

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

(4)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Manipur Appropriation Bill, 1969, as passed by Lok Sabha at its sitting held on the 20th December, 1969.

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

(5)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Bihar Appropriation Bill, 1969, as passed by Lok Sabha at its sitting held on the 22nd December, 1969.

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

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

# I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ORDINANCE, 1969 (NO. 9 OF 1969)

## II. THE FOREIGN EXCHANGE RE GULATION (AMENDMENT) BILL, 1969—Contd.

MR. DEPUTY CHAIRMAN : Mr. Shejwalkar, do you want to say something in reply?

श्री ना० कृ० शेजवलकर : मैं, उपसभापति महोदय, आपसे यह प्रार्थना करना चाहता हूँ कि माननीय मन्त्री जी ने मेरे कुछ प्रश्नों का उत्तर यह कह कर नहीं दिया था कि पहले वे सारे सदन की बात सुन लें तब उत्तर देंगे। तो पहले वे उत्तर दे लें तब मैं उसके बाद जवाब दे दूंगा।

SHRI SUNDAR SINGH BHANDARI (Rajasthan): If the Minister feels that he can substantiate his arguments, which he did not do in his introductory speech, then he should do it and can formally reply to the debate in the end.

SHRI P. C. SETHI: I do not know whether I can reply now. Of course, he has moved the Resolution.

SHRI SUNDAR SINGH BHANDARI : You have a right to finish the debate in the end. But there are certain points which he wants and the may have clarifications on them.

MR. DEPUTY CHAIRMAN: Mr. Shejwalkar, you have moved the motion and you can reply now. Please try to be brief.

श्री ना० कृ० शेजवलकर : उपसभापति महोदय, वास्तव में मैं अपेक्षा यह कर रहा था कि जो मैंने प्रश्न उपस्थित किये थे उनका उत्तर कुछ हमारे माननीय मन्त्री जी देते . . .

श्री सुन्दर सिंह भंडारी : दे नहीं सकते।

श्री ना० कृ० शेजवलकर : अपेक्षा तो यही कर रहा था मगर दे नहीं सकते। क्या करें ? माननीय मन्त्री जी जब खड़े हुए तो जो प्रश्न मैंने प्रारंभ में उपस्थित किये थे उनका कुछ उत्तर उन्होंने ने दिया और बताया कि सुप्रीम कोर्ट का निर्णय सितम्बर मास में हुआ और आर्डिनेन्स 13 नवम्बर को अमल में आया, तो चार दिन के बाद ही सदन बैठने वाला था और मुझे बड़े खेद के साथ कहना पड़ रहा है कि कोई कारण माननीय मन्त्री जी ने नहीं बताया कि सुप्रीम कोर्ट का निर्णय होने के बाद दो मास तक तो इसको रोक सकते थे, लेकिन चार दिन नहीं रुक सके। दो मास तक तो कोई इमरजेंट कार्यवाही करने की आवश्यकता नहीं समझी लेकिन चार दिन में कौनसी इमरजेंसी आ गई, इसका उत्तर उन्होंने अभी तक नहीं दिया। क्या कोई बड़े भारी केसेज पेंडिंग थे या मिनिस्टर साहब को या किसी को स्वप्न हो गया था कि तीन चार दिन के अन्दर बड़ा एक्सपोर्ट का माल जाने वाला है

[ श्री ना० कु० शेजवलकर ]

जिसमें कि बहुत अंडर इनवायसिंग की बात होगी और इसलिये एकदम से इसको लगा दिया। मैं यह समझ नहीं सकता और मैं आज यह साफ कहना चाहता हूँ कि वास्तव में यह कांस्टीट्यूशनल पावर का मिस्यूज है कि सदन चार दिन के बाद बैठने वाला हो और सरकार इस तरह का आर्डिनेंस लाए। मैं मानता हूँ कि कांस्टीट्यूशन में आर्डिनेंस का प्राविजन है और उसके अन्तर्गत ऐसे अवसर आ सकते हैं जब कि आर्डिनेंस लाया जाय लेकिन हर प्रकार से आर्डिनेंस लाने की पावर का दुरुपयोग करने का अधिकार सरकार को नहीं दिया गया है। मैं समझता हूँ कि इसमें अच्छा कोई केस नहीं होगा जिससे कि साफ सिद्ध हो जाय कि शासन ने अपना शक्तियों का दुरुपयोग किया है जो कि उसको संविधान में दिया गया है और उसने एक प्रकार से सदन के साथ अन्याय किया है कि आने वाले चार दिनों का भी इंतजार नहीं किया गया। क्या इमरजेंसी थी, इसके बारे में अभी तक एक शब्द भी माननीय मंत्री महोदय ने कहा नहीं और इसलिये मैं आपह-पूर्वक यह निवेदन करना चाहता हूँ कि वास्तव में कम से कम इस बात के लिये हो इस आर्डिनेंस

SHRI P. C. SETHI: Sir, during the course of the debate hon'ble Mr. Shejwalkar, Mr. Chandra Shekhar, Mr. Bhupesh Gupta, Mr. Pande, Mr. Menon, Mr. Appan and lastly, again Mr. Shejwalkar made some points. I would briefly touch the various points which have been mentioned by the hon'ble Members. As far as the general machinery about checking smuggling and the evasion of the Foreign Exchange (Regulation) Act is concerned, certainly the machinery does need augmentation. Under the Enforcement Directorate, now we have opened some branches at Bombay, Calcutta and Madras and the machinery is being strengthened.

Not only that, in order to check the smuggling activities we are using yachts

and the various dhows which have been captured from the Arabs. So the machinery is being made more vigilant. Even in the last Session the Customs Act was changed and now, as far as the smuggling of silver is concerned, that has come down considerably so much so that the price of silver has come down since then from about Rs. 580 to Rs. 480. Therefore, to that extent this particular boat which was responsible for smuggling and thereby inflicting a great loss of our country is being looked after.

As far as punishment under this particular Act is concerned, the Customs Act would be applicable and the punishment for wrong declarations could be extended to two years and the penalty also would be five times the value of the goods. To that extent, therefore, the punishment is also being enhanced in this particular case. Sir, it is true that this is an old Act, as was pointed out by Mr. Chandra Shekhar and also by Mr. Bhupesh Gupta, and there was no need to change it because in lieu of the High Court decisions we were under the impression that the interpretation that we have about this particular law is correct. But the situation has changed on account of the Supreme Court decision. But I would certainly like to mention, Sir, that the entire matter is under scrutiny in the Ministry and we would come forward with a more comprehensive legislation about foreign exchange regulation after some time so that we could have the entire Act reviewed in a proper manner.

As far as the complaint of Mr. Chandrasekharan that there is no proper officer at Keraia and the people have to rush to Madras is concerned, I would certainly look into this. But, as I said, there is lack of officers. However, we are trying to strengthen the machinery and this complaint will be looked after.

As far as the misuse of authority is concerned, I could only assure that if any complaint about the misuse of authority is brought to our notice, we shall look into it. Even otherwise, while framing the rules we would try to see that there is no improper use of this authority which has been given to the Customs Officer.

Mr. Bhunesh Gupta also mentioned about the loss of foreign exchange in the export-import trade. As far as import is concerned, it is mostly in the Government sector. The S.T.C. is there. The policy is to have the import gradually, on an increasing scale, in the public sector. As far as exports are concerned, Mr. Bhupesh Gupta mentioned that there is a gap between our foreign exchange earnings and imports of the order of Rs. 2,450 crores and, therefore, it will not be desirable to lose the most valuable foreign exchange. To that extent we will have to move in a cautious manner as far as exports are concerned to bridge the gap between the export and the import trade. To that extent it should be our endeavour to close this gap rather than go on an ideological basis only. That is why it is being envisaged that in the Fourth Plan period, if the improvement in the export trade is to the tune of 7 per cent., we shall be able to bridge the gap between exports and imports, and by 1979-80 we shall find ourselves in a happy position where we shall have a surplus between the export and import trade. That is the present programme. Therefore, I would only say that we are not averse to this idea of nationalisation. Certainly, to that extent it is possible. We can extend the arena but we will have to have a cautious approach in this particular matter because the earning of foreign exchange is very important for us and we shall have to keep that objective before us.

Mr. Bhupesh Gupta was very much pleased to make remark that between Mrs. Sinha and myself he would prefer me.

SHRI SUNDAR SINGH BHANDARI : Mr. Bhupesh Gupta is not here.

SHRI P. C. SETHI: I cannot help it.

SHRI SUNDAR SINGH BHANDARI : So it is no use this going on record.

SHRI P. C. SETHI: We would possibly 50 through the record. Sir, it would have been much better if he would have made the selection between the common sex and not between myself and Mrs. Sinha.

SHRI K. CHANDRASEKHARAN : It may be brought out in the synopsis for tomorrow.

SHRI P. C. SETHI: As far as Mr. Pande is concerned, he made a particular remark, namely, that Indian currency is not being accepted by the Air-India. Sir, the position is this. The Indian currency is not allowed to be taken out. Besides, the Indian currency notes which are in vogue in India, the similar type of currency is not in vogue in those areas where we have allowed it. There the currency notes are absolutely different. Therefore, it will be very difficult to find whether this currency has gone there from India or it has come from anywhere else. Therefore, we have prohibited the use of Indian currency. Therefore, the currency is not being accepted by the Air-India. Anyhow, he wanted me to have a second look at it. I would further examine this matter and see whether something could be done about it. But as the present position stands, I do not think- there is any further scope in this matter. Then, Mr. Menon said that this Act is not quite adequate. I have already said that we are thinking of a comprehensive legislation in this matter and we would certainly go into these aspects. A question was also raised about the overinvoicing and under-invoicing going on since long. We have made the machinery more vigilant and to the extent possible, we are looking into it. We are also thinking of having some intelligence in such countries wherefrom we can get proper information because it is difficult for the Reserve Bank only to get information through its own agencies. Therefore, we will have to keep contact points in those areas where it is absolutely necessary.

Sir, Mr. Appan has made the point that our foreign loans are increasing and our indebtedness is large. Certainly, Sir, in an accelerated growth, in which we are involved, we do need foreign assistance and to that extent, foreign assistance is being taken. I am quite sure when our foreign trade position improves, our position would certainly change. As far as our reserves are concerned, certainly they had come down considerably from what they were\* in the beginning. But since the last two years the reserves position is again

[Shri P. C. Sethi]

improving and we are moving in a happy direction. And I am quite sure the hon. Member would appreciate it. As for the complaint he has made about the Indian Institute of Foreign Trade, they are receiving grants from the Ministry of Foreign Trade and they are concerned with that Ministry. I can only say that I would pass on whatever complaints he has made about it to the concerned Ministry. As far as this Bill is concerned, I have already said that there is nothing much in it and it is only in view of the Supreme Court decision we had to come before the hon. House. As far as the Ordinance is concerned, I certainly appreciate the hon. Member's feeling that it should have been done earlier because the Supreme Court decision came in September. Certainly we should examine this question whether we can move in this direction a little more swiftly. But there was no intention of tMs nature that we should not respect the wishes of this House. I accept, Sir, that this particular Ordinance could have been brought a little earlier, but we took certain time in various consultations and that is how it was delayed. It was absolutely necessary to bring this legislation before the House and that is why we took the earliest opportunity to come before this House with it.

SHRI SUNDAR SINGH BHANDARI : When you are going to bring a comprehensive Bill, what would you have lost had you not brought this Bill?

MR. DEPUTY CHAIRMAN: He has already replied to that point.

The question is:

"This House disapproves the Foreign Exchange Regulation (Amendment) Ordinance, 1969 CNo. 9 of 1969 promulgated by the President on the 13th November, 1969."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Foreign Exchange Regulation Act, 1947, as passed by the Lok Sabha, be taken into consideration." *The motion was adopted.*

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

*Clauses 2 to 4 were added to the Bill.*

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

SHRI P. C. SETHI: Sir, I move:

"That the Bill be passed."

*The question was proposed.*

श्री सुन्दर सिंह भंडारी : सरकार ने यह संशोधन विधेयक अभी पेश किया है, मन्त्री महोदय सदन के सदस्यों के सामने स्पष्ट रूप से उसका कारण उपस्थित नहीं कर सके हैं कि यह संशोधन विधेयक इस समय लाना अनिवार्य क्यों हो गया था। उन्होंने ने एक पूरे विधेयक लाने की बात की है जिस पर बुनियादी तौर पर इस सवाल पर चर्चा होगी। मुझे ऐसी आशंका है कि कोई संशोधन विधेयक यहाँ स्वीकार कर लेने के कारण मूल विधेयक को लाने में और देरी हो जायगी और यह सरकार की पिछले दिनों में पद्धति रही है कि जब कभी भी सुप्रीम कोर्ट के फैसलों के द्वारा या कोई एकाध छोटी बात पर सरकार जब अटक जाती है तो एक संशोधन विधेयक ले आती है और संशोधन विधेयक लाते समय हमेशा यह तर्क दिये जाते हैं कि एक कांफ्रिहेन्सिव बिल लाया जा रहा है जिसमें सब बातों पर विचार किया जायेगा। मैं चाहता हूँ, जब कांफ्रिहेन्सिव बिल लाने की बात है और कोई ऐसा संशोधन अनिवार्य रूप से लाना इसी समय आवश्यक है, इस प्रकार की स्थिति नहीं है, तो भविष्य में ऐसा संशोधन विधेयक सदन के सामने उपस्थित नहीं करना चाहिये और इसलिये मैं चाहूँगा कि इस विधेयक के सम्बन्ध में भी एक आश्वासन मिले कि कब तक वह कांफ्रिहेन्सिव बिल पार्लियामेंट के सामने उपस्थित होगा जिसके आधार पर सारी विदेशी मद्राजों के सम्बन्ध में नियमन करना संभव

हो सकेगा। मैं इन दो बातों के सम्बन्ध में स्पष्टीकरण चाहूंगा।

**श्री पी० सी० सेठी :** उपसभापति महोदय, जैसा मैंने प्रारंभ में कहा, जहाँ तक इस बिल का ताल्लुक है यह इस खास मुद्दे पर है कि 12 ए। के तहत को कस्टम्स अधिकारियों को इस बात का अधिकार था कि वह बाहर जाने वाले माल की कीमत के बारे में अगर थोड़ा ठीक न हो तो उसको बाहर जाने से रोक दें। इसके बारेमें पूर्व में हाईकोर्ट का निर्णय हमारे पक्ष में था और इसी कारण इस अधिकार का उपयोग बार बार चलता रहा है। लेकिन हाल ही में सुप्रीम कोर्ट ने अपना यह निर्णय किया कि 121ए। के तहत डिक्लेरेशन केवल डिक्लेरेशन के लिये है, उसमें कस्टम आथॉरिटीज को यह अधिकार नहीं है कि वह बाहर जाने वाले माल को रोक दे, बल्कि उन लोगों को सेक्शन 20 के तहत जो अधिकार दिया गया है, उन पर कार्यवाही करने का, उसके अनुसार कार्यवाही की जानी चाहिये। इसका मतलब यह है कि अगर कोई गलत डिक्लेरेशन किया हो तो पहले सारा माल जाने दिया जाय और फिर बाद में उन लोगों के खिलाफ कानूनी कार्यवाही की जाय। इस पर काफी नुकसान होने का अंदेश था और इस कारण, इस निर्णय के कारण हमने जो इस समय आपके सामने बिल रखा है, उसका ध्येय केवल इतना ही भारी है कि उस स्थिति को जो पूर्व में थी, कायम रखा जाये और उसने कोई परिवर्तन नहीं किया जाये वरना कस्टम्स आथॉरिटीज को जो अधिकार मिला हुआ था वह उससे वंचित हो जायेंगे और ठीक डिक्लेरेशन न होने के बावजूद भी माल बाहर निकल जायेगा तो यही कारण है जिसकी वजह से यह विधेयक लाना पड़ा।

जहाँ तक माननीय सदस्य का यह कथन है कि इसके बारे में सारी छानबीन की जाये कि फारेन एक्सचेंज का बायोलेशन किस प्रकार से रोका जा सकता है, विदेशी मुद्रा को

किस प्रकार से बचाया जा सकता है, इसके बारेमें जैसा मैंने कहा, हम इस मामले की पूरी छानबीन कर रहे हैं और इस मामले में हम एक्सपर्ट्स की भी राय लेंगे और राय लेने के पश्चात् ही इस सारे कानून को एक नया स्वरूप प्रदान करके हाऊस के सामने लाया जायेगा।

**श्री सुन्दर सिंह भंडारी :** क्या कोई निश्चित तारीख बता सकेंगे।

**श्री पी० सी० सेठी :** कोई निश्चित तारीख देना बड़ा मुश्किल होगा।

**श्री सुन्दर सिंह भंडारी :** आप तो टाइम ओरियेन्टेड हैं।

MR. DEPUTY CHAIRMAN: The question is:

"That the BUI be passed." *The motion was adopted.*

----

### THE BIHAR LAND REFORMS LAWS (REGULATING MINES AND MINERALS) VALIDATION BILL, 1969

THE MINISTER OF STATE IN THE  
MINISTRY OF PETROLEUM AND  
CHEMICALS AND MINES METALS  
(SHRI JAGANNATH RAO): Mr.  
Deputy Chairman, Sir, I beg to move:

"That the Bill to validate certain provisions contained in the Bihar Land Reforms Act, 1950, and the Bihar Minor Mineral Concession Rules, 1964, and action taken and things done in connection therewith, as passed by the Lok Sabha, be taken into consideration."

Sir, the Supreme Court in its judgment in the Baijnath Kedia's case, dated 29th August, 1969, held that to the extent of the topics covered by the Parliamentary legislation (The Mines and Minerals (Regulation and Development) Act, 1957), the powers of the State legislatures are excluded. It held further that after the creation of statutory mining leases under the provisions of the