

भारत सरकार की दोस्ती लगातार रही है, निरन्तर बढ़ रही है। अभी जो पूरी दुनिया के पैमाने पर शक्तियों का संतुलन बिगड़ रहा है, साम्राज्यवादियों के खिलाफ जा रहा है ऐसे मौके पर जब हिन्दुस्तान में सोवियत नेता आ रहे हैं, उनके स्वागत की पूरी तैयारी हो रही है, हिन्दुस्तान की आजादी को और मुस्तकिल करने के लिए, हिन्दुस्तान की तरक्की के लिए बहुत सारी योजनाएं बन रही हैं, ऐसे मौके पर इस तरह का दुष्प्रचार एक योजना के तहत किया जा रहा है, एक सुनियोजित अन्तर्राष्ट्रीय साम्राज्यवादी योजना के तहत यह सारी साजिश चल रही है, इस स्पीच को उससे अलग नहीं किया जा सकता है।

इसलिए मैं मंत्री महोदय का ध्यान इस ओर आकृष्ट करना चाहता हूं और यह जानना चाहता हूं कि इस तरह के दुष्प्रचार जो किये जा रहे हैं उसका सामना करने के लिए आपके पास कौनसी योजना है? अभी कुछ और सवाल आज ही सदन में पेश किये जा रहे थे, पोलैण्ड और अफगानिस्तान का सवाल उठाया जा रहा था, मैं मंत्री जी से जानना चाहता हूं कि आपने जो कहा है कि यह बात सही है कि हिन्दुस्तान और सोवियत रूस की दोस्ती पक्की है, इस तरह के भाषणों से उसको खत्म नहीं किया जा सकता है, लम्बे अर्से की पुरानी दोस्ती, समझी हुई जांची हुई, परखी हुई दोस्ती, लेकिन फिर भी जो थोड़े-बहुत हिस्से में इस दुष्प्रचार से लोगों को गुमराह करने की बात की जा रही है, इसके लिए सरकार के पास कौनसी योजना है?

श्री पी० बी० नरसिंह राव : उपाध्यक्ष महोदय, मैं अपने वक्तव्य में सारी बातें स्पष्ट कह चुका हूं। हमारी जो दोस्ती रूस से है, वह अपनी जगह बरकरार है, वह आगे बढ़ती जा रही है और उसे और पक्का बनाने की हम कोशिश कर रहे हैं, इसमें कोई संदेह की बात नहीं है।

उसी तरह पाकिस्तान के साथ जो हमने अपने सम्बन्ध ठोक करने की कोशिश की और करते जा रहे हैं, उस प्रक्रिया में भी कोई कमी नहीं है। वह भी आगे बढ़ती रहेगी और किसी के कहने से या करने से या न कहने से और किसी के भाषण से उस पर कोई असर नहीं पड़ेगा। जो हमारी योजना है, जो हम करना चाहते हैं, वह आगे अवश्य करते जायेंगे और हमारी दोस्ती पर कोई असर नहीं पड़ेगा, उसमें कोई फर्क नहीं पड़ेगा।

14.37 hrs.

MARUTI LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) BILL—contd.

MR. DEPUTY-SPEAKER: Now we take up the legislative business. Shri Chitta Basu.

SHRI CHITTA BASU (Barasat): Sir, I oppose the introduction of the Maruti Limited (Acquisition and Transfer of Undertakings) Bill. The grounds of my opposition to the introduction are: that the ordinance is being sought to be replaced by this Bill...

MR. DEPUTY-SPEAKER: Please be brief.

SHRI CHITTA BASU: This Bill is born of a cynical disregard of the government to the Parliament and the parliamentary norms. You know only a few days before the commencement of the Parliament the government has promulgated that ordinance for the acquisition and transfer of the undertaking of the Maruti Ltd. This is obnoxious, this is not in consonance with the parliamentary practice and norms. There have been many observations from Speakers and the presiding officers that the government should not resort to this kind of promulgation of ordinances just before the commencement of the Parliament. Therefore, my first opposition is that the government has side-tracked the Parliament and has not acted in keeping with the norms and parliamentary practices.

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Therefore, this ordinance, and now in the form of the Bill, is the product of the misuse, deliberate misuse of the ordinance-making power under Art. 123 of the Constitution. My second argument is this. You know the Statement of Objects and Reasons of the Bill states that this particular company was under the liquidation proceedings in the Punjab and Haryana High Court. It has been admitted that this company was under the liquidation proceedings of the High Court of Haryana and Punjab. And the hon. High Court has passed an order to wind up the company. There was an order from the High Court that the company should be wound up. Now before the execution of the order of the High Court was made, the acquisition and transfer of this undertaking has taken place. My point is that the High Court's order has not been implemented and before that the acquisition and transfer has taken place. This borders on the contempt of the court. Therefore, it is not proper to introduce this Bill.

I am told—you also know that—there are various set procedures in the matter of take-over of the ownership of an undertaking under the Industrial Development and Regulation Act. There are wellsettled procedures. In this case that procedure has not been followed. The general principle is that the Government sees that the liquidation proceeding is completed so that all rights of the previous owners are extinguished. Therefore, the normal procedure would have been to allow the liquidation proceedings to be completed and executed. Government might have taken the next step of taking over after this.

You know that acquisition of property by the State shall be always in the public interest. In this case, the public interest, really speaking, is this. There is no public interest. The interests which have been mentioned as the public interest are merely facades to cover the real intention of the Government. Now, I want to be on record

to prove what the real interest behind this is. The real interest is to convert the private liability into a public liability. This is the real intention. The real intention is to commit a fraud on the Constitution of the Country.*

(Interruptions). Therefore, the public interest has been used..(Interruptions).

SHRI ARIF MOHAMMAD KHAN (Kanpur): Mr. Deputy-Speaker, I rise on a point of order.

MR. DEPUTY-SPEAKER: What is it?

SHRI ARIF MOHAMMAD KHAN: You had very rightly reminded yesterday about the rule—Rule 72 of the Rules Procedure. At this stage, the statement has to be brief, precise and only about the legislative competence. If there is any constitutional hitch about it, he cannot go on speaking and making all sorts of irresponsible allegations. These should be expunged.

MR. DEPUTY-SPEAKER: Is this your point of order?

SHRI ARIF MOHAMMAD KHAN: I demand that these should not go on record. This is an out and out allegation that should not go on record.

MR. DEPUTY-SPEAKER: I shall go through the proceedings to see if there is anything derogatory or unparliamentary.

THE DEPUTY MINISTER IN THE MINISTRY OF RAILWAYS AND IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI MALLIKARJUN): He has already taken enough time. He is bringing the name of the Prime Minister. That should be expunged.

MR. DEPUTY-SPEAKER: As I said I shall go through the record to see if there is anything derogatory or unparliamentary.

*Expunged as ordered by the Chair.

SHRI MALLIKARJUN: Under the Company Law, the shareholders will get the compensation. Whatever expression has been used by the hon. Member must be expunged.

MR. DEPUTY-SPEAKER: I shall go through the proceedings.. Mr. Chitta Basu, you continue.

SHRI CHITTA BASU: Therefore, Sir, I conclude that public interest which had been mentioned in the Bill is no public interest, but is being used as a facade—as a cover—to hide the real, ugly, sinister, despicable and reprehensible design. With these words I oppose the introduction of the Bill.

SHRI RAM JETHMALANI (Bombay North West): Sir, I propose to exercise both the rights which Rule 72—which has been cited by my very charming friend—confer upon me. The first right is to make a brief statement against introduction and the second right, which is not subject to condition of brevity, is the right to raise a general debate about the legislative competence of Parliament to initiate this kind of legislation.

Sir, I shall first deal with the constitutional aspect. To my mind this Bill is monstrously un-constitutional and void. In the first place this Bill is in complete violation of Article 14 of the Constitution of India because it involves a corrupt and a capricious jettisoning of available legal procedures for take-over applicable to rest of the nation and its industrial undertakings in a similar predicament or worse predicament than the predicament in which Maruti is and has been for a few years. The company's unfortunate association with the Prime Minister and other members of her family and a few political adventurers and financial wheeler dealers is not a valid constitutional basis of criterion of discrimination.

Sir, the objects which the Bill seeks to achieve were present to the mind of the legislature at least thirty years

ago and that is why the Parliament of this country passed a Bill and converted it into law. It is called the Industries Development and Regulation Act of 1951. This is the Act which is applicable to lesser mortals in whose veins royal or blue blood does not flow and who are not associated with the ruling dynasty of the country.

Now, Sir, the constitutional invalidity of the Bill is manifest and it is surprising that the Law Minister should have assented to a Bill of this kind being brought before the House. Section 18FA of the Industries (D and R) Act provides:

"If the Central Government is of the opinion that there are possibilities of running or re-starting the industrial undertaking in relation to which an investigation has been made under Section 15A and that such industrial undertaking should be run or re-started as the case may be for maintaining or increasing the production, supply or distribution of articles or class of articles relatable to a scheduled industry, (and the automobile industry is a scheduled industry) needed by the general public that government may make an application to the High Court praying for permission to appoint any person or a body of persons to take over management of the industrial undertaking or to exercise in respect of the whole or part of the industrial undertaking such functions of control as may be specified in the application."

This Section forms part of a newly added chapter which was added in 1971 because it was felt that sometimes it will be necessary to take over undertakings owned by companies which are currently the subject-matter of liquidation proceedings in the High Court. The heading of this Chapter is "Management or Control of Industrial Undertakings owned by Companies in liquidation". Therefore, I strongly wish not only to support and

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reiterate but to elaborate what my distinguished friend Mr. Chitta Basu said. Procedure is allowed and permissible under Section 18FA. If somebody in the interest of the general public wants to restart this junk all over again, then it is permissible to him to go to the High Court. Before it is approached there is a further procedure prescribed for holding a proper investigation. I charge that the fraudulent object of this Bill is mainly, apart from other things which I will point out, to short-circuit, to eliminate, to avoid and to suppress the kind of public enquiry which is referred to in this Act and having to go and approach the High Court where there will be vigilant lawyers of the country who will oppose any dishonest criminal misappropriation of public funds to be applied to the kind of purposes to which they are sought to be applied by this Bill. 15A says as follows:

"15A (1) Where a company, owning an industrial undertaking is being wound up by or under the supervision of the High Court, and the business of such company is not being continued the Central Government may, if it is of opinion that it is necessary, in the interests of the general public and, in particular, in the interests of production, supply or distribution of articles or class of articles relatable to the concerned scheduled industry, to investigate into the possibility of running or re-starting the industrial undertaking make an application to the High Court praying for permission to make, or cause to be made, an investigation into such possibility by such person or body of persons as that Government may appoint for the purpose."

Sir, that investigation is to be conducted by a body designated by the Government, approved by the High Court which will go through some judicial procedures in which everybody will have a right to present his viewpoint to that body and after that report is made, that report can be considered under Section 18FA and

the High Court will allow the take over of a company which is being wound up under the supervision of the High Court or by the High Court itself. Therefore, now the question arises that if ordinary companies in which great men and V.I.P.s are not involved, in which political wheeler-dealers and adventurers as financial investors are not involved of the kind which are involved in Maruti, if they have to go through this procedure, why this special legislation is being passed by Parliament for the purposes of meeting only the exigencies of Maruti Limited which has been the subject-matter of investigation by semi and quasi-judicial authorities in the recent past? I do not wish to go into that question. But I wish to ask what is being sought to be achieved which could not be achieved under the ordinary processes of law which are applicable to ordinary citizens and Companies.

First of all, the whole evil this Bill—and I am surprised and I deeply regret it because use of strong words either about the Government or about the Prime Minister—is in the ultimate sense to denigrate the office of the Prime Minister, believe it or not, I say this with anguish in my heart that they do not observe even this elementary political decency and propriety, that a Cabinet in which Mrs. Gandhi is the Prime Minister should bring forward such a legislation in which there are obvious interests of her family. At least in the interest of political decency, they should have stopped for some time, till, perhaps some day, it is still necessary that this company should be taken over and this criticism could not be legitimately levied against the Government of the day. Sir, in our courts, we go by the ordinary principle that a judge cannot decide a dispute relating to a company in which even his wife has got one share worth ten rupees when crores of rupees are involved; at least I thought that political decency requires, that the executive must judicialise itself as far as possible and then alone corruption in this country will come to an end. The most evil

provision in this Bill is Clause No. 7. Clause 7 says:

"7. For the transfer to, and vesting in, the Central Government under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be paid by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees for hundred and thirty-four lakhs."

Sir, Rs. 434 lakhs of public money are now sought to be handed over to this company. 'Handed over to this company' means handed over to those political adventurers who for political profits and benefits had agreed to invest money in this company, subject, of course to the fact that some part of this amount, which, in all fairness, it must be said, is going to be paid to employees and workers. We have got the break-up. The break-up shows that not a very substantial or more than half of the amount is being paid. Now, this amount which is sought to be paid could have been paid under the ordinary law but under other circumstances which do not suit government, because those circumstances require probity, do not contemplate corruption and do not contemplate the kind of situation which is sought to be met by the present Bill.

Under that Act, of course, it is permissible, when a company is taken over, to provide financial assistance to the company which is taken over because if you restart something which has been moribund for some time, you may require an investment. That Act says that the assistance of a financial nature to that company for reviving it will be with a view to preventing fall in the volume of production of a scheduled article. If, for example, this country needed cars and because of the closure of the company, the poor men of this country are not able to get a car....

MR. DEPUTY-SPEAKER: You have to conclude by O'clock.

SHRI RAM JETHMALANI: This cannot possibly even be suggested on the facts of this case that the poor people of this country who are dying for shelter and lack of food and clothes and whom inflation is slaughtering today mercilessly would need more cars. Let it be known that the idea is to short-circuit the processes of the Planning Commission because the Planning Commission has reported long ago that the economy of this country will not bear the burden of another car in this country. As it is, even the cars which we are so far manufacturing, are a tremendous burden upon our economy. And you will recall that the Maruti was allowed to be manufactured on certain terms and conditions, which were never at that time observed and that is the subject-matter of various investigations and reports.

The second object of this Bill is that the amount under one of the clauses of this Bill is to be defrayed for the purposes of paying all liabilities. Liabilities owed to whom? To those who had bargained for dealership contracts, persons who had advanced loans previously.

AN HON. MEMBER: On a point of order. Can the hon. Member talk on the clauses of the Bill at this stage?

SHRI RAM JETHMALANI: I am only talking of the fraudulent purposes to be achieved. This is, therefore, opposed to Article 14 of the Constitution. Article 14 requires that there must be a criterion for discrimination, otherwise you must proceed under the normal law.

MR. DEPUTY-SPEAKER: What would be the probable wealth of this company? That also you must tell.

SHRI RAM JETHMALANI: Let me first say that the corrupt object of this Bill is that out of the public funds some debts should be compulsorily discharged and those debts are, debts

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which have become time-barred and which are not recoverable under the terms of the transactions under which they were created. Lastly, most of the advances to this company are *benami* as disclosed by the Gupta Commission. Therefore, neither the *benamidars* nor the real owners would have gone to court and recovered the debt. Now they shall be paid in the secrecy of a Government office and this is the major object of the Bill

MR. DEPUTY-SPEAKER: No Government can do that.

SHRI RAM JETHMALANI: I wish to warn that this Bill is an attempt to legalise acts which amount to offences punishable under section 409 of the Indian Penal Code, punishable with life imprisonment and under Section 5 of the Prevention of Corruption Act, punishable with five years of imprisonment. The object of this Bill is only to legalise those offences and this Bill is an echo, a reminder and a grim reminder of that amendment which was sought to be moved about the Constitution before, that the Prime Minister of this country shall never be prosecutable and punishable for any criminal offence which the Prime Minister might commit.

15.00 hrs.

Sir, lastly, this Bill relates to a subject in the State List. It relates to industry, which is in the State List and this is not covered by the Entry Number either 7 in List I or Entry No. 52 in List III. It is squarely under Entry No. 24 in the State List and, therefore, Sir, this is constitutionally invalid for more than one reason. As I said, this is the constitutional aspect of it.

The moral aspect and the political aspect of it I have incidentally talked about. Never has the Government been so much at variance from the opinion of decent people as in this case. Never has there been this

degree of lack of financial probity. Never has there been so much of indecent and naked corruption. And never has the legislative process been so much prostituted for ends so ignoble and so despicable as in the present Bill.

15.01 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

ELEVENTH REPORT

SHRI RAMNATH DUBEY (Banda): I beg to move;

"That this House do agree with the Eleventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 3rd December, 1980."

MR. DEPUTY-SPEAKER: The question is:

"That this House do agree with the Eleventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 3rd December, 1980."

The motion was adopted

15.01 hrs.

AGRICULTURAL WORKERS WELFARE FUND BILL*

SHRI MUKUNDA MANDAL (Mathurapur): Sir, I beg to move for leave to introduce a Bill to provide for promotion of welfare measures for agricultural workers.

MR. DEPUTY-SPEAKER: the question is:

"That leave be granted to introduce a Bill to provide for promotion of welfare measures for agricultural workers."

The motion was adopted

SHRI MUKUNDA MANDAL: I introduce the Bill.