the loss of exchange is due to under-invoicing of exports and over-invoicing of imports. This can be ended only by the nationalisation of import and export trade. These remedial measures have not been incorporated in the Bill. After 25 years of the independence, it is shame on the part of the Government, which preaches socialism, to allow foreign capital into India. It is a common knowledge that the participation of foreign capital covers one of the important sources of the leakage of foreign exchange. Now it is openly urged that the foreign capital can freely participate upto 40 per cent in a concern here and it will be treated as capital of a non-resident. It is our experience that any foreigner with 40 per cent interest in a company here can surely control it.

The next point which I would like to put forth before this august House is that there are no sufficient provisions in the Bill to tackle the leakage of foreign exchange arising out of tourism . . .

SHRI KALYAN ROY : Instead of prevention, there is collusion.

MR. DEPUTY CHAIRMAN : Let him continue with his speech.

SHRI K. A. KRISHNASWAMY : . . . And some V.I.P.s are going abroad for their medical treatment, etc. It is stated that the hon. Mr. Karunanidhi, the Chief Minister of Tamil Nadu, had contravened the Foreign Exchange Act, when he had gone to America. I reliably learnt. It seems that in 1971, Mr. Karunanidhi had gone to America. He was allowed to take only 500 dollars by the Reserve Bank of India. It was given on 2-11-1971. Mr. Karunanidhi underwent his eye operation in Baltimore Ophthalmic Hospital in America. It is a private nursing home. The bill for his treatment came to about 1,128 dollars. The bill was immediately disposed of on 19-11-1971. I want to know from the hon. Minister about this mystery. Wherefrom did the Chief Minister get the money? How did he pay the marginal amount of 628 dollars? Is it the money that he took from Tamil Nadu? Or, has he borrowed it from any of his American friend? How did he meet this contingency? Further, he received only \$ 500 on 23-11-1971. In either case the method adopted is not permissible . . .

SHRI KALYAN ROY : You call for an inquiry.

SHRI K. A. KRISHNASWAMY : Yes, there should be an inquiry. Under the law neither could he take money from Tamil Nadu nor could he borrow from any American source. Therefore, something must have happened and I want the honourable Minister to place all relevant facts before the House and make a thorough probe to find out the mystery of the C.M.'s visit to America in contravention of the Foreign Exchange Regulations. Not only this, Sir, the Chief Minister is said to have brought a few banned things when he returned from America. This is daily spoken by the people in

[Shri K. A. Krishnaswami.]

Tamil Nadu that he brought a statue of Abraham Lincoln and stuffed it with diamonds . . .

MR. DEPUTY CHAIRMAN: Mr. Krishnaswamy, you cannot go on only speaking against the Chief Minister of a State. You have to speak on the Bill.

SHRI K. A. KRISHNASWAMY: Sir, all this is connected with Foreign Exchange Regulations . . .

SHRI KALYAN ROY: Sir, he is placing certain materials before you, that this is what is happening. The other day a similar matter was brought to the notice of the House about an important Member of the Tamil Nadu Assembly that he is doing all sorts of things and there was no obstruction to that being mentioned in this House. Now when Mr. Krishnaswamy is giving you certain basic things, you should not object to it.

SHRI S. S. MARISWAMY (Tamil Nadu): Sir, on a point of order. Anything connected with the Bill can be said. I do not blame the honourable Member because he has been tutored to say all these things and since he is new to Parliament as well as to politics, he has been speaking something at random. But to say that the Chief Minister of Tamil Nadu . . .

SHRI K. A. KRISHNASWAMY: Sir, is it a point of order or an explanation that is being made by him? Do not kindly entertain this kind of a point of order.

MR. DEPUTY CHAIRMAN: Mr. Mariswamy, please sit down. You cannot make use of a point of order to give an explanation. Yes, Mr. Krishnaswamy, you continue.

SHRI KALYAN ROY: There should be a probe.

SHRI K. A. KRISHNASWAMY: Sir, I have got sufficient material to estab-

lish these things. I have got every right to say these things when I know that a certain Chief Minister has indulged in these things. The Chief Minister of Tamil Nadu is said to have brought a few banned things when he returned from America. He brought a statue of Abraham Lincoln fully stuffed with diamonds worth several lakhs of rupees. This is spoken by everybody in Tamil Nadu that a responsible Chief Minister brought these things is an irresponsible way in contravention of the rules and regulations. Customs officials in Bombay detained him for more than three hours. It is stated that immediately one of his nephews contacted some responsible person in Delhi and only after instructions from Delhi . . .

SHRI K. P. SUBRAMANIA MENON: He contacted the Prime Minister.

SHRI K. A. KRISHNASWAMY: Yes, the Prime Minister. Thank you. She averted the whole thing.

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS AND IN THE MINISTRY OF WORKS AND HOUSING (SHRI OM MEHTA): No, no.

SHRI K. P. SUBRAMANIA MENON: He contacted the Prime Minister and she averted it.

SHRI KALYAN ROY: He contacted one of the Ministers.

SHRI OM MEHTA: I deny that the Prime Minister has anything to do with it. She has nothing to do with it.

SHRI K. A. KRISHNASWAMY: The nephew of the Chief Minister contacted one of the responsible Ministers . . .

SHRI S. S. MARISWAMY: Mr. Deputy Chairman, I would take only two minutes. I have only one submission to make. Please give me only two minutes . . .

MR. DEPUTY CHAIRMAN: No, please.

SHRI K. A. KRISHNASWAMY: Sir, the very purpose of Mr. Mariswamy's

interruption is to divert my speech. He is depriving me of my opportunity. I seek your protection.

MR. DEPUTY CHAIRMAN : Mr. Mariswamy, please let him finish his speech.

SHRI K. A. KRISHNASWAMY : Sir, these things are stated openly in the State there. I would like . . .

MR. DEPUTY CHAIRMAN: But Mr. Krishnaswamy, I would request you not to go into those things which are not relevant to the Bill. And unless you can absolutely prove those charges, you cannot make such wild allegations in the House.

SHRI K. A. KRISHNASWAMY : These things are talked about widely. I would like the honourable Minister to enlighten the House on these things. The people of Tamil Nadu are very anxious to know the facts of this mysterious trip of the Chief Minister of Tamil Nadu. The people of Tamil Nadu are familiar with these things because this was not the first occasion when the Chief Minister of Tamil Nadu did this kind of a thing. In 1970 itself when the U.K. Government invited him to visit their country, on his way to London, the Chief Minister of Tamil Nadu alighted at Zurich without prior arrangement or permission. You know, Sir, Zurich is a place where International Bank is well established. It is a place where unaccounted and black money are accumulated. So many V.I.P.s' names are in the controversy. My suspicion is that . . .

MR. DEPUTY CHAIRMAN : You cannot make use of the Floor for raising all your suspicions. If you have any specific charge, you may mention it.

SHRI K. A. KRISHNASWAMY : Even the man in the street in Tamil Nadu is aware of the purpose of his visit to Zurich. I would request the hon. Minister to clarify the suspicious clouds surrounding the minds of the Tamil Nadu people. With these words, I conclude my speech.

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SHRI S. S. MARISWAMY : On a point of order . . .

MR. DEPUTY CHAIRMAN : No point of order . . .

SHRI K. A. KRISHNASWAMY : He is trying to deprive me of my rights . . .

MR. DEPUTY CHAIRMAN : I will deal with him.

SHRI S. S. MARISWAMY : I am only making a submission.

MR. DEPUTY CHAIRMAN : No submission now.

SHRI S. S. MARISWAMY : Since hon. Minister Shri Ganesh is here, I would request him . . .

SHRI K. A. KRISHNASWAMY : Sir, it was he who first made very serious allegations against my revered leader, Shri M. G. Ramachandran on the floor of this House.

SHRI U. K. LAKSHMANA GOWDA (Mysore) : Mr. Deputy Chairman, the present Foreign Exchange Regulation Bill has been introduced after the original Foreign Exchange Regulation Act has been in force for the last 25 years or so. While working that Act, certain inadequacies were found and a Committee is appointed to review them and also there has been particular reference in the Public Accounts Committee's report and as a result of these these amendments have been brought.

The salient features of this Bill are contained in clauses 28 and 29 and also in clause (2) which defines residents and non-residents. One of the main items which the Bill has tried to do is to reduce the foreign participation in the foreign participating countries. Seventy-five per cent participation has been brought down to 40 per cent and a foreign company with more than 40 per cent participation has been brought under certain restrictions so far as opening branches, carrying on trading and other matters are concerned. So far so good. But what has been happening is that this has been pointed out by some other

[Shri U. K. Lakshmana Gowda.]

Members earlier—instead of concentrating themselves on priority industries where technical know-how is necessary, they have been diversifying themselves into other consumer goods and other spheres. So, in order to restrict this, the amendment has become necessary. The apprehension is that this has not gone far enough and this will not prevent such firms from continuing in trading activities for which there is sufficient know-how in this country. This matter needs immediate attention. The other day Shri Manubhai Shah was saying that certain guidelines to the Reserve Bank of India will be sufficient. I am not sure, unless these are in the Act itself, how regulation can be achieved by mere guidelines. I do not know what is going to be done about it. There are some amendments before the House. But the Bill has already been passed in the other House. I do not know whether any result will come out of these amendments. This is one point that I wanted to mention.

The other is with regard to regulation of exports under clause 18. This is with reference to under and over-invoicing. This is in order to see that the items which are exported are sold at the declared or correct price so that the Government is in a position to get back the correct value of the foreign exchange earned. But there is one difficulty here. It is because, Sir, as has been stated, in this particular country there is a practice of consignment sale which has been in vogue for many years and this is one of the business practices. When the consignment sales are there, sometimes it happens that the exported goods might fetch a value lesser than the declared value. In such cases, Sir, some restriction is necessary which has been provided here by saying "by providing for making a reference to the Reserve Bank and getting their permission" and then, the time-limit has been restricted to 20 days and the Reserve Bank is supposed to give its instructions within 20 days. What happens is, Sir, that when they do export business with the Middle-East and the

Gulf countries, day-to-day transactions take place straightaway on the understanding that a commodity could be sold at that price and if there is any delay, there is a possibility of the prices falling further and in view of that fact, this restriction is there for making them wait for 20 days and if there is any query within that period, in another twenty days there is the possibility of the prices falling further. What I am suggesting here is that the Reserve Bank has got to be very vigilant about it and they must be in a position to give their instructions immediately on receipt of these applications. Otherwise this will create a lot of difficulties. It would have been better if there was an amendment. As it is not possible now, at least there must be sufficient instructions to the Reserve Bank to be vigilant about it.

Then, Sir, I have one more point to make and that is with regard to clause 2 where "resident" and "non-resident" have been defined. Sir, in this country there are quite a number of foreigners both salaried persons and people owning smaller property and doing small business. What has happened now in the definition clause is that these people will be considered as residents when they are in this country and as non-residents when they go abroad even for a short period either to other countries or to their own home countries. Clause 19 prevents the sale or purchase of or transaction in securities by a resident. But, Sir, when that person is a non-resident in his home country he is free to purchase or sell or transact in the securities. But, Sir, if he is a resident here, he has to take the permission of the Government. What I would like to mention here is this : When a particular person who is a resident here and who will be considered as a non-resident while abroad, has to make sales or purchases, will he have sufficient time to take the permission from the Reserve Bank of India in order to make the sales or purchases? So, some methods must be found and they must be in a position to accept

his statement.

Then, Sir, there is another wide-spread malpractice in foreign exchange dealings and this is the switch trade. You see, a few countries are there with whom we have rupee transactions and they are indulging in this trade and there are exporters there in this country who take advantage of this and the contracts and exports on rupee-payment basis do not even reach that particular country to whom the items are exported. Then that particular country would have already sold it to another country for hard currency and the commission on that will be collected by the agent and deposited in the foreign countries and our trade suffers in this process, with the countries with whom we have rupee payment arrangements. Earlier, there was an insistence on having a clause which prohibited rupee payment countries from reselling to the other countries. Now, Sir, I am told that it is not accepted by rupee payment countries in the trade agreements. This matter needs to be looked into. Because of this many of our traditional items which are channelised through the rupee payment countries are diverted to the non-rupee payment countries or hard currency areas and higher earnings in hard currency go to that country and do not come here and some of the unscrupulous exporters have also the chance or opportunity of making side profits in the foreign countries.

Then, Sir, there is only one more point. My friend, Shri Kalyan Roy, mentioned earlier this morning that there are and there have been a good many cases in which the contravention of the foreign exchange regulations takes place or many cases are there awaiting prosecution and it takes a long time for the Finance Ministry or the Enforcement Directorate of the Finance Ministry to come to a decision on these matters. And by efflux of time many times whatever action has been taken, will be diluted, and there must be some measure by which some quick action is taken and quick decisions are taken to see that either a person is acquitted or convicted.

Thank you.

MR. DEPUTY CHAIRMAN : The Minister will reply now.

✓ SHRI K. R. GANESH : Mr. Deputy Chairman, Sir, I am grateful to hon. Members who have participated in this debate on a very important measure dealing with the conservation and better utilization of our foreign exchange resources. Sir, the debate has covered a very wide field.

The debate earlier concentrated on the provisions of the Bill, particularly on the various aspects of the subject of foreign investments. Sir, today the debate has mainly concentrated on the enforcement aspect and on very high policy matters as our hon. Shri K. P. Subramania Menon referred to foreign capital in this country. Sir, since this is the first attempt to codify the various problems in connection with our foreign exchange resources and since the Bill covers a very wide field touching upon the very complex subject of our foreign trade, our economic policies, our suitability and other things, as the Finance Minister pointed out in the other House, it is not claimed by the Government that it is a perfect Bill. It will require very vast organisation for the Reserve Bank of India to implement this Bill, and it will also be necessary for the Government to take advantage of the experiences of the working of this Bill and thereafter come before the hon. Parliament for any amendment that might be necessary in the process of the working of the Bill itself.

Sir, this Bill should be seen also along with the Companies Law (Amendment) Bill, now pending before the Select Committee, the Taxation Laws (Amendment) Bill, pending before the Select Committee, and the Gold Control, Central Excise and Customs (Amendment) Act, which has been passed by Parliament, as plugging the loopholes in the various spheres of enforcement agencies as also giving more powers to the enforcement agencies, and as a result of experiences gained, particularly in regard to the attitude of the

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judiciary and some matters connected with economic and social crimes.

Sir, I will not go into all the points which some hon. Members raised. Certainly, it is not the object of this Bill to go into the question of the role of foreign capital in India. It will have to be a part of the general economic policy that we have been pursuing for the last many years, and, therefore, what role the foreign capital in India should play in general terms which the hon. Members have referred to is the policy . . .

SHRI BABUBHAI M. CHINAI : This is a provision in the Bill . . .

SHRI K. R. GANESH : I am coming to that. I am distinguishing your approach from his approach. So, these matters don't require a Bill of this nature. It is a question of general economic policy that the Government might pursue and give whatever facilities are desirable as far as the foreign capital is concerned.

Sir, this Bill can be divided into various parts. Firstly, the Bill deals with the question of foreign investment and its various derivatives to which Shri Babubhai Chinai, Shri Manubhai Shah and some other Members have also referred. They also raised the question of foreign investment and the outgo of foreign exchange through foreign investment in its various forms and manifestations. Then, Sir, there is the outgo and outflow of foreign exchange through illegal channels like invoice manipulations, inward remittances and smuggling to which all hon. Members have focussed attention.

Then, Sir, the Bill concerns the question of enforcement, the machinery for enforcement and the strengthening of legal provisions. I may mention here that as far as the question of smuggling is concerned, figures of 1000 crores or 1500 crores have been given by the hon. Members. The Kaul Committee went into it and came to the conclusion that it might be 230 to 300 crores of rupees. It is difficult to

quantify the extent of loss as a result of smuggling. But, as I have mentioned earlier in this House, smuggling continues to be a very serious problem and when I contest these figures, it is not my intention to minimise the menace that smuggling is doing to our economy, to our scarce foreign exchange resources and to our social life.

SHRI LOKANATH MISRA : Mr. Ganesh, how many times have you searched the house of Mr. Mastan? Have you ever done it?

SHRI K. R. GANESH : My memory is fresh as far as Mastan's case is concerned. It came up in this House as well as in the other House during the Gold Control and Central Excise Act. At that time, I had given details of the various prosecutions that were conducted as far as Mastan is concerned. That is why in the beginning I had linked up the Direct Taxes (Amendment) Bill, the Gold Control Act and various other things. I had linked them up only with the object of meeting the menace of smuggling because these powers which the Government has taken will be useful.

I have supplied various details of the prosecutions launched against Mastana at various stages, how many times he has been freed by the High Court, etc. These things are there. I agree with the hon. Member that he is a very well-known person—very notorious smuggler. I have said it in the hon. Houses. I have no hesitation in saying that.

SHRI BABUBHAI M. CHINAI : Is the hon. Member notorious or Mastana notorious?

SHRI K. R. GANESH : I would only supplemt the hon. Member's view. I hope he will not get angry with me that Mastana has created, in spite of all the enforcement machinery that we have, a cesspool of a social system. It is the cesspool of a social system based on blackmarketing, based on black money, based on smuggling, based on profiteering, based on other forms that these creatures have created. They are there in various other countries.

There have been all attempts of the enforcement machinery to catch him. He has been a very illusive person, I do not deny that. I have gone into the details of this well-known person—whatever adjective you may use for him, but this is the position.

SHRI LOKANATH MISRA : Is it a fact that some of our hon. Members accept his hospitality?

MR. DEPUTY CHAIRMAN : No, no, let us not discuss Mastana.

SHRI K. R. GANESH : As the hon. Member has referred to that, I must deny the allegation that the hon. Member has raised that my colleague has accepted the hospitality of Mastana.

SHRI MAHAVIR TYAGI (Uttar Pradesh) : He said hostility not hospitality.

SHRI K. R. GANESH : So, Sir, I was mentioning in reply to the hon. Member's very apt reference that this new tribe that is there in the political atmosphere in our country we will eliminate. We will try to eliminate all the doubts that the hon. Member must be having . . .

SHRI BABUBHAI M. CHINAI : I have not followed you. If you have referred to me, please repeat it, if you do not mind.

SHRI K. R. GANESH : You had some doubts. You said that you do not know. . .

SHRI BABUBHAI M. CHINAI : I have only guided you and helped you.

SHRI K. R. GANESH : I accept your guidance, Sir, because any further discussion on that subject will involve me into a very serious controversy with the hon. Member. That is why I do not wish to go into that. After all we know these things. Why go into it?

Now I will come to some of the points which the hon. Member has raised with regard to the question of foreign investment. Sir, it is the intention of the Gov-

ernment and the Finance Minister has ver categorically indicated in the other House that, as far as foreign investments are concerned, the Government wishes to follow certain stand, i.e. firstly to reduce equity to 40 per cent and secondly either to completely stop or put a severe restriction on trading and commercial companies that are there. No new company has been allowed . . .

SHRI BABUBHAI M. CHINAI : Would you kindly spell out how you are going to do it under the Act?

SHRI K. R. GANESH : The hon. Member has raised this point very passionately. He has very passionately raised it in the Consultative Committee. I appreciate the passion with which he has raised this question and discussed it with the Finance Minister. The Government has indicated that through the guidelines that the Government will issue through the highest limb of the Government, that is the Cabinet, it will also be placed before the hon. House. . .

SHRI BABUBHAI M. CHINAI : With all due respect to the Minister, kindly excuse me, do you think that the guidelines even issued by the highest authority in the country would be able to catch hold of those persons? I would like to know from the hon. Minister whether the person who does it would be in the four corners under the law or outside that. If they are doing it and perpetuating this, will you be able to stop it by guidelines if there is no Act for it? Kindly think over it.

3 P.M.

SHRI K. R. GANESH : We have discussed it. It is not the intention of the Government to have mandatory provision as far as this Act is concerned. I started by saying that it is a very complex field of our economic activity and the Government proposes to proceed with some sort of caution, with some sort of deliberation. Therefore the strategy of the Government is that these trading concerns will have to apply to the Reserve Bank and each ques-

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tion will be decided on merits on the basis of the guidelines that are given. The broad features have already been mentioned in the House by the Finance Minister and it is the intention of the Government to see that these trading concerns immediately convert themselves into Indian companies if they are branches of foreign companies and on the basis of these guidelines either they will be asked to reduce their foreign equity or they will be asked to change the line of their manufacture or they will be asked to go into export oriented channels.

[The Vice-Chairman (Shri S. S. Mariswamy) in the Chair].

These various strategies will be evolved to achieve what the hon. Member has very passionately in his mind. As part of this there is the question of branches of foreign companies. They have to be incorporated as Indian companies and I have already indicated the lines on which they will be asked to reduce their foreign equity holdings and the dilution formula which the Government has been following will apply to them.

As far as the trade names are concerned which the hon. Member has raised from time to time and which also forms one of the derivatives and manifestations of this general question of foreign investment, the Finance Minister has introduced an amendment which has been accepted by Lok Sabha by which permission of the Reserve Bank will be necessary for these things.

These are the various forms of the various problems which have been discussed in the Consultative Committee and which have been raised here. There are other points. Hon. Members on behalf of the CPM had raised the question of foreign banks, the question of delegation of authority to dealers, the question of reduction of equity which we have already discussed and so on. It has been decided by the Government to stick to this 40 per

cent for the time being; there is nothing sacrosanct about this 40 per cent. After some experience has been gained this could be further reduced in the light of the economic situation on the basis of various things.

Then there is the question of enforcement agencies and also the question of implementation. I agree with Shrimati Kulkarni—she is not here—who made a very neat speech stressing on implementation which other hon. Members also stressed that there is no use taking power unless the implementation machinery is strengthened. Sir, I would like to say a few words on this question. The speed with which industrialisation has taken place in the country, the speed with which unscrupulous and distorted business practices have grown during the last couple of years. I agree that the enforcement agencies have not grown with that speed. The enforcement agencies have got to be strengthened. Certain steps have been taken by the Government. The question of revenue intelligence is there; the question of regional offices of revenue intelligence is there. The question of strengthening the enforcement machinery and providing necessary staff and placing it in position has been taken up during the last couple of years. Whatever legal defects were there those legal defects have been taken care of in this Bill itself. For instance on the basis of the recommendations of the Law Commission the question of enhancement of punishment, the question of *mens rea*, the question of laying down minimum punishment, the question of leaving out some offences from minimum punishment and various other things have been taken up during the course of the last two or three years on the basis of the experience that have been gained.

Some hon. Members have referred to the Appellate Board and asked what would be the criteria for appointing the other members, except the Chairman. The other members will be officers of the Government of the rank of Joint Secretary and

may be above. As a result of the discussions in the Joint Committee it was felt that the Appellate Board should have a Chairman who has a judicial background and who should do this work with all the expedition necessary. So that it would not be necessary to go into all the procedural wrangles which take place in the case of a normal tribunal. Now, Sir, these are some of the major points which hon. Members have raised and to which I have tried to give a reply.

SHRI LOKANATH MISRA : One point I raised about the continuance of Cadbury-Fry and Colgate-Palmolive. These are some of the foreign firms which are repatriating money only because they have lent their names. Would you allow this?

SHRI K. R. GANESH : No. As far as brand names are concerned, it is already covered in the amended Bill that has been passed by the other House.

I am very sorry that unfortunately a controversy has been raised and the name of the Chief Minister of a State has been brought in and certain allegations have been made by an hon. Member. It is very necessary for me to give to the House whatever information I have got as far as these things are concerned. I am informed that the foreign exchange equivalent to \$500 for medical treatment and appropriate amounts for entertainment contingencies and other incidental expenses was originally released to Shri Karunanidhi at the time of his visit to U.S.A. for medical treatment in November, 1971. A further request for release of \$500 more for this medical treatment was received from the Government of Madras on 22nd November and the Ministry of Finance had accordingly released this sum also on 23rd November. Apart from releases for other purposes, the release for medical expenses itself therefore came to \$1,000. Therefore, I think the facts that the hon. Member had with him were not correct. Since a Chief Minister is involved I thought it my duty to give the facts that are there. Firstly, I do not like the raising of these

individual cases and also cases involving very high dignitaries like the Chief Minister of a State. No matter to which party the Chief Minister belongs, that is not our concern. It would not have been possible for me to go into these things, because I cannot have all this information when it is raised in the course of a discussion on the Foreign Exchange Bill which relates to many other important aspects. Because a Chief Minister was involved I thought I should get the facts. Side by side, I may also mention that in the other House certain allegations were made against the leader of the party to which the hon. Member belongs. In that connection I had occasion earlier in the other House to give the correct facts. As far as the question of MGR's foreign exchange in relation to the film which he had produced outside is concerned, I had given all the facts. I have indicated in the Lok Sabha in reply to an Unstarred Question that the Reserve Bank of India has gone into it and the Reserve Bank seems to have been satisfied. The other question which the hon. Member has raised is about Shri Karunanidhi having been detained by the customs authorities for a number of hours as well as the bringing in of the statue of Abraham Lincoln. Now, Sir, I have no facts on this, but I would like to give this information. If later on it is proved to be not fully correct I would like to correct the information. When this talk was going on in Madras City I had occasion in Bombay to check up with the Collector of Customs whether anything had happened.

And as far as my present information goes, nothing like this has happened. It is necessary to keep this on record. If there is further information on this, I will come before the House and get it corrected.

With these remarks and with the general strategy that I had indicated, I would say that this is the first attempt to codify the foreign exchange regulations; it is a very complex sphere in which this Bill is related; we will require a lot of experience, particularly the administrative experience for handling this. And it will be necessary

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for the Government, out of the experience gained, to come before the House, if necessary, to bring about an amendment to this.

SHRI KALYAN ROY : I made a specific allegation. You are increasing the penalty to five times. Show me one case where, during the last 18 years, the maximum amount of penalty—three times—has been imposed either in regard to violations of foreign exchange regulations or in any other case. I have categorically stated that Mr. Chavan in his letter of 10th March in relation to the penalty imposed for foreign exchange violation by Bird and Company and Bugne and Company has said that suitable penalty has been imposed. I made a definite accusation that you have violated the Foreign Exchange Regulations Act by not imposing even the maximum penalty which you should have imposed. Please tell the House : What is the suitable penalty ? Is it as per the law ? Or have you violated the law ? And now, you should not white-wash ; in order to get a bigger cut from the smugglers and others you are only white-washing. Tell me about one case where, during the last 18 years, you have imposed a fine of three times, against any big or small company.

SHRI K. R. GANESH : The hon. Member has raised a number of specific allegations for which replies have also been given. I do not have .

SHRI KALYAN ROY : Show me one case.

THE VICE-CHAIRMAN (SHRI S. S. MARISWAMY) : You have said it already.

SHRI K. R. GANESH : With a lot of vehemence, histrionics and with a lot of passion in his voice, he has said that.

SHRI KALYAN ROY : What implication is the House going to derive ? Show me one case. If you fail to give one case, what is the lesson which you derive ?

SHRI K. R. GANESH : If I have to reply to any one query or case, I will have to find out and give facts because all this cannot be answered in one point. What is the nature of the cases, where the cases are involved, where they are locked up .

THE VICE-CHAIRMAN . Mr. Roy, you give definite notice.

SHRI KALYAN ROY : He is duty-bound to find out. What is the penalty on Bird and Company and Bugne and Company ? Or are you hiding it ?

THE VICE-CHAIRMAN : He cannot give the information immediately. Please sit down.

[Mr. Deputy Chairman in the Chair]

SHRI K. R. GANESH : I will end by saying that it is out of the experience gained by the agencies in the implementation of whatever powers are there under the Foreign Exchange Regulations Act and the difficulties that are faced that we can improve. There is the question of information, of investigation, the question of foreign resources, the attitude of the courts, etc. You can go to a court and get a writ or various other decisions. As a result of all these, the Law Commission went into various matters and has given powers. I can only assure the hon. Member—it is the intention of the Government to use these powers vigorously, whether it is Mastans or Bugne and Company or Bird and Company or any other body. We do not accept the contention of the hon. Member.

SHRI KALYAN ROY : Show me one case.

SHRI K. R. GANESH : I have replied to you so many times. But each case will have to be gone into. Sir, the hon'ble Member's query may not be the last word because, as he has tried to say that these cases should be gone into the hon'ble Member will himself get convinced. With

these remark I commend this Bill to the acceptance of the House.

MR. DEPUTY CHAIRMAN : The question is:

"That the Bill to consolidate and amend the law regulating certain payments, dealings in foreign exchange and securities, transaction indirectly affecting foreign exchange and the import and exports of currency and bullion, for the conservation of the foreign exchange resources of the country and the proper utilisation thereof in the interests of the economic development of the country, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN : We shall now take up the clause by clause consideration of the Bill.

Clauses 2 to 5 were added to the Bill.

Clause 6 was added to the Bill.

Clause 7 was added to the Bill.

Clauses 8 to 17 were added to the Bill.

Clause 18—Payment for exported goods.

SHRI BABUBHAI M. CHINAI : Sir, I move:

1. "That at page 12, after line 31, the following be inserted, namely :—

(c) Notwithstanding anything in clauses (a) and (b), where the full value of exports is not ultimately realised by an exporter, the Reserve Bank may accord sanction for the realisation *ex post facto on being satisfied that sufficient grounds existed therefor?*"

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

7. "That at page 11, line 45, after the word 'authority' the words 'and unless the prescribed authority is the Reserve Bank of India, to the Reserve Bank of India as well' be inserted."

8. "That at page 14, for lines 37 to 39, the following be substituted, namely:—

(a) That any contract or other arrangement for the sale of the goods shall be registered with the Reserve Bank of India and also in such other manner and with such other authority or organisation as may be specified in the order ;"

(The amendments also stood in the names of Sarvashri M. R. Venkataraman, Niren Ghosh and Dr. K. Mathew Kurian).

The questions were proposed.

SHRI BABUBHAI M. CHINAI : Sir, it is not my desire to say anything on the amendment more than what has been said during my speech. But I want to focus the attention of the hon'ble Minister on one thing. Sir, exporters have to face at times unforeseen genuine problems in bringing the full export value of the goods, due to change in market conditions abroad, *mala fide* intentions on the part of foreign buyers, etc. Delay in getting permission from the Reserve Bank in disposing of the goods at lower prices may create great difficulties.

Where the exporter is not able to realise the full value of the goods because of unforeseen but genuine circumstances, the Reserve Bank should accord sanction to the short realisation on being satisfied that sufficient ground existed therefore, even if no permission is granted within twenty days.

Here, Sir, I only want to give the power to the Reserve Bank to use its discretion. I am not asking for the cases to be exempted. The Reserve Bank should use their discretion and I hope if the hon'ble Minister would convince us or would give us assurance that the Reserve Bank would take into consideration, on your guidelines, such cases if they are there I have nothing to add.

SHRI K. R. GANESH : This matter was discussed, as the hon. Member himself knows, very threadbare in the Select Committee also. Sir, as the House knows that formerly a period of 60 days was stipulated.

[Shri K. R. Ganesh]

After a serious discussion this period of 60 days was reduced to 20 days. Sir, I had already remarked while moving the Bill, and I repeat, that I would like to take this opportunity to assure this House that the Reserve Bank will deal with all such cases with utmost expedition and that only in rare cases even the maximum period days will be availed of.

More than this we cannot say.

SHRI BABUBHAI M. CHINAI : I am not disputing the number of days ...

MR. DEPUTY CHAIRMAN : You are not entering into a debate. Are you pressing your amendment?

SHRI BABUBHAI M. CHINAI : If I do not get a reply ...

MR. DEPUTY CHAIRMAN : Are you pressing your amendment? If you are not satisfied with the reply, you may press your amendment.

SHRI BABUBHAI M. CHINAI : I am pressing my amendment, but that does not mean that the Minister should not give a proper reply.

MR. DEPUTY CHAIRMAN : Please sit down. Now, Mr. Subramania Menon, are you pressing your amendment?

SHRI K. P. SUBRAMANIA MENON : My amendment is only to see that the Reserve Bank is always, in all cases, kept in the know of things. That is all.

MR. DEPUTY CHAIRMAN : Do you want to say anything on that, Mr. Ganesh?

SHRI K. R. GANESH : Sir, this amendment cannot be accepted. The prescribed authority under the rules in relation to this is the Customs Department. On the basis of the recommendation of the Kaul Committee, a system of security numbering has been evolved and full co-ordination between the Reserve Bank and the Customs Authorities has been established in

such a manner that the original copy of the declaration made by the exporter at the time of export, bearing the security number given by the Customs Authorities reaches the Reserve Bank in every case.

SHRI LOKANATH MISRA : It has been rejected at the Deputy Secretary's level.

MR. DEPUTY CHAIRMAN : The question is:

1. "That at page 12, after line 31, the following be inserted, namely:—

'(c) Notwithstanding anything in clause (a) and (b) where the full value of exports is not ultimately realised by an exporter, the Reserve Bank may accord sanction for the short realisation *ex post facto* on being satisfied that sufficient grounds existed therefor.'"

The motion was negated.

MR. DEPUTY CHAIRMAN : Mr. Subramania Menon, are you pressing your amendments?

SHRI K. P. SUBRAMANIA MENON : No, Sir.

Amendments No. 7 and 8 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN : The question is:

"That clause 18 stand part of the Bill."

The motion was adopted.

Clause 18 was added to the Bill.

Clauses 19 to 23 were added to the Bill.

Clause 24—Restriction on settlement etc.

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

9. "That at page 19, lines 3 to 5 be deleted."

The question was put and the motion was negated.

SHRI LOKANATH MISRA : Sir, all the rejections have been already drafted

by the Deputy Secretary in the Ministry of Finance, and that is what is being read out by the hon. Minister. Let us not waste the time of the House.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 24 stand part of the Bill".

The motion was adopted.

Clause 24 was added to the Bill.

Clause 25 was added to the Bill.

Clause 26—Certain provisions as to companies

SHRI K. P. SUBRAMANIA MENON: Sir, I move:

10. "That at page 20,—

'(i) lines 32-33, for the words 'forty per cent' the words 'ten per cent', be substituted; and

(ii) line 35 for the words 'forty per cent' the words 'ten per cent' be substituted'."

11. "That at page 21, after line 24. the following be inserted, namely:—

'(8) Wherever foreign collaboration has been permitted the remittance or repatriation to non-residents of dividends, royalty, service charges, head office expenses, etc., all in the aggregate should in no case exceed a ceiling of 15 per cent of the equity capital?'

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN : The question is:

"That clause 26 stand part of the Bill".

The motion was adopted.

Clause 26 was added to the Bill.

Clause 27 was added to the Bill.

Clause 28—Restrictions on the appointment of certain persons and companies as agents or technical or management advisers in India.

SHRI BABUBHAI M. CHINAI: Sir, I move:

2. "That at page 23, for lines 24 to 40, the following be substituted, namely:—

'28(1) Without prejudice to the provisions of section 47 and notwithstanding anything contained in any other provision of this Act or the Companies Act, 1956, a person resident outside India or a person who is not a national of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or in which the non-resident interest is twenty per cent. or more, or any branch of such company, shall not—

(a) act or accept appointment as agent in India of any person or company, in the trading or commercial transactions of such person or company; or

(b) act, or accept appointment as technical or management adviser in India of any person or company; or

(c) permit any trade mark or brand names, which he or it is entitled to use, to be used by any person or company for any direct or indirect consideration.

Provided that such person or company may accept appointment as

[Shri Babubhai M. Chinai]

agent in India of any person or company, in the trading or commercial transactions pertaining only to export from India of such person or company."

SHRI K. P. SUBRAMANIA MENON :
Sir, I move :

12. "That at page 22,—

(i) line 28, the brackets and words '(other than a banking company)' be deleted, and

(ii) line 30, for the words 'forty per cent.' the words 'ten per cent.' be substituted."

SHRI BABUBHAI M. CHINAI : Mr. Deputy Chairman, Sir, I am really sorry that when the Minister replied to my amendment to clause 18, he did not reply to the point that I had raised. I never objected to the number of days. But in spite of my pointing it out to you, you were not satisfied and you asked me to sit down and I obeyed as usual.

MR. DEPUTY CHAIRMAN : Please come to your amendment.

SHRI BABUBHAI M. CHINAI : Sir, clause 28 is one of the most important clauses of this Bill. This clause places restrictions on the appointment of certain persons and companies as agents or technical or management advisers in India. They are : (a) a person resident outside India; (b) a person who is not a citizen of India but is resident in India; (c) a company which is not incorporated in India or a branch of such company; and (d) a company in which the non-resident interest is more than 40 per cent or any branch of such company. These persons and companies cannot except with the general or special permission of the Reserve Bank act as agents in India of any person or company in the trading or commercial transactions of such person or company. Even

existing appointments as agents or technical advisers require approval. The intention is to curb the activities of foreign companies in trading and reduce the foreign exchange outgo. What is also sought to be controlled is the trading activity or the purchase or sale of finished products under the brand names of foreign-controlled companies. The persons and companies referred to above should not engage in any trading activity at all in India. There should be a complete bar on such persons and companies using well-known brand names and engaging in trading activities and repatriating large sums of money outside India. The above persons and companies may, however, engage in trading activities or act as agents of any person or company in trading or commercial transactions, but only if they relate to entirely export transactions. Even in regard to them, companies in which the non-resident interest is 20 per cent or more, they should not engage in export transactions or act as agents because that will mean a large outgo of foreign exchange. Therefore, the non-resident interest even in regard to export transactions should be reduced to 20 per cent in such companies.

Sir, the hon. Minister in his reply stated that such a trading and such a branch will not be permitted, by giving guidelines to the Reserve Bank. But nobody can prevent it from going to a court. The Government will be defeated even if they go to the Supreme Court. This practice is going on in this country for the last 25 years. After independence and before independence it was going on. But we can understand it before independence because we were under the British rule. Is there anybody who can say that we can sell only a brand name... (Time bell rings.) Sir, you are in great hurry.

MR. DEPUTY CHAIRMAN : It is an amendment. You cannot have a full discussion.

SHRI BABUBHAI M. CHINAI : It is an important amendment.

MR. DEPUTY CHAIRMAN : You have already taken five minutes.

SHRI BABUBHAI M. CHINAI : I have taken two or three minutes. I shall submit to your discretion if I have taken five minutes.

SHRI K. P. SUBRAMANIA MENON (Kerala) : Sir, my amendment is to limit or do away with the discrimination in favour of banking companies. In fact, the instrument of loot of foreign companies is the foreign bank, through which all these foreign transactions take place. Therefore, unless the foreign banks are eliminated from our economy nothing can be done. You can never catch them. It has been well known that some of these banks do not only economic activities but they also do political activity. For example, some of the American banks have been charged with subsidising subversive elements in Latin American countries. Therefore, these foreign banks should not be allowed to function. Not only the social countries but even some of the capitalist countries also do not allow foreign banks to function. Therefore, I do not know the justification—economic, political or otherwise—for still continuing the foreign banks to function in this country.

The questions were proposed.

MR. DEPUTY CHAIRMAN : The question is :

2. "That at page 22, for lines 24 to 40, the following be substituted, namely :—

28(1) Without prejudice to the provisions of section 47 and notwithstanding anything contained in any other provision of this Act or the Companies Act, 1956, a person resident outside India or a person who is not a national of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or in which the non-resident interest is twenty per cent or more, or any branch of such company, shall not—

(a) act, or accept appointment, as agent in India of any person or company, in the trading or commercial transactions of such person or company; or

(b) act, or accept appointment, as technical or management adviser in India of any person or company; or

(c) permit any trade mark or brand names, which he or it is entitled to use, to be used by any person or company for any direct or indirect consideration :

Provided that such person or company may accept appointment as agent in India of any person or company, in the trading or commercial transactions pertaining only to export from India of such person or company."

The House divided.

MR. DEPUTY CHAIRMAN : Ayes—13; Noes—45.

AYES—13

Abu Abraham, Shri.

Alva, Dr. K. Nagappa

Aziza Imam, Shrimati

Chinai, Shri Babubhai M.

Ghosh, Shri Niren.

Gowda, Shri V. K. Lakshmana.

Krishnaswamy, Shri K. A.

Mandal, Shri B. N.

Mariswamy, Shri S. S.

Menon, Shri K. P. Subramania

Panda, Shri K. C.

Patel, Shri Sundar Mani.

Sen Gupta, Shri Dwijendralal

NOES—45

Abid, Shri Qasim Ali
 Arif, Shri Mohammed Usman
 Bisi, Shri P. N.
 Chakrabarti, Dr. R. R. K.
 Chaudhari, Shri N. P.
 Chettri, Shri K. B.
 Das, Shri Balram
 Das, Shri Bipinpal
 Himmat Singh, Shri
 Kalaniya, Shri Ibrahim
 Kemparaj, Shri B. T.
 Kollur, Shri M. L.
 Lakshmi Kumari Chundawat, Shrimati
 Mahanti, Shri B. K.
 Majhi, Shri C. P.
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Mehta, Shri Om
 Mukherjee, Shri Pranab
 Mulla, Shri A. N.
 Narasiah, Shri H. S.
 Narayani Devi Manaklal Varma, Shrimati
 Panda, Shri Brahmananda
 Patil, Shri P. S.
 Pratibha Singh, Shrimati
 Puri, Shri D. D.
 Rathnabai Sreenivasa Rao, Shrimati
 Roshan Lal, Shri
 Sardar Amjad Ali, Shri
 Saroj Purushottam Khaparde, Miss
 Shastri, Shri Bhola Paswan
 Shukla, Shri M. P.
 Shyamkumari Devi, Shrimati

Singh, Shri Bindeshwari Prasad
 Singh, Shri D. P.
 Singh, Shri M. B.
 Singh, Shri Ranbir
 Sinha, Shri Awadheshwar Prasad
 Sushila Shankar Adivarekar, Shrimati
 Thakur, Shri Gunanand
 Tiwary, Pt. Bhawaniprasad
 Venigalla Satyanarayana, Shri
 Vero, Shri M.
 Vidyawati Chaturved, Shrimati
 Vyas, Dr. M. R.

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

12. "That at page 22,—

'(i) line 28, the brackets and words '(other than a banking company)' be deleted; and.

(ii) line 30, for the words 'forty per cent'. the words 'ten per cent'. be substituted'."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—5;

NOES—51.

AYES—5

Ghosh, Shri Niren
 Mandal, Shri B. N.
 Menon, Shri K. P. Subramanla
 Nawal Kishore, Shri
 Sen Gupta, Shri Dwijendralal

NOES—51.

Abid, Shri Qasim Ali
 Abu Abraham, Shri
 Arif, Shri Mohammed Usman
 Aziza Iman, Shrimati
 Bisi, Shri P. N.
 Chakrabarti, Dr. R. K.
 Chaudhari, Shri N. P.
 Chettri, Shri K. B.
 Chinai, Shri Babubhai M.
 Das, Shri Balram
 Das, Shri Bipinpal
 Himmat Singh, Shri
 Kalaniya, Shri Ibrahim
 Kemparaj, Shri B. T.
 Kollur, Shri M. L.
 Lakshmi Kumari Chundawat, Shrimati
 Mahanti, Shri B. K.
 Majhi, Shri C. P.
 Makwana, Shri Y. M.
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Mehta, Shri Om
 Mukherjee, Shri Pranab
 Mulla, Shri A. N.
 Munda, Shri B. R.
 Narasiah, Shri H. S.
 Narayani Devi Manaktal Varma, Shri-
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 Panda, Shri Brakmananda
 Patil, Shri P. S.
 Pratibha Singh, Shrimati
 Puri, Shri D. D.
 Rathnabai Sreenivasa Rao, Shrimati
 Roshan Lal, Shri
 Sardar Amjad Ali, Shri
 Saroj Purushottam Khaparde, Miss
 Shastri, Shri Bhola Paswan
 Shukla, Shri M. P.
 Shyamkunari Devi, Shrimati
 Singh, Shri Bindeshwari Prasad

Singh, Shri D.P.
 Singh, Shri M. B.
 Singh, Shri Ranbir
 Singh, Shri Sitaram
 Sinha, Shri Awadheshwar Parsad
 Sushila Shankar Adivarekar, Shrimati
 Thakur, Shri Gunanand
 Tiwary, Pt. Bhawaniprasad
 Venigalla Satyanarayana, Shri
 Vero, Shri M.
 Vidyawati Chaturvedi, Shrimati
 Vyas, Dr. M. R.

The motion was negatived.

MR. DEPUTY CHAIRMAN : The ques-
tion is :

"That clause 28 stand part of the
Bill."

The motion was adopted.

Clause 28 was added to the Bill

*Clause 29—Restrictions on establishment
of place of business in India.*

SHRI NIREN GHOSH : Sir, I move :

13. "That at page 24,—

'(i) lines 10 and 11, the brackets and
words '(other than a banking com-
pany)' be deleted; and

(ii) line 12, for the words 'forty per
cent.' the words 'ten per cent.' be
substituted'."

SHRI BABUBHAI M. CHINAI : Sir,
I move :

3. "That at page 25, for lines 41 to 47
the following be substituted, namely :—

[Shri Babubhai M. Chinai]

'(b) Where an application has been made under clause (a), the Reserve Bank may, after making such enquiry as it may deem fit, order that—

(i) where the shareholding by such person or company exceeds 75 per cent of the share capital of the company referred to in clause (a) of sub-section (1) such person or company shall reduce the shareholding to 60 per cent of the share capital by the issue of additional equity capital (inclusive of premium, if any) to Indians only within a period of two years from the date of the order, and to 49 per cent of the share capital within the next two years and to 40 per cent within a period of another two years;

(ii) where the shareholding by such person or company is between 60 per cent and 75 per cent of the share capital of the said company, such person or company shall reduce the share capital within a period of two years from the date of the order and to 40 per cent within a period of another two years; and

(iii) where the shareholding by such person or company is between 41 per cent and 60 per cent of the share capital of the said company, such person or company shall reduce the shareholding to 40 per cent of the share capital within a period of two years from the date of the order.

The Reserve Bank may, however, extend the period whenever it deems necessary."

SHRI BABUBHAI M. CHINAI : Under sub-clause (4) of this clause, a person resident outside India whether a citizen of India or not, or a person who is not a citizen of India but is resident in India or in which the non-resident interest is more than 40 per cent or any branch of that company shall not except with the general

or special permission of the Reserve Bank acquire the whole or any part of any undertaking in India of any person or company carrying on trade, commerce or industry or purchase the shares in India of such company. Where such a person or company holds any shares of any company, at the time of commencement of the Act, he or it will not be entitled to hold such shares unless within six months from the commencement of this Act, Reserve Bank permission is obtained on an application made to it to continue to hold such shares. The Reserve Bank may grant or reject it.

If permission is given under certain conditions, say, that share participation should be reduced or permission is altogether negatived, then the person or company holding the shares has to sell the excess shares. It is necessary that in such circumstances, the reduction of shareholding is brought about in stages and not suddenly. Where the holder is obliged to sell the shares, sufficient time should be given for the purpose. This is only to obviate the difficulty of the holder in selling the shares or of our Government being obliged to sanction remittances of large amounts in a short time because the cases may be any. The Act should clearly indicate a time-table in this behalf.

The guidelines issued in February, 1972, by Government were intended to dilute foreign shareholding whenever foreign majority companies were granted licence to expand. Provisions on similar lines should be incorporated in the Bill—for the purpose of this clause also. Whenever an application is made within six months from the commencement of the Act, as required by this clause by a person or company holding excess shares of any company in India at the commencement of this Act, it should be provided that the Reserve Bank shall have the power to order that where the foreign holding exceeds 75 per cent, it shall be brought down to 60 per cent by the issue of additional equity capital (inclusive of premium, if any) to Indians only within a period of another 2 years from the date of the order, and to 40 per cent within a period of another 2 years and again to 40 per cent within a period of another

two years. Where the foreign holding is between 60 per cent and 75 per cent, it shall be brought down to 49 per cent within a period of 2 years from the date of the order and to 40 per cent within a period of another 2 years. Where the foreign shareholding is between 60 per cent and 41 per cent it shall be brought down to 40 per cent within a period of 2 years from the date of the order. The Reserve Bank shall, however, have the power to extend the period whenever it deems necessary.

The questions were proposed.

SHRI K. R. GANESH : This I have already explained in my speech.

SHRI BABUBHAI M. CHINAI : Sir, in view of the fact that the hon. Minister has said that guidelines should be given on this, I withdraw my amendment.

The amendment (No. 3) was, by leave, withdrawn.

SHRI NIREN GHOSH : I also withdraw my amendment.

The amendment (No. 13) was, by leave withdrawn.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 29 stand part of the Bill."

The motion was adopted.

Clause 29 was added to the Bill.

Clause 30—Prior permission of Reserve Bank required for taking up employment, etc. in India by nationals of foreign States

SHRI BABUBHAI M. CHINAI : Sir, I beg to move :

4. "That at page 26, for lines 7 to 27, the following be substituted namely:—

'30. (1) No person shall, except with the general or special permission

of the Reserve Bank, employ in India or abroad or continue the employment in India or abroad, of a national of a foreign State on payment of salary, wages, commission, honorarium or remuneration or compensation in whatever form and by whatever name called.

(2) Any employment given before the commencement of this Act for which permission under sub-section (1) would have been necessary if it were to be given after such commencement shall, on the expiry of a period of ninety days from such commencement or such further period as the Reserve Bank may allow in this behalf, stand terminated, unless before the expiry of such period, the employer concerned makes an application to the Reserve Bank in such form and containing such particulars as may be specified by the Reserve Bank for permission for the continuance of such employment and the person whose employment stands so terminated shall be entitled to, and only to, such damages and on such basis as he would have been entitled to if his employment had been terminated in breach of the contract of employment.

(3) Where an application has been made under sub-section (2), the Reserve Bank may, after making such enquiry as it may deem fit, either allow or reject the application :

Provided that no application shall be rejected under this sub-section unless the parties who may be affected by such rejection have been given a reasonable opportunity for making a representation in the matter.

(4) Where an application is rejected under sub-section (3), the employment shall stand terminated on the date of receipt by the employer of the communication conveying such rejection and the person whose employment stands terminated shall not be entitled to any damages or compensation for such

[Shri Babubhai M. Chinai]

termination or any other claim based on such termination.

(5) The Reserve Bank may, by notification in the Official Gazette, declare that subject to such conditions and restrictions, if any, as may be specified in the notification, the provisions of this section shall not apply to any person or class of persons or, as the case may be, to any employment or class of employment.

Explanation.—For the purposes of this section, a person shall be deemed to employ or continue the employment of a national of a foreign State on payment of salary, wages, commission, honorarium, remuneration or compensation, also in a case where such national is paid any salary, wages, commission, honorarium, remuneration or compensation by any person, company, firm or other association of individuals outside India on the under-taking given by the person for whom the services are rendered by such national that he or any other person shall compensate the person, company, firm or other association of individuals outside India, for such payment’.

Originally, Sir, the clause said that permission should be taken by the employer here in India. The whole clause has been omitted and a new clause has been put in the Bill, by which it is provided that now the permission is to be taken by the employee concerned who is going to be employed, i.e. the foreigner. I think this is ridiculous. I request the hon. Minister kindly to give a thought to this.

The question was proposed.

SHRI K. R. GANESH : Sir, this was discussed also in the Select Committee. The hon. Member's suggested amendment is on the lines of the clause as it stood at the time the Bill was originally introduced in the Lok Sabha. The Joint Select Com-

mittee felt that a foreigner taking up gainful employment or occupation in India should not require the permission of the Reserve Bank only in cases where liability for remittance of foreign exchange would arise as a result of such gainful employment or occupation. It was also felt that the clause as originally drafted, went beyond this, and to that extent beyond the scope of the Foreign Exchange Regulation Act because as far as foreign exchange regulations are concerned, control over the employment of foreigners is introduced only for the purpose of conservation of foreign exchange. It is for this reason that this new clause has come.

MR. DEPUTY CHAIRMAN : Mr. Chinai, do you press your amendment ?

SHRI BABUBHAI M. CHINAI : No.

The amendment (No. 4) was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN : The question is :

“That clause 30 stand part of the Bill.

The motion was adopted.

Clause 30 was added to the Bill.

Clause 31—Restriction on acquisition, holding, etc., of immovable property in India.

SHRI NIREN GHOSH : Sir, I move :

14. “That at page 26,—

(i) line 29, the brackets and words ‘(other than a banking company)’ be deleted, and

(ii) line 31, for the words ‘forty per cent’ the words ‘ten per cent’ be substituted.”

15. “That at page 27, after line 16, the following be inserted, namely :—

‘(5) No foreign citizen or foreign concern is permitted to conduct trading or commercial activities and in

basic and strategic sectors of production as also in plantations and high-yielding industries."

Sir, I fail to understand why the Government refuses to accept these amendments. Sir, the purpose is very clear because it is known that any country, having its interests as a whole in view and eager to guard its interests, would not allow any foreign company or any foreigner to operate or acquire majority rights and that too in strategic sectors of production and in plantation and in other high-yielding varieties. Everybody knows who replaced the groups in the plantations and nobody knows to what extent they have exported. Perhaps it may be one thousand crores or two thousand crores and still it is going on. So, Sir, it is only a government which does not have the interests of India in view and which is prepared to sacrifice its interests to please the foreigners can object to this clause. It is a basic thing in any self-respecting country which wants self-reliance and independence and in such a country it is inevitable that such an attitude should be adopted. So, I fail to understand why the Government should not adopt these amendments. They may not have this very amendment; but they can have something else in its place. They claim socialism to be their goal. So, Sir, now they are appearing in their true reactionary colour.

The question was proposed.

SHRI K. R. GANESH : Sir, as far as amendment No. 14 is concerned, it relates to the banking companies on which we have already discussed and have voted. The other amendment is about plantations and the other high-yielding commercial and trading concerns and I have explained that the intention of the Government is to see that as far as trading and commercial concerns are concerned, they will be covered by the guidelines and they will have to apply to the Reserve Bank for permission and in each case care will be taken and except in

cases of very high technology, in this the Government's position is clear.

MR. DEPUTY CHAIRMAN : The question is :

14. "That at page 26,—

(i) line 29, the brackets and words 'other than a banking company' be deleted; and

(ii) line 31, for the words 'forty per cent' the words 'ten per cent' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

15. "That at page 27, after line 16 the following be inserted, namely :—

'(5) No foreign citizen or foreign concern is permitted to conduct trading or commercial activities and in basic and strategic sectors of production as also in plantations and high-yielding industries'."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 31 stand part of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

Clauses 32 to 73 were added to the Bill.

Clause 74—Delegation

SHRI NIREN GHOSH : Sir, I beg to move :

16. "That at page 47,—

(i) lines 33-34, for the words 'to any authorised dealer' the words 'to such special appropriate official or officials or special department of the Reserve Bank of India itself or to any

[Shri Niren Ghosh]

special department of the Government of India empowered for this purpose' be substituted.

(ii) line 35, for the words 'to any money-changer' the words 'to such special official or officials or special department of the Reserve Bank of India itself or to any special department of the Government of India empowered for this purpose' be substituted."

The question was put and the motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 74 stand part of the Bill."

The motion was adopted.

Clause 74 was added to the Bill.

Clause 75 was added to the Bill.

New Clauses 75A and 75B

SHRI NIREN GHOSH : Sir, I beg to move :

17. "That at page 47, after line 41, the following new clauses be inserted, namely :

'(75A) Till the Government nationalises the Export and Import trade, intelligence regarding under-invoicing and over-invoicing with details of the concerned specific importers and exporters shall be periodically gathered effectively from India and abroad and handed over for scrutiny to a body directly answerable to Parliament.

'(75B) To ensure that the control which is centralised in the Reserve

Bank is not loose but is strictly and properly implemented, quarterly reports of the Reserve Bank of India on all the steps taken by it in transactions involving foreign exchange shall be placed before Parliament or of a Committee thereof."

MR. DEPUTY CHAIRMAN : The question is :

17. "That at page 47, after line 41, the following new clauses be inserted, namely :

'(75 A) Till the Government nationalises the Export and Import trade, intelligence regarding under-invoicing and over-invoicing with details of the concerned specific importers and exporters shall be periodically gathered effectively from India and abroad and handed over for scrutiny to a body directly answerable to Parliament.

'(75 B) To ensure that the control which is centralised in the Reserve Bank is not loose but is strictly and properly implemented, quarterly reports of the Reserve Bank of India on all the steps taken by it in transactions involving foreign exchange shall be placed before Parliament or of a Committee thereof."

The House divided.

MR. DEPUTY CHAIRMAN : Ayes—3;
Noes—62.

AYES—3

Ghosh, Shri Niren

Mandal, Shri B. N.

Menon, Shri K. P. Subramania

NOES—62

Abid, Shri Qasim Ali
 Abu Abraham, Shri
 Arif, Shri Mohammed Usman
 Aziza Imam, Shrimati
 Bisi, Shri P. N.
 Chakrabarti, Dr. R. K.
Chaudhari Shri N. P.
 Chettri, Shri K. B.
 Chinai, Shri Babubhai M.
 Das, Shri Balram
 Das, Shri Bipinpal
 Dass, Shri Mahabir
 Deshmukh, Shri T. G.
 Dutt, Dr. Vidya Prakash
 Gadgil, Shri Vithal
 Himmat Singh, Shri
 Kalaniya, Shri Ibrahim
 Kaul, Shri B. K.
 Kemparaj, Shri B. T.
 Khan, Shri Maqsood Ali
 Kollur, Shri M. L.
 Krishan Kant, Shri
 Lakshmi Kumari Chundawat, Shrimati
 Lalbuaia, Shri
Mahanti Shri B. K.
 Majhi, Shri C. P.
 Makwana, Shri Y. M.
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Mehta, Shri Om
 Mukherjee, Shri Pranab
 Mulla, Shri A. N.
 Munda, Shri B. R.
 Narasiah, Shri H. S.
 Narayani Devi Manaklal Varma, Shri-
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Panda, Shri Brahmananda
 Patil, Shri P. S.
 Pratibha Singh, Shrimati
 Punnaiah, Shri Kota
 Puri, Shri D. D.
 Puttappa, Shri Patil
 Rathnabai Sreenivasa Rao, Shrimati
 Roshan Lal, Shri
 Sangma, Shri E. M.
 Saroj Purushottam Khaparde, Miss
 Shastri, Shri Bhola Paswan
 Shukla, Shri M. P.
 Shyamkumari Devi, Shrimati
 Singh, Shri Bindeshwari Prasad
 Singh, Shri D. P.
 Singh, Shri M. B.
 Singh, Shri Ranbir
 Singh, Shri Sitaram
 Sinha, Shri Awadheshwar Prasad
 Sushila Shankar Adivarekar, Shrimati
Thakur, Shri Gunanand
 Tiwary, Pt. Bhawaniprasad
 Trivedi, Shri H. M.
 Venigalla Satyanarayana, Shri
 Vero, Shri M.
 Vidyawati Chaturvedi, Shrimati
 Vyas, Dr. M. R.
The motion was negatived.
Clauses 76 to 81 were added to the Bill
Clause 1, the Enacting Formula and its
title were added to the Bill.
SHRI K. R. GANESH : I beg to move
 "That the Bill be passed."
The question was proposed.

श्री नवल किशोर (उत्तर प्रदेश) : श्रीमन जहां तक इस विधेयक का सम्बन्ध है, इसमें इस बात की कोशिश की गयी है कि फारेन इवेस्टमेंट पर कंट्रोल किया जाय और कुछ स्मगलिंग वगैरह की जो शिकायत है उस पर कुछ नियंत्रण किया जाय, और इस बात का मैं समर्थन करता हूँ, लेकिन श्रीमन् गो, चार बातें इसमें मुझे अजीब सी मानूम पड़ी। एक तो यह है कि हमारे गणेश साहब ने खुद यह माना कि कौल कमेटी में 240 करोड़ या 300 करोड़ रुपये की स्मगलिंग की बात को माना गया, किसी ने 400 करोड़ की बात कही। गवर्नमेंट इस बात को मानती है कि इतने बड़े पैमाने पर स्मगलिंग होती है और ब्लैक मनी की बात भी आप एक्सेप्ट करते हैं कि उसकी पांच या छः सौ करोड़ रुपये की पैरेलल इकानामी है। तो इतनी ब्रेबसी क्या है गवर्नमेंट के लिए कि वह इस पर कोई एफेक्टिव कंट्रोल नहीं कर पाती है?

दूसरी बात यह है कि गणेश साहब ने फरमाया कि मस्ताना साहब कोई है, मैं जानता नहीं उनको, लेकिन आपने कहा कि हमारा सोशल सिस्टम ही ऐसा है कि उसके अन्दर मस्ताना पैदा होते हैं...

श्री उपसभापति : मस्ती?

श्री नवल किशोर : मस्ती पैदा होती हो तो अच्छी बात है, लेकिन यहां तो मस्ताना पैदा होते हैं। मुझे इस सम्बन्ध में सिर्फ आपसे एक बात कहनी है कि मस्ताना पैदा हों उसकी मुझे इतनी शिकायत नहीं है लेकिन जब मस्तानो को आफिशियल और पोलिटिकल पेट्रोनेज मिल जाता है तब एक दिक्कत पैदा हो जाती है। मैंने अखबार में पढ़ा कि हैदराबाद में आज प्रेसिडेंट ने कहा है कि जो होर्ड्स और स्मगलर्स हो उनको हैबियस्ट पनिशमेंट दिया जाय। गणेश साहब कहते हैं कि हम गाइडलाइंस दे देगे लेकिन गाइडलाइंस कानून तो बन नहीं सकता और यह कहते हैं कि मैजेटरी प्राविजन नहीं रखेंगे हम तो बड़े कासशली चलना चाहते हैं।

श्री क० आर० गणेश : पनिशमेंट के लिये नहीं कहा। पनिशमेंट का प्राविजन है।

श्री नवल किशोर : आलराइट। काशन की जो बात आपने कही और आपने जो कहा कि विदेशी पूंजी का डाइल्यूशन जो होगा उसके लिये आपने दो या चार साल का समय रखा है उसमें 40 परसेंट तक फारेन इनवेस्टमेंट आ जायगा मगर यह भी लिख दिया साथ ही साथ कि यदि कुछ ऐसे केसेज होंगे, गैर-मामूली केसेज, उनमें पीरियड बढ़ भी सकता है तो जहां आपने कह दिया कि पीरियड बढ़ सकता है तो वहां मैं आपको यकीन दिलाता हूँ कि पीरियड इनवैरिएबली बढ़ जायेगा।

मुझे एक और बात का ताज्जुब हुआ कि गणेश साहब ने फारेन बैंक्स के नेशनलाइजेशन को अपोज किया है। और कोई अपोज करता, ओम् मेहता साहब अपोज करते तो मुझे ताज्जुब नहीं होता लेकिन आपने अपोज किया कि फारेन बैंक्स का नेशनलाइजेशन न हो। इसकी एक माग बहुत जमाने से है यह एक प्रिंसिपल की माग है, तो उन्होंने इसको अपोज किया मुझको इस बात पर थोड़ा सा ताज्जुब हुआ। जब यहां के०जी०बी० और सी०बी०आई० के बारे में डिबेट हुई थी तो यह कहा गया था कि फारेन मनी पार्टिज के पास आता है और कुछ इंडिविजुअल्स के पास आता है जैसे हमारे कुछ प्राफेसर्स हैं, डाक्टर्स हैं, पी०एच० डीज हैं, उनको बाहर जाने का नियंत्रण आता है और कुछ किताबें आती हैं, लिटरेचर आता है और उसके जरिये पैसे आते हैं। तो मैं नहीं समझा कि इससे क्या प्राविजन है, मुझे आप बता दें, शायद मैंने उसको मिस किया हो मैंने जल्दी में पढ़ा है कि उस पैसे को कैसे कंट्रोल करेंगे कि वह पैसा न आये और यहाँ फारेन एजेंसीज की जाल न बिछे। तो वह बात मेरी समझ में नहीं आई।

आपने खुद माना कि कानून कितना ही अच्छा हो लेकिन अगर इनफोर्समेंट अच्छा नहीं हो तो अच्छा कानून होने पर भी अच्छाई पैदा वह नहीं कर

सकता। गणेश साहब ने यह कहा। मैं यह नहीं कहता कि आपके सब अपमरान खराब हैं, अच्छे भी हैं, खराब भी हैं लेकिन जो आपका कस्टम डिपार्टमेंट है उसकी कोई अच्छी रेपुटेशन नहीं है। तो यह भी देखने की बात है कि उसकी रेपुटेशन को किस तरह से ठीक करें।

(Time bell rings.)

दो बातें कह कर मैं खत्म करता हूँ। अभी कहा गया कि अमेरिका से दवाये आती हैं जिनका दाम 1,100 टाइम से 16,000 टाइम तक है। तो क्या आप यह एग्जॉरेस देंगे कि जो 16,000 टाइम तक पर, जो 16,000 गुना कीमत पर वह दवाएँ हिन्दुस्तान में आती हैं उनको आप बन्द करने की कोशिश करेंगे। मैंने यहाँ तक भी देखा कि चांदो दवाओं के नाम से बाहर भेजी गई। चेकोस्लोवाकिया को पिछले दिनों में काफी, लाखों की तादाद में भेजी, बाद को तो वह बन्द हो गई, तो इस तरह की चीजें जो चल रही हैं इनके लिये आप क्या कर रहे हैं। एक आखिरी बात कह कर खत्म करता हूँ। यह जो ड्रग कम्पनीज हैं, फर्म्स हैं उनकी बात है। मैं यह समझना चाहता हूँ कि डायल्यूशन क्या सभी पर लागू होगा, क्या बैंक्स पर भी लागू होगा। ये 70 कम्पनीज हैं, ड्रग कम्पनीज जिनमें से 38 में फारेन कैपिटल 50 परसेंट से ऊपर है और 32 ऐसी हैं जिनमें 50 परसेंट से नीचे है, इसमें 40 परसेंट हो जायेगा मगर यह आप समझा दें कि फारेन बैंक "टच सी नाट" क्यों हैं। इनके मुतालिक क्या दिक्कत है। आप इंडियन बैंक को, इंडियन कैपिटल को नेशनलाइज कर सकते हैं तो इनको क्यों नहीं कर सकते। यह जो डिसक्रिमिनेशन है वह क्यों है। कम से कम गणेश साहब को यह शोभा नहीं देना, आपका विचार अगर सही विचार है, अगर वह फास नहीं है, तो आपको कम से कम फारेन बैंक के नेशनलाइजेशन के लिये पूरी कोशिश करनी चाहिये और मैं आपमें उम्मीद करता हूँ—हालांकि आपका वोट इस हाउस में नहीं है लेकिन कम से कम आपका समर्थन इसके लिए होना ही चाहिए था।

4 P.M.

SHRI S. S. MARISWAMY : Sir, during the debate many extraneous points were introduced and I am very glad that our hon. Finance Minister has very ably driven the nail into the coffin of scandals, calumny and lies and I really congratulate him for this. You will agree that when charges are made against anybody we make a base with facts and then we level charges. We do not come and say something which is absolutely not connected with truth or with facts but that has been done to the great distress of the entire House today and I am fully satisfied that the Minister has repudiated all the calumny and all the allegations as baseless. I do not have any quarrel with my good friend; he has only carried out the orders of his leader and like a very disciplined errand boy he has come and read like a parrot what he has been asked to say. Sir, only day before yesterday his leader made a statement containing all these allegations and he has said in that statement that he was sending his people to Delhi to make these allegations in Parliament. So as a disciplined worker of his party he has come and said whatever his leader has said.

SHRI K. A. KRISHNASWAMY : Sir, I make the specific charge. . . (Interruptions). He is paying 128 dollars and there is a margin.

SHRI S. S. MARISWAMY : His leader had raised this point for which the Chief Minister, Mr. Karunanidhi, has come out with a rebuttal and yet today he has come as an errand boy . . .

MR. DEPUTY CHAIRMAN : You cannot refer to an hon Member like that.

SHRI S. S. MARISWAMY : . . . and repeated what his leader has said.

SHRI K. A. KRISHNASWAMY : Mr. Mariswamy is the scapegoat. He is a deserter of the party; he has no right to speak about these things.

SHRI S. S. MARISWAMY : I have no quarrel with him. He has done his job very well. (*Interruptions*) his leader cannot think, he wears a cap but not the Gandhi cap. That cannot absorb anything. That is the tragedy of the present day.

SHRI K. A. KRISHNASWAMY : He is the henchman of Mr. Karunanidhi; he is misleading the House.

SHRI NIREN GHOSH : Sir, this Government is professing socialism but building capitalism and also inviting foreign money. They said, if we get an opportunity we will prove our worth. They have got the opportunity since 1971 when they got the brute majority and now this Bill comes before the House. It is a still born baby. It does not regulate, it does not touch foreign interests a bit. Not a single loophole has been plugged. Everybody knows that even a company owning 30 per cent or even 20 per cent of equity shares can so manage that it would have the controlling interest. It is not the percentage that matters. Mr. Manubhai Shah was the Minister of Foreign Trade. He ought to know that in the jute industry the foreigners held only 15 to 20 per cent of the shares but they held the jute industry in the palm of their hands for more than 100 years.

SHRI SITARAM KESRI : How?

SHRI NIREN GHOSH : They would manage with people like you. So it is all eyewash and bunkum to say that. Even if certain reduction in foreign equity shares does take place it is not going to be as if foreign control is being raised or is being withheld down or Indian interest is going to dominate. No, that does not happen. The entire history of foreign capital will tell you. Only those who do not want to own it up and stand on behalf of foreign interests will deny it. Now, Sir, any Government wanting to build socialism, remove poverty, remove economic disparities, curb monopoly should give priority for nationalising foreign banks without compensation. It passes one's comprehension. Mrs. Gandhi is afraid of whom—Willy Brandt, Tanaka, Nixon or

Pompidou? Actually they are not only afraid, but also subservient to their interests to a great extent. That has been the hallmark of the policy of the Congress Government. It still continues and there has been no change whatsoever. So, with an utterly reactionary policy, with an utterly reactionary Government, on this question it has made no deviation whatsoever. Who does not know that by under-invoicing they have amassed Rs. 2,000 crores in the Swiss banks—these monopolists? The Swiss banks have declared that they are not bound to reveal the position of their clients. The Swiss banks have made a declaration that they are not prepared to reveal their clients' position even to Government. Everybody knows that there is a huge, big deposit in the name of foreigners. Who does not know it? If you check up how the industrialists travel in foreign countries, you will find that they never suffer for want of money. They take \$ 74 or \$ 75, but they spend thousands of dollars. Do these dollars fall from the heavens? No. It is known to everybody. He has spoken, Mr. Nawal Kishore, about black money worth Rs. 400 or Rs. 500 crores and how they do things. It goes on and that also is a dram. It is in the form of gold or in the form of other valuable assets. There is not a single measure to plug this loophole, to ban under-invoicing and over-invoicing. I will not name him, but a multimillionaire, who was once a Member of our House and perhaps even now a Member of our House, once told me this. In respect of every contract with foreigners in respect of every project with them, the first thing they do is this. "Twenty per cent in your name I will deposit in the foreign bank. The rest follows." The contract is so designed. I will not reveal his name, and I cannot because it will not be proper. So, under-invoicing, over-invoicing, everything goes on and the Government say they are serving India. No, you are not serving India. You are not serving the Indian people. You are servile and subordinate to foreign monopoly interests and their tycoons in India who nurture the Indian monopolists and indulge in this game. Again, the jute industry is a big, glaring example. This has been going on and

everybody knows it. Then, Sir, the foreign banks collect from the companies deposits in their own country in foreign exchange and they remit it to India in rupees. When they invest in rupees we lose foreign exchange. They collect the deposits of the Indian subsidiaries or branches in their home country in foreign exchange, but they do not divert this foreign exchange to this country. Whatever they divert is the rupee investment under their control, So, what is your policy? I do not know about this policy, but there is nothing in the Bill. Then, Sir, I would like to know what is your policy regarding foreign exchange. There is no balanced allocation of the foreign exchange. Kerala is a backward State. It needs a good amount of foreign exchange. Even West Bengal is there. Other States are there—Andhra Pradesh is there. Is there any balanced allocation of the foreign exchange? How is it allocated? You know—in the country one cannot start any undertaking, even after 25 years, without some foreign component or machinery. You are deliberately pursuing a policy which does not speak for the well-balanced and even development of the country particularly the backward regions, or West Bengal which is a problem State, where unemployment is the biggest but which earns the highest amount of foreign exchange. When you are coming forward with such a Bill, you do not have in it any clause to remove this—I do not know the wording ...

MR DEPUTY CHAIRMAN : The Minister will reply now.

SHRI NIREN GHOSH : Sir, only one minute.

You say, export or perish. What was your policy with regard to the textile industry. If you export one hundred crores worth of textile goods—you subsidise it in the form of imports you spend Rs. 200 crores; all that foreign money is spent on each and every textile industry. Are you doing this to serve India or to serve the textile industry people. When our people go naked, what is your policy? Every year is a drain of Rs. 100 crores

out of our country. Is it a policy? There is no policy.

So, in this respect, it is a still born child, and it has nothing whatsoever which any Government should have the guts to recommend to our country. All the things will go on as they are and the foreigners and their collaborators, the tycoons, will rule the roost in future. There is no change in the policy.

SHRI K. R. GANESH : It is not my intention to enter into a debate with the hon. Member. He has stated the position which he and his party have been taking at various times on these matters. This Bill is concerned with regulating the foreign exchange and its resources within the limited sphere of the laws that we have in our country. As far as what position foreign capital should have in this country and what its part is in the general economic policy, Parliament has enacted the policy which does not require to be stated in this Bill. This Bill seeks only to regulate the existing foreign concerns that are there in various categories and ramifications. And with the use of the guidelines that I have already indicated, it will be necessary for the Government to regulate it to the extent possible, as far as trading, commercial and manufacturing concerns are concerned.

The hon. Member would at least agree that the Bill is the first attempt in this direction, and the question of foreign investment, of plugging the leakage of foreign exchange ...

SHRI NIREN GHOSH : It is just to bluff the people, there is nothing in it.

SHRI K. R. GANESH : That may be your view.

.. of the outflow of foreign exchange through legal channels have been provided in this Bill. I have already indicated in my opening remarks that it is not the claim of the Government that this Bill satisfies every requirement that is there. But since for the first time we are entering into a complex field involving foreign trade and since the Bill is a very elaborate one, it

[Shri K. R. Ganesh]

will be necessary for the Government to see the administrative implications of this and thereafter as a result of the experience gained come before the House, if necessary, with a further amendment. Shri Nawal Kishore has spoken generally about smuggling and other things which we have discussed in this House many times and I do not want to take the time of the House.

MR. DEPUTY CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

THE RESERVE BANK OF INDIA (AMENDMENT) BILL, 1973

THE DEPUTY MINISTER IN THE
MINISTRY OF FINANCE (SHRIMATI
SUSHILA ROHATGI) : Sir, I beg to
move :

"That the Bill further to amend the Reserve Bank of India Act, 1934, as passed by the Lok Sabha, be taken into consideration."

This short Bill seeks to empower the Reserve Bank of India to become, with the approval of the Central Government, member of any international or regional clearing union formed by Central Banks for clearing and settling external trade transactions. The purpose which has necessitated the introduction of the Bill at this juncture is to confer on the Reserve Bank of India powers, which it does not have at present, to sign an agreement and become a member of the Asian Clearing Union.

On the basis of an operational agreement finalised by officials earlier, the establishment of an Asian Clearing Union was formally approved at the last annual session of the ECAFE held at Tokyo in April 1973. The agreement was then signed by Iran and Sri Lanka. We in this country attach great interest to promoting economic co-operation in the Asian Region, and believe that suitable regional co-operation schemes can be of mutual assis-

tance in accelerating the pace of economic development. The Asian Clearing Union is a small but significant step in that direction.

The Asian Clearing Union would organise and operate a clearing mechanism which would consolidate and clear at fixed intervals all receipts and payments on current visible and invisible transactions amongst its members, so that they have to collect or pay only the ultimate outstanding balance. It would thus secure an economy in the use of foreign exchange and a saving in the cost of monetary transfer; promote the use of participating countries' currencies in their mutual transactions; and spread a habit of co-operative working among the central bankers and monetary authorities of different ECAFE countries, which would pave the way for further economic co-operation.

Under the Articles of the Agreement, the membership of the Asian Clearing Union shall be open to central banks and monetary authorities of regional members and associate members of the ECAFE. On behalf of India, the Reserve Bank shall join the Asian Clearing Union who has to be empowered, as sought in this Bill, for that purpose.

Sir, the object of the Bill is simple and non-controversial and I hope that it will receive the unanimous support of this House.

Sir, I move.

The question was proposed.

DR. K. NAGAPPA ALVA (Mysore) : Mr. Deputy Chairman, Sir, I welcome the Bill, the Reserve Bank of India (Amendment) Bill, 1973. This is an important amendment and at the same time it has got a special significance because of the bank entering into a new horizon and building up a stature by its proper working, having co-ordination and co-operation also and also understanding with other countries of the Asian region as well as the banks. By these amendments the Reserve Bank of India is empowered to enter into arrange-