

Shri A K Sen: Sir, it is not necessary, with due respect to Pandit Thakur Das Bhargava, to deal with his arguments because he has been very pronounced in his views with regard to exemptions granted either under the Act which is in operation now or under the new Bill which has now come back from Rajya Sabha. He has accused us of delay and it is necessary, therefore, to answer that charge a little. The House would remember that the other Bill was introduced long before this Act was going to expire on 31-8-1958. Then it went to the Select Committee which took more than nine months to report. In the meantime we were told by Pandit Bhargava himself to extend the life of the original Act by six months. It has been found that even by extending it by six months, we have not been able to get it passed by both the Houses. In the meantime, he certainly does not want that those hon. Members who have been serving in various committees under exemptions granted under the Act to suddenly become disqualified on 31-12-1958 for no fault of their own. It has not been suggested that they have been functioning independently or that they have not discharged any useful functions.

With regard to the point raised by Shri Bharucha, there is a provision in the Bill which has been passed by Rajya Sabha and this House which says that six months are allowed to all existing Members who are exempted under the present Act. They will get more or less six months holiday, exactly to serve the purpose he has in view. I do not think any further amendment of this Bill or the other Bill is necessary. So, I submit that this Bill may be passed.

Mr. Speaker: The question is:

"That the Bill further to amend the Prevention of Disqualification Act, 1953, be taken into consideration."

The motion was adopted

Mr Speaker: The question is:

"That Clauses 1, 2, the Enacting Formula and the Long Title stand part of the Bill"

The motion was adopted

Clauses 1, 2, the Enacting Formula and the Long Title were added to the Bill

Shri A K. Sen: Sir, I beg to move

"That the Bill be passed"

Mr Speaker: The question is

"That the Bill be passed"

The motion was adopted

11.38 hours.

FOREIGN EXCHANGE REGULATION (AMENDMENT) BILL

The Deputy Minister of Finance (Shri B. R. Bhagat): Sir, I beg to move

"That the Bill further to amend the Foreign Exchange Regulation Act 1947, be taken into consideration"

The amendment is a simple one, intended merely to define more precisely the powers conferred by the Act so that there is no room for misapprehension in India or abroad. Section 13A of the Foreign Exchange Regulation Act empowers Government to prohibit the holder of a notified security payable outside India in a notified country from having the payment of such security made in India.

This Section, it will be noticed, was couched in very general terms. Actually Government needed the powers, in order to regulate the transfer to India of Government of India securities issued before the 15th August, 1947 and encased for payment outside India. In fact also

[Shri B. R. Bhagat]

the powers conferred by the Act have been utilised for this limited purpose, under a notification issued on the 19th October, 1957, empowering the Reserve Bank to regulate the transfer of such securities and to ensure that no transfer of these securities to India takes place except with the consent of the Reserve Bank and under general arrangements agreed to between the Government of India and the Government concerned with the transfer.

11.39 hrs.

[PANDIT THAKUR DAS BEARGAVA
the Chair.]

It is not the intention, therefore, to make use of the powers conferred by the Act except for regulating the transfer of Government securities issued before the 15th August, 1947. The 1957 Act itself did not however specify precisely the class of securities coming under the restriction and merely mentioned securities generally

The matter, however, has been reconsidered in the light of the following circumstances. A loan made by foreign investors to an Indian company payable outside India may be in the form of bonds, debentures or debenture stocks and would thus be a security within the meaning of the Foreign Exchange Regulations Act. As the Law now stands, which deals with securities generally, it is theoretically open to India, although it is not our intention to do so, to notify at any time that no payment of such a loan (including the payment of interest) can be made in India without the Reserve Bank's permission. It has been suggested that foreign investors are not likely to be aware of the limited reasons for the enactment of this provision and since the Section is expressed in broad terms, may believe that there is some unexpressed intent to keep a check on the payment of obligations to foreign

investors in India. Such a misapprehension, if it is created, might stand in the way of possible foreign investments, which it is our policy to attract on reasonable terms and for approved purposes. The purpose of the amendment proposed in this Bill is to remove possible doubts by identifying precisely the Government securities to which alone the Section will then be applicable. The amendment will have the effect of restricting the powers vested in Government to the regulation of Government securities as defined in the Public Debt Act, 1944, relating to the loans floated before the 15th August, 1947 and payable outside India in any country or place notified by the Central Government. I have every hope that hon. Members will extend their support to this legislation, and I commend the motion to the House.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Foreign Exchange Regulation Act, 1947, be taken into consideration."

Shri Narayanankutty Menon (Mukandapuram): Sir, I am sorry that the hon. Deputy Finance Minister simply read out the objects and reasons which in themselves were un-understandable to anybody who reads them. If you look into the original provision of Section 13, Sir, you will find that even in the event of an extra-ordinary construction, as far as anybody in India is concerned, there was no room for any doubt. But the hon. Deputy Finance Minister was frank enough to say that there are certain apprehensions in the minds of foreign investors of capital in this country and this amending Bill is introduced in order to remove the apprehensions still hanging in the minds of foreign private investors. I do not know whether the apprehension has been gathered by the hon. Finance Minister during his tour of

the United States of America, because a series of apprehensions have been the subject matter of discussion in the Press both in the United States of America and in the Continent. Anyway, following up the utterances and pronouncements, and also the guarantees made in public by the Finance Minister both at montreal and also in Washington, he should be congratulated for keeping his promise of coming before the House to guarantee them anything that they might ask for.

Shri C. D. Fande (Naini Tal): That is of interest to us also.

Shri Narayanankutty Menon: It may be of interest to certain people in this country.

Shri C. D. Fande: To all.

Shri Narayanankutty Menon: But I should like to state categorically before the House that this is not a matter of any interest as far as the people of India is concerned; because, even though this particular Bill, according to the Deputy Finance Minister, is innocuous and only the formal sanction of the Reserve Bank is required as far as transfer of securities is concerned, the Bill contains more meaning and more assurances as far as foreign capital is concerned. Therefore, I appeal to the hon. Members not to take the hon. Deputy Finance Minister's words characterising this piece of legislation as an innocuous one and of a simple character. It is of a more serious nature, which gives more assurances and more guarantees as far as foreign private capital is concerned.

Sir, when a provision is introduced in the Bill that the Reserve Bank gets certain powers of deciding this thing this way or that way, it is very highly necessary for this House to go into the whole question as to what are the powers of the Reserve Bank

in deciding and scrutinising the transfers of money from this country to foreign countries and also from a foreign country to this country. When we look into the other provisions of the Bill and also the experience that we have got as far as transfer of money by the Reserve Bank from this country to other countries is concerned, that experience is a very sorrowful experience. Whatever power the Reserve Bank has got is only a nominal power, and the Reserve Bank even today has no idea about the nature, extent and quantum of money that is being transferred from this country overseas.

On the 24th of September, when I put a question to the hon. Minister for Steel, Mines and Fuel about the nature of the money that is transferred by the oil companies from India overseas, Sardar Swaran Singh had to say that there is some lacuna in the legislation, and we are not able to scrutinise the entire quantum and nature of money that the oil companies are transferring overseas. The hon. Home Minister, who was officiating as Prime Minister at that time, intervened to assure the House that if necessary the whole question will be enquired into and legislation, if at all necessary, will be brought in order that a complete scrutiny of the accounts of these foreign companies will be available to the Government of India. May I ask the hon. Deputy Finance Minister whether the Government of India or the Reserve Bank or the Registrar of Joint Stock Companies in India have got any idea today as to how much money is being transferred by these foreign companies from India overseas? If this amount of money is being transferred, do they know the nature of the money and whether that is in terms of profit earned in this country in the regular course of business or by means of excessive profits?

[Shri Narayanankutty Menon]

Very recently, Sir, the Government of India appointed a committee of accountants to go into and scrutinise the accounts of oil companies for the purpose of fixing the price of oil taking into account the accounts of the companies for the last six or seven years. The accountants of the Government of India went to the offices of these companies, but what sight they saw as far as the accounts are concerned will look to you, Sir, like a fairy-tale. When in the years 1956 and 1957 the Government of India tried to have a little probe into the accounts of these oil companies, they proved to be more clever than the Government of India, and they changed their entire accounting system all of a sudden. Go to any oil company today, you will not find Indian accountants preparing their accounts but you will find slotting machines there and innocent girls operating these slotting machines with codes. Recently I came across an account of Rs 56 lakhs under code D to be settled in the New York office of the Standard Vacuum Oil Company, because code D names miscellaneous in New York accounts." I ask the Deputy Finance Minister whether he is entitled today under any foreign exchange regulations to ask the Standard Vacuum Oil Company, what these miscellaneous expenses are that they incurred to the extent of Rs 56 lakhs and what is the nature of the expenses in India? I can assure the House that neither the Deputy Finance Minister nor the Finance Minister can ask the oil companies how these people have spent Rs 56 lakhs under the miscellaneous account. What is the result? The result is that the whole accounts are given to the people of India, to this Parliament and also to the Registrar of Joint Stock Companies in such a form that the Government will be compelled to believe that so much is the expenditure, so much is the income and so much is the profit that they are getting. What is the result? The result is that, unauthorisedly, with-

out the knowledge of Parliament and without the knowledge of the Government of India, these people are transferring huge amounts of money which are never termed as their profits and which, therefore, will not come in the balance sheet and profit and loss accounts of those companies. This is one instance of the oil companies.

Secondly, on the same day, I pointed out that because of the transference of the inter-company bonds and debentures so much of money is being taken away from this country. One instance can be pointed out. Now, there are two oil companies functioning Caltex and Burmah Shell and again there is the Standard Vacuum Oil Company. The Standard Vacuum Oil Company borrows six-lakh tons of oil from the Caltex company's refinery, puts a code there and the code accounts, which is called Z, is settled in the New York office. The whole payment for the borrowing of the six-lakh tons of oil is made in New York. That means the value of the six lakh tons of oil is paid without any customs duty, or without any other tax and is adjusted in New York. The Government simply sits there without knowing what exactly has happened between Caltex and the Standard Vacuum companies.

Mr Chairman I do not want to interfere but I must say that I am afraid that the hon Member is going outside the scope of this Bill. The scope of the Bill is very restricted. It amends section 13A of the existing Act, limiting its applicability specifically to Government securities in regard to the loans floated before the 15th August, 1947. The intention was that they could not be transferred to India except with the permission of the Reserve Bank. This is a simple Bill. All other aspects of the matter, important though

they may be, are not germane so far as this Bill is concerned. I would request the hon Member to confine himself to the scope of this Bill.

Shri Narayanankutty Menon: I submitted all this because the amendment is introduced for the purpose of having a little more control for the Reserve Bank as far as the transactions are concerned.

Shri C. D. Pande: Is there any objection to that restriction?

Mr. Chairman: The Bill is restricted in scope. It relates to the payment of principal and interest in respect of certain securities which were issued before the 15th August, 1947. The Bill seeks to lay down that no payment can be made without the general or special permission of the Reserve Bank. That is all.

Shri Narayanankutty Menon: I understand the provisions of the Bill, and my whole point was, if the Government have come before this House to amend the Foreign Exchange Regulation Act and to give a certain amount of control, whatever might be quantum of that control as far as the securities are concerned, the Government is penny-wise and pound-foolish.

Mr. Chairman: That is a matter of general policy. That cannot be considered at this stage so far as the Bill is concerned. The Bill is restricted in scope, and I will certainly allow the hon Member to continue his speech in so far as that restricted scope of the Bill is concerned. But we are not concerned with any question that is outside the scope of the Bill.

Shri Narayanankutty Menon: I am not commenting on the general control at all. If the Government is satisfied at any time that section 13 or any other provision of the Foreign Exchange Regulation Act has to be

amended, my submission before the House is that the Government has come out with this amendment which is not going to produce any result at all.

Mr. Chairman: We are not concerned even with section 13. We are only concerned with section 13A which is very restricted in scope.

Shri Narayanankutty Menon: I fully understand your point that it is very restricted in scope. But my whole point is that the Government ought not to have come before this House with such a restricted scope if at all they really wanted any control over such transactions.

Mr. Chairman: Therefore, what he has said is enough. If he says that the Government should have more control, I will certainly allow him to speak about that point. On that point, however, he has already spoken too much. So far as this Bill is concerned, as he himself admits, it is very restricted in scope, and he must confine himself to the scope of this Bill.

Shri Narayanankutty Menon: I will not go into the question of general control. What I wanted to impress on the Government was that by this Bill nothing is going to be achieved. The real danger is somewhere else.

Mr. Chairman: Quite right. The hon Member himself admits that the real danger is somewhere else and we cannot go into that real danger. So far as this Bill is concerned, it is very restricted in its scope, and I am bound to see that the scope of the arguments is not stretched out so wide as to bring in aspects which are outside the scope of this Bill. What is the use of bringing in here the entire question of control? Not that the entire question is not important; it is important. But, at the same time, so far as this Bill is concerned, we cannot travel outside its scope. I

[Mr. Chairman]

would again request the hon. Member to restrict his remarks to the scope of the Bill.

Shri Narayanankutty Menon: I will restrict my arguments to the scope of this Bill alone. The hon. Deputy Minister's argument in bringing in this piece of legislation was to clear the apprehension in the minds of certain people overseas. I am taking a fundamental objection to that itself, because, when the Government found that there are certain apprehensions in the minds of foreign investors in this country, and the Government took time to bring in a piece of legislation to remove those apprehensions in the minds of foreign investors, I have got every right to point out that the real apprehension is not today in the minds of the foreign investors, but that the real apprehension is in the minds of the Indian people. Further, it is not that there are more restrictions as far as foreign capital is concerned but that more restrictions ought to be there as far as transfers of those monies are concerned.

Mr. Chairman: There may be some other Bill to remove the apprehensions in the minds of the Indian people. But this is only for removing the apprehension in the minds of the foreigners, about the security, etc.

Shri Narayanankutty Menon: I will confine to that point, namely, whether there is anything done today to remove any apprehension in the minds of the foreign investors. But there is nothing. The prime need in this country today is not that any apprehension in the minds of the foreign investors should be removed, because they have no reason, under the circumstances existing in the country today, to have any apprehension at all, for, they are given almost a free hand to bring in money and to transfer money. There is absolutely no control at all, as far as the transfer of the money is concerned. So, there is no need for

this so-called apprehension. When there is no time even in the House, on the last day of this session, to go through the business though there are so many important pieces of legislation . . .

Shri B. E. Bhagat: May I correct the hon. Member, because he is using that expression again and again—that there is no control over the transfer of money? That is what he said. I want to correct him and say that there is an absolute, 100 per cent control over any transfer of money outside India.

Shri Narayanankutty Menon: The other day, the hon. Speaker had to intervene when the Minister of Steel, Mines and Fuel said that though there were certain figures shown in the balance sheets of the Burmah-Shell Oil Storage and Distribution Co., Ltd., they did not know exactly what transfers were made. The hon. Speaker had to intervene and say that the Government of India should know the nature of the transactions and transfers. I assert that . . .

Mr. Chairman: I am very sorry to interfere again. The hon. Member has made a point to which the hon. Deputy Minister has replied, that is, there is every kind of control. As a matter of fact, the question of general control is out of the province of this Bill. I cannot allow the hon. Member, and the hon. Deputy Minister also to say that there is full control. Then the whole thing widens out. I want the hon. Member to restrict his argument to the scope of the Bill and not to introduce the question of general control. Otherwise, we will be on the sea.

Shri V. P. Nayar (Quilon): The hon. Deputy Minister also cannot be allowed to interfere and say what he did say.

Mr. Chairman: He only replied to what the hon. Member pointed out

He did not proceed with any argument. The hon Member pointed out that there are certain defects so far as the control is concerned, and the hon Minister got up and said that there is full control. But then, the province of this Bill will be so widened, and the entire purpose of this Bill which is restricted in scope, will be wasted away. I would request the hon Member to confine himself to the scope of the Bill.

Shri Narayanankutty Menon. I will have to submit before this House that the piece of legislation that they have brought now is so infructuous, ineffective and, to a certain extent, creates a misapprehension in the minds of the hon Members that the Government is very serious about controlling the transfer of money both into India and outside India. I will have to tell the hon Members that this piece of legislation, though innocuous it may be according to the hon Minister, is so infructuous in its character that there are absolutely no bona fides in the mind of the Government to prevent really any transfer both inside and outside India.

Therefore in support of my argument I would like to add that if the Government really wanted to have any control either regarding the transfer to India or outside India, so far as the very little purpose of bonds and securities is concerned, the Government ought to have come forward with a comprehensive piece of legislation. I oppose this piece of legislation in the sense that, even though the little power that the Reserve Bank of India is getting is a welcome feature, this will be a misleading Bill. Therefore the Bill will have to be opposed.

12 hrs

What prevented the Government from bringing forward a comprehensive piece of legislation when it decided that there should be some sort of a definition or some sort of clarity so far as section 13A was con-

cerned? Was the Government forgetting the dangers inherent in the transfer of money? I cannot submit that the Government was forgetful about that or that it was ignorant about that. Every time during the last Session and also in the Session previous to that, as far as the transfer of securities, bonds and profits is concerned, many questions arose and leading members concerned of the Government came forward to say that there was a lacuna in the legislation. When a Bill, as you know, is sought to be amended in order to remove our apprehensions or to fill up a gap, essentially a debate takes place in the House as to whether the amendment is proper or whether it satisfies the purpose of filling up the gap in the Act. My submission is relevant to the discussion in that that this Bill does not satisfy the purpose of filling up the gap already existing.

The one appeal that I have got to make to the hon Finance Minister is that let him not come forward before this House with a little provision which will not really forestall the danger already inherent in the whole transaction regarding foreign exchange, both in the case of foreign exchange being taken out of the country and brought into the country. It is almost agreed that there is no control today as far as the transfer of securities is concerned. He wants a little control by the Reserve Bank. I am speaking of that type of control and it is very material and cogent as far as this discussion is concerned that even if this control is given to the Reserve Bank, that control will be ineffective and infructuous because the nature of the control is never defined. In many places in the parent Act, the word 'control' is there. In the amending clause of section 13A the word 'control' is there. But what is the nature of the control? The Reserve Bank will get returns. That is the nature of the control that the Reserve Bank exercises. I am submitting that whatever control is there as far as the Reserve Bank is concerned, it is absolutely no control in effect because in spite of

[Shri Narayanankutty Menon]

the fact that the Reserve Bank may control everything the control boils down to this that a return is received by the Reserve Bank and some sort of statistics are maintained by the Reserve Bank. If the Government desires to have real control over this, the control of the Reserve Bank will have to be defined

Mr. Chairman: I am sorry to say again that the general question is being gone into again. I have already submitted that so far as the present Bill is concerned, we cannot go into the question of general control except for the purpose of just making a comment that this Bill is not necessary. Only to that extent a comment can be made and I have allowed it already. So far as going into the question of general control and getting a reply that full control is there and going into the provisions of the Foreign Exchange Regulations is concerned, that will not be germane to the purpose of this Bill. I would, therefore, request the hon Member, if he has to say anything more, to restrict himself only to this particular provision, i.e., section 13A

Shri Narayanankutty Menon: I have got only one more point. I respect your ruling and according to that I am not going into that question, but if the hon. Minister comes forward and says that there is apprehension in the minds of foreign investors and that in order to remove that apprehension we are moving this piece of legislation, is not the House entitled to go into the question whether there is actually any apprehension or whether the apprehension is to the contrary? My submission is that the House should be satisfied first of all that there are reasonable grounds for any apprehension in the mind of foreign capital, as far as foreign investors are concerned. If according to the statement of objects and reasons of the Bill and also according to the hon. Minister when he introduced the Bill the purpose of the Bill was to

remove an apprehension in the mind of foreign capital, the House will have to be satisfied first of all that there is a reasonable ground for apprehension in the mind of foreign capital. My whole submission was that there was no ground, as far as foreign capital is concerned, for any apprehension or misapprehension. Therefore there is no necessity for this amendment at all.

Secondly, the anxiety of the hon. Minister and the anxiety of the Government of India to search for apprehensions existing in the mind of foreign capital is going too much now-a-days. This Bill is a result of the Government's over-anxiety to satisfy in place and out of place foreign capital, without any reason at all. Why should the Government go into the question that this little apprehension exists in the mind of foreign capital and give them assurances after assurances?

An Hon. Member: Because they are asking for it

Shri Narayanankutty Menon: We are inviting foreign capital today in this country on very reasonable terms. There is absolutely no justification for any apprehension in the mind of foreign capital because we are not expropriating foreign capital here. A reasonable amount of freedom as regards movement of capital, movement of profit and everything is given in this country. As I have submitted earlier, it is relevant to the point, there is too much of freedom as far as foreign capital is concerned in this country today. Why is the Government more anxious to come forward with a piece of legislation in order to remove the anxiety of the foreign capital alone? My only submission in this connection is that this Bill, as I have submitted earlier, is a result of certain representations made to the hon. Finance Minister when he was having his tour in the United States of America. He comes back

from there and comes to this House in order to substantiate or fulfil the assurances that he has given in the United States of America. My submission, which is again relevant to the point, is that instead of the hon Finance Minister coming before this House to fulfil this assurance that he has given he should have come here in order to see that the lacuna already existing, as far as our existing foreign exchange regulations are concerned, is removed and at the same time a guarantee is given for legitimate business in this country.

Lastly, I wish to point out that as far as foreign companies are concerned, it is a flowing in of their capital into the country and flowing out of the profits from this country. Regarding the entire question of foreign exchange, there are serious difficulties as far as the Bill is concerned and the mere existence of the Foreign Exchange Regulation Act today is a misnomer because both in the case of foreign companies and in the case of Indian companies, the Government is unable completely to control any sort of foreign exchange transactions in respect of both flowing out and flowing in. I am pointing this out today because, as you have suggested, the necessity for bringing in a comprehensive piece of legislation is all the more their desire even though this is confined to foreign capital. What is happening regarding Indian capital is a more relevant question. Even though the Government by this Bill desires to have a little control with the Reserve Bank, I again submit that the dangers are not in section 13A but in every section of the Foreign Exchange Regulation Act there is a danger. That danger is being utilised by everybody, both by foreign companies and by Indian companies. Because you have taken a particular view regarding that matter, I am not going into that question in detail, but I feel it my duty to point out the dangers in other sections also though not in detail.

The Government knows very well

from a case which is already pending—I am not making a reference to it because, even though it is not exactly *sub judice*, the Government mentioned that it is pending investigation—that large amounts of foreign exchange have been earned by Indian industrialists which are being blocked up in foreign banks. What can you do under this Act? In that case also the Government said that they cannot do anything. The Reserve Bank of India cannot do anything. The Reserve Bank of India does not know anything about this foreign exchange. What is the Government going to do as far as the smuggling of this foreign exchange in the country is concerned? If any Indian industrialist can hold foreign exchange in foreign banks today without the knowledge of the Government of India and without the knowledge of the Reserve Bank, is it not pertinent that the Foreign Exchange Regulation Act will have to be amended not in this particular fashion, i.e., by amending section 13A alone, but by amending other provisions also? Therefore my appeal is that this Bill, which is innocuous as he has said, does not fulfil the purpose of filling up the gap that exists in the Foreign Exchange Regulations Act. A Bill, so unsatisfactory in character is brought without any *bona fides* at all. It is brought only with the particular intention of satisfying the whims and fancies of certain industrialists abroad in order that the hon Finance Minister can again assure them that “I am capable of fulfilling the assurance that I have given you during my tour of the United States on the floor of the Indian Parliament also.” That is the only purpose of bringing forward this Bill. Therefore I submit that because this Bill will not in any way satisfy the real requirements of the Foreign Exchange Regulation Act, even though this Bill is passed today, the Government should come forward if there are any *bona fides* behind their intention with a more comprehensive Bill which will replace the most ineffective foreign exchange regulations that exist today and which will be the real Foreign Exchange Regulation Act, which

[Shri Narayanankutty Menon]

will regulate the flow of foreign exchange both from this country to outside and from outside to this country

Shri Saswara Iyer (Trivandrum)
Sir, I shall not go into the desirability of a comprehensive legislation in respect of foreign exchange, but I shall confine my remarks to the question of the present Amending Act

A reading of the present Amending Act would show that it deals with Government securities as defined in the Public Debt Act, 1944, created and issued for the purpose of raising a public loan before the 15th day of August, 1947. This Bill, therefore, confines itself to the case of public securities within the definition of the Public Securities Act which have been issued prior to a particular date, that is, 15th August, 1947. The section as it originally stood, as I understand it, was to apply to all public securities without reference to any particular date. The necessity for confining this restriction of getting the consent or permission of the Reserve Bank is felt according to the Government, with respect to the securities issued prior to 1947 and therefore, they have come forward with an Amending Act saying, let us fix it with reference to a particular date in 1947. The reasons I cannot understand

I am particularly concerned with the reason why such a restriction as to payment of interest or otherwise in respect of public securities should be restricted with respect to public loans issued prior to 1947 and not with respect to all kinds of loans floated. The reason given seems to be, as the hon. Deputy Minister said, that the foreign investors are feeling some apprehensions. Why should they feel some apprehension? We are not given the grounds for such an apprehension. From where did he get the information

that foreign investors are shy of investing? Just because the payments of loans or interest are not made with respect to loans issued prior to 1947, why should not the restriction be there in respect of the loans issued subsequent to 1947 also? Why should not the Reserve Bank go into all this? I cannot understand and I must confess to a sort of bewilderment why the Reserve Bank's permission should not be obtained, which, according to the Deputy Minister, is only a formal or informal thing. Why should not that restriction be there with respect to even loans issued subsequent to 1947, so that we may know what is the nature of the foreign investment that has been made? If the Reserve Bank is there to give permission in respect of payment of interest or payment of principal with respect to loans subsequent to 1947, it will facilitate the matters for the Reserve Bank to keep track of all these things. Why we should exempt is a matter for which I cannot find an explanation.

The Statement of Objects and Reasons would say, it is a misapprehension or apprehension on the part of the foreign investors, let us be good to them. Why should it be so? Has the Deputy Minister of Finance or the Finance Minister given any reason for this apprehension? Perhaps his tour round America might have given him this apprehension, or some of his friends in America may apprehend certain dangers. Do we say that with respect to the issue of public loans we will not return the loans? All that we have said is, in respect of principal of a loan that has to be paid or the interest that has to be paid with respect to an investment made by foreign investors, they should get the permission of the Reserve Bank. The Reserve Bank as the controlling authority of finance must keep track of all these things. This is a very desirable provision. I cannot understand the necessity or expediency of such an amendment. I would only

say that the original section as it stands, must stand and I would respectfully submit to this House that this Bill is highly inexpedient and it must be thrown out.

Shri Achar (Mangalore): Mr Chairman; the purpose of the Bill is so clear and I was really surprised at the confused way of attacking the Bill

Shri Easwara Iyer: There is no confusion

Shri Achar: Section 13A is so very clear about the point as to the misapprehension. The Statement of Objects and Reasons has clearly stated the position. Anyhow, for the benefit of the House, I may read that portion of it

"Section 13A was, however, couched in very general terms and it has been pointed out that it is open to Government under the powers vested in them by this section to notify at any time that repayment of a loan made by a foreign investor to an Indian company would not be permitted even in India without the specific approval of the Reserve Bank"

This seems to be a clear explanation of section 13A. There can be no doubt about that. Section 13A reads

"Notwithstanding anything contained in any other law or in any contract, agreement or other instrument, the holder of any security or class of securities notified in this behalf by the Central Government in respect of which the principal or interest or both is for the time being payable outside India in any country or place so notified shall not be entitled, except with the general or special permission of the Reserve Bank to have any such payment made at any place in India"

Shri Easwara Iyer: There is no prohibition

Shri Achar: There can be no doubt that the section as it stands will create a misapprehension in the foreign investors' mind.

So far as the present situation is concerned, we know very well, we require foreign aid. We are inviting foreign capital. The other day, I referred to the position of the tea industry, for example. We have an example of capital going out of the country. In fact, I asked the Government a question whether the Government has made any enquiry about this fact and whether they have got facts and figures because we hear so much in the papers. On behalf of the Government, it has been stated that they have no figures and they are trying to ascertain it. There is no doubt, there is a sort of apprehension that investment in India is not quite safe and they would like to transfer their capital out of the country. When that is the situation, when we want investment from foreign countries, I can very well understand Government's apprehension that any reasons which would give cause for foreign capital to be shy should be removed and so, they would like to amend such portions of the Acts. Here, it is clearly stated, "except with the general or special permission of the Reserve Bank". This policy is there. The Reserve Bank may grant or may not grant permission. There is that situation also. The persons who invest from foreign countries would see this danger and they may not be willing to invest. When the provision is so clear and when they have to depend on the permission of the Reserve Bank, it is but natural that foreign investors may have some apprehension.

The Bill has not dealt with any other aspect of the position with regard to foreign exchange or foreign capital. With regard to this particular point, I submit that the section

[Shri Achar]

creates that impression, and is a cause of apprehension in the mind of the foreign capitalists. There is absolutely no harm in having certain amendments to clarify the law. I would not like to go into any other aspect of the question and I support this Bill

Shri B. R. Bhagat: I am surprised that controversy has been created over a matter where actually there need be no controversy. I can understand some hon. Members trying to raise political red herrings to distract attention from the genuineness and simplicity of the measure. That is quite understandable, but I would like to explain some of the points or some of the misapprehensions which the hon. Members have tried to raise

The point made by the hon. Member, Shri Narayanankutty Menon, about the question of the transfer of money abroad, as you have ruled, is quite beside the point, and I will only repeat what I said that under the present Act there is not only the power, but it is also the practice of the Reserve Bank to control all transfers. Actually, nobody can make any transfer without the permission of the Reserve Bank, and we have full knowledge of every pie that is transferred outside the country.

If I may explain again what I said while making the motion, the Bill as it is does not give any fresh guarantee or any concessions to the foreign investors. It only incorporates what is the present practice in a different way, by defining more precisely the term "security". Under the existing Act, it is security as notified by the Government from time to time. We have a notification, as I mentioned in my speech, of 19th October, 1957 under the Act, which defines "security" precisely, and what we are actually doing now is to put the same definition that exists in the notification into the present Bill. So, there is absolutely no fresh guarantee.

The apprehension in the mind of the foreign investors is this. Their lawyers, when they are finalising the terms of the contract, are only aware of the Act as it is. Many of them, or a large number of them, are not aware of the large number of notifications that may be there. So, it was suggested informally . . .

Shri Prabhat Kar rose—

Shri B. R. Bhagat: If the hon. Member has any questions, he may ask afterwards and I will answer them

So, we thought it would be rather better to put the definition that is in the notification into the Act itself. That is the only thing that we are doing, and that is why I said it was a simple and innocuous measure and that it need not raise any controversy

The point was raised by Shri Menon. Why should it be only in respect of pre-1947 securities? The simple reason is that only pre-1947 securities are encased for payment outside India. All post-1947 securities are only encased for payment inside India. So, the Bill takes care of those securities which are encased for payment outside India and which may be transferred to India for payment in India. It is for these securities only that we want that there should be control and regulation by the Reserve Bank. So, any question of later securities does not arise.

As I explained, the Bill as it is should not arouse any controversy, and it is not with any other purpose or to make any concession that we have tried to come with this amendment. It is actually to incorporate in the Act itself what is existing in the notification.

Shri Prabhat Kar (Hooghly): I want to put only one question. It is stated

in the Statement of Objects and Reasons:

"Section 13A was, however, couched in very general terms and it has been pointed out that it is open to Government under the powers vested in them by this section to notify at any time that repayment of a loan made by a foreign investor to an Indian company would not be permitted even in India without the specific approval of the Reserve Bank. This might create some misapprehension . . ."

That was in general terms, and now the hon. Deputy Minister has come forward with a Bill to amend it. The question is, has there been any actual case where any foreign investor has pointed out that because of this particular section which is worded so generally, he is not in a position to invest, or did it only occur to the Government that there might be such a misapprehension.

While making the motion the hon. Deputy Minister did not mention what exactly was the reason. Is the Government finding any difficulty, or have any foreign investors pointed out any difficulty to the Government, or is it simply in the mind of a particular Minister that there may be some misapprehension and so they are coming forward with this amendment? If he makes the point clear stating these are the specific cases where Government has found it difficult to bring in the foreign investor, then this point can be considered, but no such point has been made by the hon. Deputy Minister.

Shri B. E. Bhagat: This is a very simple matter, and it is a matter of commonsense which the hon. Member should understand. The word as it was "security". In the notification the conditions are mentioned that this relates to Government securities as

defined in the Public Debt Act and to loans floated before 15th August, 1947. But these facts are not known to investors all over the world. So, naturally in their negotiations they raise such points. Their legal experts raise certain legal points. Unnecessarily such misapprehensions are created. Actually, what we are trying to do is to bodily lift the provision in the notification and incorporate it in the Act. It does not make any fresh concession, but only clarifies the point. So, what is the objection?

Shri Easwara Iyer: Give us one instance of a foreign investor who sought this clarification.

Shri B. R. Bhagat: It is very difficult for me to quote the names and other things, but I think it should be left to the Government to exercise commonsense and intelligence. We feel there is a misapprehension about certain things unnecessarily.

Shri Nagi Reddy (Anantapur): Who were the people who were under a misapprehension?

Shri B. R. Bhagat: I do not think there is any legitimate ground for the hon. Members to feel that we are unnecessarily making a concession. We are making no concessions, rather we are clarifying the position.

Mr. Chairman: The question is:

"That the Bill further to amend the Foreign Exchange Regulation Act, 1947, be taken into consideration."

The motion was adopted.

Mr. Chairman: There are no amendments.

[Mr. Chairman]

The question is:

"That clauses 1 and 2, the Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

Clauses 1 and 2, the Enacting Formula and the Long Title were added to the Bill.

Shri B. E. Bhagat: I move:

"That the Bill be passed"

Mr. Chairman: The question is:

"That the Bill be passed"

The motion was adopted

12.29 hrs.

COST AND WORKS ACCOUNTANTS BILL

MOTION TO CONCUR WITH RAJYA SABHA re. JOINT COMMITTEE

The Deputy Minister of Commerce and Industry (Shri Satish Chandra): I beg to move:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Cost and Works Accountants Bill, 1958, made in the motion adopted by Rajya Sabha at its sitting held on the 10th December, 1958 and communicated to this House on the 12th December, 1958, and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely.

Shri Nibaran Chandra Laskar, Shri Etikala Madhusudan Rao, Shri Bholi Sardar, Shrimati Jayaben Vajubhai Shah, Shri Radhe-lal Vyas, Shri C. R. Narasimhan, Shri S. A. Agadi, Shri Satish Chandra Samanta, Lala Achint Ram, Shri Radheshyam Ramkumar Morarka, Swami Ramanand Shastri, Shri Padam Dev, Shri Sunder Lal, Shri Prabhat Kar, Shri Rajendra Singh, Shri Jaipal Singh, Shri Karsandas Parmar, Pandit Braj Narayan "Brajesh" the Mover and Shri Lal Bahadur Shastri."

I commend for the acceptance of the House the recommendation of the Rajya Sabha that the Cost and Works Accountants Bill, 1958, be referred to a Joint Committee of the two Houses.

The Bill is intended to set up an Institute of Cost and Works Accountants, which is to be entrusted with the functions of regulating the profession of cost accountancy. There is a general recognition of the fact that without a sound system of cost accounting, the evaluation of the progress of the working and development of industries in the public sector, where the ordinary forces of competition may not always operate effectively, is considerably hampered.

The Tariff Commission has repeatedly emphasised the need for a proper system of costing so far as the protected industries are concerned, not only from the point of view of ascertaining the fair price of the products of protected industries but also of assessing their progress periodically.

The Estimates Committee in their Ninth Report on Administrative, Financial and Other Reforms, have recommended

" Government should take early steps to set up an Institute of Costs and Works Accountants and to train sufficient number of men in this line with the modern and up-to-date methods suited to the various types of undertakings. Meanwhile, every endeavour should be made to tap the existing manpower trained in this line in order that Cost Accounting Units are introduced where not already done or are improved where such units are in existence."

Their report for 1954-55 on organisation and administration of nationalised industrial undertakings refers to the early adoption of the costing system as under:

"That Committee have noticed that the importance of cost accounting is not appreciated in some of these nationalised undertakings. In the