

THE FOREIGN EXCHANGE
1972

(Report of the Joint Committee)

[Presented on the 23rd April, 1973]



LOK SABHA SECRETARIAT
NEW DELHI

April, 1973/Vaisakha, 1895 (Saka)

Price : Rs. 3.20

the Report of
Foreign EXchang

....

Page (vii), para 7, line 1, for "38" read "39"

Page (xiv), para 56, line 3 -

- (i) for "preseumption" read "presumption"
- (ii) for "genuiness" read "genuineness"

Page (xvi), para 2, line 6, after "period"
insert "of"

Page (xx) -

- (i) Para 2, for existing line 4,
read "used with great circumspection"
- (ii) Para 3, line 2, for "70" read "76"
- (iii) Line 4 from bottom, after "exports"
insert "is"
- (iv) last line, for "incure" read "inure" and
for "priatve" read "private"

Page (xxi), line 26, for "pro-" read "pre-"

Page (xxii), line 13, after "tries" insert "dealing"

Page (xxiv) -

- (i) line 10, for "activties" read "activities"
- (ii) line 27, for "Ntionalisation"
read "Nationalisation"

Page (xxviii) -

- (i) Para 7, line 3, for "been" read "even"
- (ii) Para 10, line 7, for "the consideration"
read "due consideration"

(P.T.O.)

(ii)

Page (xxix), para 14, line 6, for "foregners"
read "foreigners"

Page (xxxi) -

(i) line 8, for "is" read "of"

(ii) line 21, for "rediculous" read "ridiculous"

Page (xxxii), line 18, for "able" read "liable"

Page (xxxiv), line 7 from bottom, for "highly"
read "lightly"

Page 58, S.No.21, for "Traders" read "Trades"

Page 87 -

(i) Item No. IV, line 5, for "13.45 hours"
read "13.35 hours"

(ii) Item No. V, line 6, for "/13.15 to 13.35
hours/" read "/13.35 to 13.50 hours/"

Page 103, para 17, line 4, for "expendient"
read "expedient"

Page 118, line 10 from bottom, for "amendme"
read "amendment"

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**JOINT COMMITTEE ON THE FOREIGN EXCHANGE REGULATION
BILL, 1972**

COMPOSITION OF THE COMMITTEE

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri R. N. Barman
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshmadev
6. Shri Jyotirmoy Bosu
7. Shri M. C. Daga
8. Shri Dharnidhar Das
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12. Shri K. R. Ganesh
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22. Shri Sudhakar Pandey
23. Shri Narain Chand Parashar
24. Shri M. R. Gopal Reddy
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26. Shri Shashi Bhushan
27. Shri Rajaram Shastri
28. Shri Hari Kishore Singh
29. Shri Rudra Pratap Singh
30. Shri Y. B. Chavan.

Rajya Sabha

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32. Shri Babubhai M. Chinai
33. Shri Nripati Ranjan Choudhury
34. Shri Bal Krishna Kaul
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36. Shri B. N. Mandal
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41. Shri N. K. Shejwalkar
42. Shri Chakrapani Shukla
43. Shri Bindeshwari Prasad Singh
44. Shri M. R. Venkataraman
45. Shri Thillai Villalan.

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel, Ministry of Law, Justice and Company Affairs (Legislative Department).*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel, Ministry of Law, Justice and Company Affairs (Legislative Department).*

REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri M. G. Kaul—*Secretary.*
2. Shri S. Krishnaswami—*Joint Secretary.*
3. Shri V. U. Eradi—*Deputy Secretary.*
4. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVES OF THE CABINET SECRETARIAT
(DEPARTMENT OF PERSONNEL)

1. Shri B. P. Bagchi—*Secretary.*
2. Shri U. C. Aggarwal—*Joint Secretary.*
3. Shri Kasi Pandiyan—*Deputy Secretary.*
4. Shri A. K. Ghosh—*Director of Enforcement.*
5. Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

(v)

REPRESENTATIVES OF THE RESERVE BANK OF INDIA, BOMBAY

1. Shri S. S. Shiralkar—*Deputy Governor.*
2. Shri C. L. Thareja—*Controller, Exchange Control Department.*
3. Shri R. M. Halasyam—*Legal Adviser.*

SECRETARIAT

1. Shri P. K. Patnaik—*Joint Secretary.*
2. Shri H. G. Paranjpe—*Deputy Secretary.*

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Delhi on the 20th and 21st September, 12th and 13th October, 21st, 22nd and 29th November, 14th, 15th, 18th, 19th and 20th December, 1972 and 12th and 13th February, 1973. The Committee also heard evidence of the representatives of some of the associations, organisations, etc. at Calcutta on the 6th and 8th January, 1973 and at Bombay from 1st to 3rd February, 1973. The list of officials of the Ministries|Departments and representatives of various associations, organisations, etc. who appeared before the Committee is at Appendix IV.

10. At their twenty-first sitting held on the 15th February, 1973, the Committee decided that (i) the evidence given before them might be laid on the Tables of both the Houses; and (ii) two copies each of the memoranda received by the Committee from various associations, organisations, etc. might be placed in the Parliament Library, after the report of the Committee was presented, for reference by the Members of Parliament.

11. The Report of the Committee was to be presented by the 17th November, 1972. The Committee were granted extension of time twice, the first on the 13th November, 1972 upto the 23rd February, 1973 and subsequently on the 22nd February, 1973 upto the 30th April, 1973.

12. The Committee considered the Bill clause-by-clause at their sitting held on the 17th March, 1973.

13. The Committee considered and adopted the Report on the 9th April, 1973.

14. The Committee feel that consistent with the present policy of Government not to allow, except in exceptional circumstances, fresh foreign equity participation in excess of forty per cent, the expression "forty per cent or more" occurring in clauses 26, 28, 29 and 31 (original clauses 25, 26, 27 and 29) of the Bill may be changed to "more than forty per cent." The Committee further feel that the representation to be made by parties may be either oral or written. With a view to achieving this object, the Committee suggest that the words "of being heard", wherever they occur in the Bill may be changed to "for making a representation". Necessary amendments have accordingly been made in the relevant clauses of the Bill.

15. The observations of the Committee with regard to other changes proposed in the Bill are detailed in the succeeding paragraphs.

16. *Clause 2(p) (iv).—Explanation I.*—The Committee feel that deeming a person who has acquired the citizenship of another country, as a citizen of India, even for a limited purpose, may cause difficulties. Hence, this Explanation has been omitted.

17. *Clauses 4 and 5.*—The amendments made to these clauses are of a verbal nature.

18. *Clauses 6 and 7.*—The amendments made to these clauses are of a drafting nature.

19. *Clause 8—Sub-clause (4).*—This sub-clause is intended to prevent leakage of foreign exchange through over-invoicing of imports. The Committee feel that it is deficient in so far as it does not cover cases

where (i) the value of the goods imported is less than the foreign exchange acquired, and (ii) the quantity imported is less than that mentioned in the application for acquisition of foreign exchange. This sub-clause has been amended to achieve these objectives.

20. *Clause 12.*—The amendment made in the proviso to sub-clause (2) of this clause is of a verbal nature.

21. *Clause 13.*—The amendments made in sub-clause (1) of this clause are of verbal nature.

22. *Clause 14—Sub-clause (a).*—The amendment is of a clarificatory nature.

23. *New Clause 15.*—The Committee have given anxious consideration to the question of leakage of foreign exchange arising out of tourism. In order to check leakage of foreign exchange, the Committee feel that the Central Government should have power to direct non-residents, to pay for such goods and services, as may be notified, in foreign exchange. A new clause has been inserted accordingly.

24. *Clause 18 (Original Clause 17).*—The Committee have made certain amendments to this clause as explained below:

(i) *Paragraph (b) of Sub-clause (1).*—The Committee feel that the provisions made in paragraph (a) of Sub-clause (1) adequately cover the cases of non-declaration and false declaration of material particulars of goods to be exported including the export value of the goods. Paragraph (b) of Sub-clause (1) has, therefore, been omitted.

(ii) *Paragraph (b) [Original paragraph (c)] of Sub-clause (1).*—The Committee feel that the period of sixty days prescribed in the second proviso to this paragraph for communicating the decision by the Reserve Bank of India on an application from the exporter for permission to dispose of goods is too long and is likely to cause hardship to the exporter. The Committee consider that a period of twenty days would be quite reasonable for the purpose. The second proviso to this paragraph has been amended accordingly.

(iii) *Sub-clause (2) (A).*—The Committee feel that the provisions made in this sub-clause are not consistent with the provisions made in paragraph (a) of sub-clause (1) in as much as the delay in the payment of export value of the goods can only be in relation to the period prescribed therein and not otherwise. The sub-clause has been amended accordingly.

(iv) *Sub-clause (2) (B).*—The Committee feel that since no period is prescribed for the sale of goods exported on consignment basis, the question of unreasonable delay in the payment of export value of goods is to be considered having regard to the ordinary course of trade. The period prescribed in sub-clause (1) has, therefore, no relevance in this case. This sub-clause has been amended accordingly.

25. *Clause 19 (Original Clause 18).*—*New Sub-clause (6).*—The Committee feel that, in appropriate cases, if the Central Government is of

the opinion that it is necessary in the public interest to exempt the transfer of any share of a company registered in India, the Central Government should have the power to exempt by notification such transfer from the operation of the provisions of sub-clause (5) of clause 19 subject to such conditions as may be specified in the notification. A new sub-clause has been inserted accordingly.

26. *Clause 23 (Original clause 22).*—*Sub-clause (1) (b).*—The amendment made in the sub-clause is with a view to making the meaning clear and unambiguous.

27. *Clause 25 (Original clause 24).*—(i) *Sub-clause (3).*—The amendment made in this sub-clause is of a drafting nature.

(ii) *New sub-clause (4).*—The Committee feel that it would not be appropriate to impose restrictions on holding any immovable property outside India by a foreign national resident in India and such person should be exempted from the provisions of the clause.

A new sub-clause has, therefore, been added accordingly.

28. *Clause 26 (Original clause 25).*—(i) The amendment in part (a) of Explanation I below, sub-clause (7) has been made with a view to bringing it in line with the criterion of shareholding indicated in sub-clause (3) of this clause. (ii) The amendment made in Explanation III is of a clarificatory nature.

29. *New clause 27.*—In view of the increasing growth of Indian participation in trading and commercial activities and also in the industrial field in the form of joint ventures abroad, there is an apprehension of foreign exchange being misused. The Committee, therefore, feel that Indian participation in the trading, commercial and industrial activities abroad might be regulated.

A new clause has been inserted for the purpose.

30. *Clause 28 (Original clause 26).*—(i) *Sub-clause (1).*—The amendments made in this sub-clause are of clarificatory and verbal nature intended to avoid ambiguity.

(ii) *Explanation below sub-clause (7).*—The definition of the term "processing" has been substituted with a view to excluding activities like dividing, pressing, packing, repacking, labelling, branding, etc. from that definition.

31. *Clause 29 (Original clause 27).*—(i) *Sub-clause (1).*—The amendment made in this sub-clause is of a clarificatory and consequential nature.

(ii) *Sub-clause (2) (d).*—The amendment made in this sub-clause is of a drafting nature.

(iii) *New sub-clause (3).*—The Committee are of the opinion that a person or a company including its branches which have already established a place of business in India and have been carrying on any activity of a trading, commercial or industrial nature as is referred to in sub-clause (1) (a) at the commencement of the Act, should be treated on a different footing for the purposes of this clause. The Committee feel

that the Reserve Bank of India should be empowered to exempt such persons or companies (including their branches) or any class of such persons or companies (including their branches) from the provisions of sub-clause (2) of this clause. The Reserve Bank of India should, however, while giving such exemption, take into account the nature of the activity carried out by such persons or companies (including their branches) and the fact that such activity was being carried on with the prior permission of the Government. However, no such power will be exercisable by the Reserve Bank where the activity is solely of a trading nature.

A new sub-clause to this clause has been inserted accordingly.

32. *Clause 30 (Original clause 28).*—The existing clause imposes certain restrictions on employment of foreigners in India, with a view to controlling the drain on foreign exchange. The Committee feel that a foreigner taking up gainful employment or occupation in India should 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.

The existing clause has been substituted by a new clause for this purpose.

33. *Clause 31 (Original clause 29).*—The Committee feel that a citizen of India, even if resident outside India, should not be required to obtain permission from the Reserve Bank of India for acquisition, holding or disposing of immovable property in India. The opening part of sub-clause (1) of this clause has, therefore, been amended accordingly.

The other amendments made in this clause are of a consequential and clarificatory nature.

34. *Clause 32 (Original clause 30).*—(i) *Sub-clause (5).*—The amendments made in this sub-clause are of a verbal nature.

(ii) *New sub-clause (10).*—The Committee feel that where a person acts in contravention of the provisions of sub-clause (9), the Reserve Bank should have the power to condone such act if it is satisfied that the contravention was due to unforeseen circumstances or due to circumstances beyond his control.

A new sub-clause has been inserted accordingly.

35. *Clause 34 (Original clause 32).*—The amendments made in this clause are of a verbal nature.

36. *Clause 35 (Original clause 33).*—*Sub-clause (3).*—The Committee feel that it would be more appropriate if the provisions of this sub-clause are brought in line with the corresponding section of the existing Foreign Exchange Regulation Act, 1947.

The sub-clause has been amended accordingly.

37. *Clause 36 (Original clause 34).*—The amendments made in this clause are of a clarificatory nature.

38. *New clause 38.*—The Committee feel that the power to seize a document or thing which would be useful for, or relevant to, any investigation or proceeding under the Act, independent of the power of search,

as is in the Customs Act, 1962, should also be vested in the officers of Enforcement.

A new clause to achieve this object has been added.

39. *Clause 39 (Original clause 36).*—The amendments made in this clause are of a verbal nature.

40. *Clause 40 (Original clause 37).*—The amendments made in this clause are of a verbal nature.

41. *Clause 41 (Original clause 38).*—The amendments made in this clause are of a clarificatory nature.

42. *Clause 42 (Original clause 39).*—(i) *sub-clause (1).*—The Committee feel that the officers of Customs, while acting in the discharge of their duties under the provisions of the Act, should also be vested with the power to encash seized cheques, drafts, etc. The existing sub-clause has, therefore, been substituted by a new sub-clause.

(ii) *Sub-clause (3).*—When cheques, drafts, etc. are seized and where there has been no contravention of the provisions of the Act, the Committee feel that the proceeds of the seized instruments should be returned with interest, as the proceedings of investigations into the alleged contravention of the Act generally take a long time so that the person entitled thereto should not suffer the loss of interest. The Committee are of the view that an interest at the rate of six per cent. per annum would be reasonable in such cases and it should be paid from the date of seizure of such instruments till the date of payment. The sub-clause has been amended accordingly.

The other amendments made in this sub-clause are of a consequential nature.

43. *Clause 44 (Original clause 41).*—The amendments made in this clause are of a verbal nature.

44. *Clause 46 (Original clause 43).*—The clause has been substituted by a new clause with a view to clarifying that seizure of foreign exchange should be reported by the Police Officer to the nearest officer of enforcement and seizure of other goods should be reported to the nearest officer of Customs and that foreign exchange seized should be delivered to an officer of Enforcement and that the other goods seized should be conveyed to an officer of Customs.

45. *New clause 49.*—The Committee feel that it should be specifically provided in the Act itself that non-compliance with all or any of the conditions of any permission or licence granted under the Act should be deemed to be a contravention of the provision of the Act under which the permission or licence has been granted.

A new clause has been inserted accordingly.

46. *Clause 50 (Original clause 46).*—The Committee feel that there should be no hardship in cases where persons violate the provisions of the Act without any intention or knowledge. The sub-clause has been amended accordingly.

The other amendment made in the clause is of a consequential nature.

47. *Clause 51 (Original clause 47).*—The omission of sub-clause (2) is consequent upon the addition of a new clause 53.

48. *Clause 52 (Original clause 48).*—(i) *sub-clause (1).*—The Committee feel that the Chairman of the Foreign Exchange Regulation Appellate Board should have some legal qualifications. He can either be a person who has held a civil judicial post for a period of at least 10 years or who has been a member of the Central Legal Service (not below Grade I) for at least three years or a practising advocate for at least 10 years. The sub-clause has been amended accordingly.

(ii) *Sub-clause (2).*—(a) The Committee feel that the period of forty-five days for preferring an appeal against the order of the adjudicating officer should be calculated from the date on which the order is served on the aggrieved person and not from the date on which the order is sent to him. The sub-clause has been amended accordingly.

(b) The Committee also feel that in order to avoid delay in the disposal of cases, the Appellate Board should not entertain the appeal beyond ninety days, whatever the reasons may be. The first proviso of this sub-clause has been amended accordingly.

(iii) *Sub-clause (3).*—The Committee feel that making it obligatory on the part of the Appellate Board to call for a report from the adjudicating officer before giving decision on the appeal would cause considerable delay in disposing of appeals and should be avoided.

The sub-clause has been amended accordingly.

(iv) *Sub-clauses (4) and (5).*—The amendments made in these sub-clauses dealing with the powers of the Appellate Board are of a verbal and clarificatory nature.

(v) *Sub-clause (6).*—The Committee feel that the Chairman of the Appellate Board or a member authorised by the Chairman should be empowered to sit singly to hear the appeals in cases where the penalty imposed does not exceed fifty thousand rupees.

A new proviso to this sub-clause in place of the existing sub-clause (7) has, therefore, been inserted.

49. *New clause 53.*—The Committee feel that the powers of the adjudicating officer and the Appellate Board with regard to examination of witnesses in the discharge of their functions, similar to those of a Civil Court under the Code of Civil Procedure, 1908, should be specifically provided in the Act itself. A new clause for this purpose has, therefore, been inserted.

50. *Clause 54 (Original clause 49).*—The amendment made in this clause is of a clarificatory nature.

51. *New clause 55.*—The Committee feel that in the case of death or insolvency of a person proceeded against under the provisions of the Act, after the stage of adjudication, his legal heirs or the official assignee or the official receiver, as the case may be, should be allowed to continue appeals before the Appellate Board as well as the High Court.

A new clause has been inserted accordingly.

52. *Clause 56 (Original clause 50).*—(a) *sub-clause (1).*—The Committee are of the view that:—

- (i) in relation to certain violations of foreign exchange regulation, which are deemed to be offences under the Customs Act, prosecution should be launched under that Act;
- (ii) hardship should be avoided in the case of persons who violate certain provisions of the Act without any intention or knowledge.

This sub-clause has been suitably amended for the aforesaid purposes.

(b) *Sub-clauses (2) and (3).*—The amendments made in these sub-clauses are of a consequential and verbal nature.

53. *Clause 58 (Original clause 52).*—The amendments made in this clause are with a view to bring this clause in line with similar provisions in other enactments like the Gold (Control) Act, 1968.

54. *New clause 59.*—The Committee feel that in any prosecution for any offence under the Act, which requires a culpable mental state on the part of the accused, the burden of rebutting the presumption of a culpable mental state, for which the court might make a presumption in respect of the act charged as an offence should be placed on the accused. The Committee agree with the recommendation of the Law Commission made in their Forty-seventh Report on the Trial and Punishment of Social and Economic Offences in this behalf.

A new clause has been added accordingly.

55. *Clauses 63, 64 and 67 (Original clauses 56, 57 and 60).*—The amendments made in these clauses are of a consequential nature.

56. *Clause 72 (Original clause 65).*—The Committee note that the Law Commission have recommended in their Report aforesaid that the presumption as to the genuineness of documents, taken from the custody or control of any person under the provisions of any other law, should also be made available when the prosecution is under the provisions of the Act. The Law Commission have also recommended that such presumption should also apply to documents received from any place outside India. The Committee agree with these recommendations of the Law Commission. The Committee, however, feel that the documents received from abroad should be authenticated by such person or authority and in such manner as may be prescribed by rules.

The existing clause has, therefore, been substituted by a new clause.

57. *New clause 76.*—The Committee, having given considerable thought to the problem of leakage of foreign exchange, are of the view that some broad guidelines should be specified in the Act itself in order to enable the Central Government and the Reserve Bank to grant permissions or licences under the Act.

A new clause has been inserted accordingly.

58. *Clause 78 (Original clause 70).*—The amendment made is of a clarificatory nature.

(xv)

59. *Clause 1 and Enacting Formula.*—The amendments made are of a verbal nature.

60. The Joint Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
April 23, 1973

Vaisakha 3, 1895 (Saka).

SATISH CHANDRA,
Chairman,
Joint Committee.

MINUTES OF DISSENT

I

The Joint Committee has made a number of useful additions and alterations to several clauses; and I am thankful that some amendments moved by me have been accepted. The Bill, as amended is largely satisfactory, and I have no doubt it will better secure the objectives of regulating dealings in foreign exchange and conservation of foreign exchange resources of the country and their proper utilisation for economic development. The Bill still needs improvement, and so I submit this minute of dissent.

Clause 18 (Original Clause 17)

2. I would first refer to clause 18 which provides for greater control over the repatriation of sale proceeds of exported goods. A number of witnesses who appeared before the Joint Committee had pointed out the difficulties of realising the full export value in some cases due to unforeseen and genuine reasons. The previous permission of the Reserve Bank has to be obtained in case there is a short realisation. A period sixty days was stipulated in the original clause to enable the Reserve Bank of India to send a reply. This has been reduced to twenty days by the Joint Committee. The period of twenty days will be calculated after excluding the period taken by the Reserve Bank for giving an opportunity to the exporter for making a representation in the matter. The Bank may well raise a query on the nineteenth day. This would further extend the period of twenty days and during this long period further loss in value of the exported goods may occur because of sudden changes and adverse circumstances in the international market situation. A practical and reasonable alternative would be to provide that the Reserve Bank of India would normally accord sanction to the short realisation *ex-post-facto* on being satisfied that sufficient grounds existed and in the event the transaction proves *mala fide* the Reserve Bank may take requisite action.

Clause 27

3. The Joint Committee has inserted a new clause 27. It formalises the restrictions on persons resident in India associating themselves with or participating in concerns outside India. The clause is primarily designed to keep a watchful eye on the nature and form of the activities of the Indian Joint ventures abroad. It is essential to ensure that this mechanism does not become restrictive in operation, but will be administered in a manner which will be conducive for the healthy growth of Indian Joint ventures abroad.

Clause 28 (Original clause 26)

4. My next submission is in regard to clause 28, which places restrictions on the appointment of certain persons and companies as agents or technical or management advisers in India. The clause, as amended by Joint Committee, provides that among others a company in which the non-resident has more than 40 per cent interest or any branch of such company shall not except with the general or special permission of the

Reserve Bank act as agents in India of any person or company in their trading or commercial transactions. I am strongly against any person or company in which there is non-resident interest engaging in any trading activity in India. For we have reached a stage when our nationals do not require the help of foreign expertise to market goods within the country. If such persons or companies are allowed to engage themselves in trading activity, it will only result in repatriating large sums of money outside India. Therefore, there should be a complete ban on these companies and persons engaging themselves in internal trade.

4.2. The Reserve Bank of India figures of remittances allowed during the period 1966-67 and 1970-71 in regard to technical know-how and royalty range between 15 and 26 crores of rupees each year and during the year 1970-71 it was as much as 25.86 crores of rupees. No separate figures for remittances made by purely trading companies are perhaps maintained. However, it is well known that a number of companies with foreign participation remit to their parent offices abroad amounts also by way of reimbursement of the share of head-office administrative expenses charged to the companies in India. 38 companies including 7 foreign oil companies remitted as much as Rs. 2.14 crores in 1969, Rs. 2.07 crores in 1970 and Rs. 1.80 crores in 1971. A large part of it perhaps relates entirely to trading activities. I still hope that my suggestion for a complete ban on trading activities will be accepted at the time of the passing of the Bill in Parliament.

4.3. However, companies with foreign interest may be allowed to engage themselves in export trade, especially if they are able to step up and diversify our exports. The record of foreign firms even in the export effort, especially in new areas of export of industrial products has been disappointing. Perhaps franchise restrictions placed upon exports may have contributed to this poor performance. This is a matter which has got to be looked into by Government, along with the possibilities of availing ourselves of the services of companies with foreign interest in the promotion of our export trade. Even here, my suggestion is that companies in which the non-resident interest is 20 per cent or more should not engage in export transactions or act as agents because that will mean a large outgo of foreign exchange.

4.4. In order to make effective my above suggestions, I moved some amendments to original sub-clause 26(1). They were not accepted by the Joint Committee. I am giving below this sub-clause, now sub-clause 28(1) of the Bill as reported by the Joint Committee as it would read had my amendments been accepted. The changes are italicised; some words deleted are indicated by dots. I still hope that Parliament will adopt sub-clause 28(1) on the lines I have indicated:—

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 (.....) act, or accept appointment, as—

- (a) agent in India of any person or company, in the trading or commercial transactions of such person or company; or

- (b) technical or management adviser in India of any person or company.

Provided that such person or company may act or 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.

Clause 29 (Original Clause 27)

5.1. Next, I would like to refer to clause 29. Under new 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 a company which is not incorporated 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.

5.2. If the permission is given under certain conditions, say, that share participation should be reduced or permission is altogether negated, 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. I am saying this 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 many. I would like that the Act clearly indicates a time-table in this behalf.

5.3. In this connection, I would like to refer to the guidelines issued in February, 1972, by Government which 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 two years from the date of the order, and to 49 per cent within a period of another two 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 two years from the date of the order and to 40 per cent within a period of another two years. Where the foreign share holding is between 60 per cent and 41 per cent it shall be brought down to 40 per cent within a period of two years from the date of the order. The Reserve Bank shall, however, have the power to extend the period whenever it deems necessary.

Clause 30: (Original Clause 28)

6. The clause in the original Bill (clause 28) provided that 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 etc. by whatever name called. The Joint Committee has deleted this clause and has substituted an entirely new clause which provides that no national of a foreign State shall without previous permission of the Reserve Bank take up any employment in India or practice any profession or carry on any occupation or business in India, etc. in case such national desires to acquire foreign exchange out of moneys received by him by reason of such employment, and intends to remit such foreign exchange outside India. While under the original clause, the obligation was on the person employing the foreign national to obtain permission from the Reserve Bank, under the clause substituted by the Joint Committee, the obligation is placed on the foreign national to seek the permission from the Reserve Bank. I think this is a wrong procedure. The obligation should be on the person who wants to employ the foreign national to obtain permission, and it should not only be for employing but also for continuing the employment of any foreign national as it was in the original clause. The clause should be amended to this effect.

7. Finally, I would like to state that my approach to the Bill and the spirit behind my amendments, those that have been accepted by the Joint Committee as well as those that have not found favour, have been motivated by four main considerations: Firstly, the leakage of foreign exchange should be stopped. Secondly, such foreign capital as will operate in India should engage in productive manufacturing activities instead of in the trading area. Thirdly, the law on the subject of regulation of the companies which have foreign shareholding should not place avoidable difficulties in their working. My fourth implicit consideration which may be spelt out is this: For twenty-five years now, our policy has been to look upon a company as a 'foreign' company where the foreign holding is more than 50 per cent. Now this percentage has been reduced to 40 per cent. In my view, the new percentage should not be tampered either frequently or light-heartedly, and there must be stability for a reasonable period of time. I would like that my minute of dissent should be read in this light.

NEW DELHI;

April 9, 1973.

BABUBHAI M. CHINAI.

II

I feel that the definition of "person resident in India" in clause 2, sub-clause (p) and the word person used in several clauses of the Bill should be enlarged so as to include juristic persons who are carrying on trade, industrial and business activities both in India and abroad, such as the State Governments and the Central Government; so that they may also be subject to the obligations under the Bill and entitled to benefits thereof. For example the Government of Mysore holds a monopoly in sandal wood oil and earns considerable foreign Exchange.

2. As for the exemption contemplated in the new sub-clause (6) of clause 19, it is imperative that this power of exemption should not work so as to nullify the purpose of sub-clause (5) altogether and must be and added after sub-clause (iv) of clause 76:—

3. Perhaps a provision like the following may have to be considered and added after sub-clause (iv) of clause 70:—

"Provided that any surplus foreign exchange earned through the additional exports accruing as a result of the increased maintenance imports permitted to the manufacturing unit shall be credited entirely to the Central Government;

Provided further that the Central government may allow such portion of these earnings as it deems fit to be invested for purchase of items of additional plant and equipment which are considered to be essential and can be procured only by import".

The aforesaid provisos have become necessary to be inserted at relevant places in the Bill, if not under clause 76, as two major aims of new industrial policy as announced recently are—(a) growth through fresh investment and (b) use of unutilised capacity through liberalising of maintenance imports for combating shortages and creating larger surpluses for export. Both involve foreign exchange utilisation.

A boost for exports is to be given through supply at the lower international prices of indigenous steel, plastics and chemicals to manufacturing units, with the chief aim of earning increased foreign exchange. How far such increase will be materially greater than the foreign exchange resources spent, remains to be seen and the net benefit derived should not be allowed to be merely marginal.

It is well known that the bulk of these manufacturing units is controlled by the predominantly foreign owned concerns. Unless the foreign exchange remittances permitted to these manufacturers to be repatriated with reference to the increased exports strictly regulated through appropriate specific provision in the Bill, the objectives of fresh investment, growth and substantial foreign exchange earnings will virtually inure only to the benefit of foreign firms or private capitalists, though

there may be marginal improvement secured by Government. It is essential to limit repatriation of foreign exchange suitably. Hence the two aforesaid provisos.

4. A declaration certificate in the following manner has to be obtained either from the foreign supplier or the importer or both as the case may be:—

“In respect of every invoice relating to imports and every bill relating to exports, which involves foreign exchange transaction—

- (i) A declaration or certificate shall be obtained from the foreign supplier or receiver and/or his banker and attached to the invoice or bill that no amount has been paid or credited in any foreign bank to the account of the importer or exporter by way of allowance, commission, discount, bonus, consideration or in any other form whatsoever.
- (ii) a declaration or certificate shall be furnished by the Indian Importer that no amount of foreign exchange has been withheld or kept outside the invoice or bill in any foreign bank as commission, discount, bonus, consideration in whatsoever form or name in respect of its transactions or if any such amount has been received or withheld, the details thereof and the particulars of the bank in which it is held and the manner in which it will be repatriated to India.”

This declaration should find a place in the declarations to be obtained from importers, exporters and suppliers. This is because the practice of over-invoicing of imports and under invoicing of exports is widely prevalent and the detailed methods by which these practices ensure success are often camouflaged. To prevent both leakage of foreign exchange earnings and substantial loss of Government revenue, such a declaration as is contemplated above may go a long way to act as a deterrent.

5. Regarding the trading and manufacturing activities of the State Governments, a provision on the following lines may be called for:

“Provided that State Government securing increased foreign exchange earnings through development of the State’s directly owned and managed industries and trading activities may be allowed the whole or substantial part of such increased earnings for the further expansion of its industrial and trading activities.”

This is necessary because the State Governments and State industries should be given special incentives for increasing the foreign exchange earnings by utilisation of increased foreign exchange earnings and by allowing them to use in their sole discretion considerably greater portion of the foreign exchange earned than that allowed to the foreign owned manufacturing units. The foreign exchange earnings and their utilisation by the State Governments, should also be brought within the audit scrutiny and reporting of the Auditor General to the Public Accounts Committee.

Mysore State is an example with the Mysore Government’s foreign exchange earnings through its manufacture of sandal oil, soap, electric equipment, tobacco, silk, agarbatties, crafts etc.

6. Auditor General—responsibility:

In addition to the scrutiny provided in the Bill so far, scrutiny of certificates, and the amount of foreign exchange earnings on the invoices and bills, should also be entrusted to the responsibility of the Auditor-General as a statutory duty. The Auditor-General may arrange for such test audit and verification by his independent staff in such manner as he may prescribe and he should specifically report the result of his findings in his annual report to the Public Accounts Committee of Parliament. This independent audit scrutiny and reporting would be in addition to the functional responsibilities now laid in this behalf on the Reserve Bank of India and the Ministries with Customs and Trade departments.

NEW DELHI;
April 16, 1973.

H. S. NARASIAH.

III

The Statement of Objects and Reasons dated 18-8-72 published with the draft Bill claims for the Bill "the need for regulating among other matters, the entry of foreign capital in the form of branches and concerns with substantial non-resident interest in them, the employment of foreigners in India etc."

2. The Committee had also before it the Report of the Study Team appointed by Government and published in June 1971 entitled "Leakage of Foreign Exchange through invoice manipulation". That report estimated the leakage at about Rs. 240|- crores per year. (Some other sources consider this an under estimate, and taking into account the heavy smuggling which also goes on especially in gold and silver, estimate that the Treasury is deprived to the tune of not less than Rs. 1,000|- crores a year in foreign exchange).

3. The detailed report of the Law Commission (the 47th Report), on the "Trial and Punishment of Social and Economic Offences", received in April, 1972 was also before the Committee. That report stressed the seriousness of offences relating to foreign exchange and the need to effectively punish these offenders in the very interests of society.

4. I regret to say that the Bill as finally adopted has failed to implement the promise of really regulating and controlling the entry and the operations of foreign capital. If anything, a fresh lease of life has been granted to foreign capital and its depredations. The Bill confers statutory recognition to extensive and harmful collaboration with foreign capital.

5. There is no doubt that the exchequer is swindled to the extent of several hundreds of crores of rupees. A firm control and elimination of this colossal plunder is of inestimable value for strengthening our economy, and for giving relief to the poorer sections of our population. The mass of evidence, oral and documentary before the Committee made it clear that it is only big vested interests, monopoly business houses, big exporters and importers who alone have the occasion and opportunity to deal with foreign exchange and foreign remittances in a big way—

from the very nature and scope of their business. And extremely stringent measures were called for to watch every one of their operations in detail and to plug every possible loophole to see that our people and the Government are not defrauded in any way. I regret to say that in this respect again the Bill as finally adopted is not likely to prevent a substantial leakage of foreign exchange.

6. Many chambers of commerce, big business houses, commercial interests and export and import merchants, addressed detailed memoranda to the Committee and also gave oral evidence. It is not without significance that most of them welcomed the move of the Government in bringing forward this Bill but one and all of them were concerned to dilute the provisions of the Bill as much in their favour as possible. In this they have also succeeded to an extent. They were almost universal in their complaint about undue concentration of powers and rights of control in the Reserve Bank.

7. As against this, the Reserve Bank Employees Association in their two detailed memoranda as well as in their oral evidence pointed out that the centralised powers of the Reserve Bank were not being properly enforced, and that the check-up by the R.B.I. has to be even more strict. They also made many valuable and constructive suggestions to plug the loopholes in the leakage of foreign exchange. It is a matter for regret that the Joint Committee has rejected out of hand all their suggestions and has not considered or accepted even a single proposal of theirs.

8. I am detailing below my main criticisms and suggestions on the basis of which I am voicing my reservations and dissent to this Bill as finally amended and the Report of the Joint Committee:—

(i) *Inroads of Foreign Capital:*

The concept of "control" by a "non-resident" in the business here, (as per the old Act of 1947), has now been substituted by the test of percentage of holding.

In several sections, the present Bill regards as "Control by a non-resident" only if "*the non-resident interest is more than 40 per cent.*"

It is our experience that any foreigner with 40 per cent interest in a company here can surely control it. If it is even a concentrated block of 20 per cent such a block can dominate the company.

After 25 years of independence it is pointless and harmful to allow any foreign capital whatever to operate here. It will do so only to the detriment of our economy.

Now it is blatantly urged that foreign capital can freely participate up to 40 per cent in a concern here and it will not be treated as the capital of a non-resident. Statutory recognition is accorded to such extensive co-operation with foreign capital.

This should not be allowed at all. An amendment to allow at least not more than 10 per cent or 15 per cent of foreign capital did not also find favour with the Committee. This participation of foreign capital covers one of the important sources of the leakage of foreign exchange.

This does not mean that we cannot take loans on reasonable interest and on our terms from other countries for the needs of our economy. But where is the need to allow foreign capital to continue to exploit us, and even to recognise it by a statute?

(ii) *Ceiling on Repatriation of Profits:*

By way of dividends, commissions, Head-Office expenses, royalty, know-how and several other heads, enormous amounts are taken away in foreign exchange. There must be a ceiling on this exploitation. Total annual remittances by way of all such dividends, charges etc. should not exceed 15 per cent of the equity capital. Similarly, Head Office expenses, charging the commission twice over once here and once again in the foreign country, solatium for brand names etc. should all be stopped.

(iii) No foreign citizen or foreign concern should be permitted in trading or commercial activities in basic and strategic sectors of production as also in plantations and high-yielding industries. Where tea, coffee or other plantations exclusively or substantially owned by non-residents are sought to be sold to residents, they must be acquired instead by the Government and may be handed over to a State Corporation.

(iv) Neither the Government of India nor the Reserve Bank of India should have the power to permit the appointment of foreigners for assignments which can be adequately filled by citizens of India.

(v) The exclusion of banking companies as per some provisions of the Bill cannot be sustained. Especially strict in this matter should be the attitude to foreign banks till they are nationalised.

The bulk of our foreign exchange transactions are handled by foreign banks here. Foreign business concerns operate through these banks. For big Indian concerns having offices abroad as well, these banks are in an advantageous position. This is a wide area of vulnerability where deals of a collusive nature and leakage of foreign exchange cannot be ruled out. Nationalisation of all the banks is therefore imperative.

(vi) *Appointment of Banks—especially foreign Banks as dealers:*

Authorised dealers appointed by the Government or the R.B.I. are mostly the commercial banks, the indigenous and foreign ones functioning here. They go by the profit motive alone and concern for their customers and to retain their clientele. In such circumstances it is difficult for them to resist a transaction or deal even if it looks out of the way but only go by a helpful interpretation of the concerned rules. Even nationalised banks have to work only with such an atmosphere pervading all round. Therefore it is best that the Reserve Bank itself is endowed with more powers and its exchange department considerably strengthened further. The R.B.I. must not be content with formal check-up or reminders, or an examination of the head offices of the concerned bank in exchange matters, but look into their branches as well.

(vii) In this view the delegation of powers by the Reserve Bank of India to dealers and money changers as per Clause 67 of the Bill (clause 74 of the finally amended bill) is unwise and imprudent. Such powers will be delegated to commercial banks. Their present authorisation even up to now as authorised dealers does not leave room for complaint-free exchange operations. Hence the delegation of authorities of the R.B.I. to them is fraught with risk from a general point of view.

Further in the light of the Study Team's finding, instead of useful changes to check the growing menace of black market in foreign exchange and the deflection of inward remittances by adjustments through compensatory payments, this delegation will multiply centres of authority with the attendant dangers of laxity in enforcing the Act. Instead

of stricter control, decentralisation with its consequences is opened up by the Bill now.

(viii) *Control of Monopoly Houses:*

Bearing in mind the study team's warning that collusive deals between the parties in India and abroad can result in leakage of foreign exchange, one must see that the chances of such collusive deals are more in cases where both the parties belong to the same group or are traditionally linked. Big business houses in India have their agents and offices in foreign countries. They are also establishing factories in foreign countries. The Bill has no provision for a special scrutiny and watch and control of operations of this specific character.

(ix) Foreign concerns and Indian business houses can and do take out large sums of money as profit, commission, royalty etc. on the basis of audit certificates given by their auditors and furnished to the R.B.I. There must be an independent investigation and audit by the R.B.I. or by any Department of Government, if not a nationalisation of audit itself in such cases, to plug all loopholes of leakage.

(x) *The Role of Foreign Banks is very vital:*

They deal in transactions involving millions of foreign exchange. These institutions, interested in the nationals and big business interests of their own countries work here as custodians of foreign and imperialist interests. Delegation of R.B.I. powers to them is fraught with disastrous consequences for our country.

(xi) The Study Team says that one fourth of the loss of exchange is due to under-invoicing of exports and over-invoicing of imports. The Team's report as well as several instances placed before the Committee in information documents reveals how malpractices and frauds are perpetuated. These can be ended only by the Nationalisation of Export and Import Trade.

(xii) Attempts at stabilisation of the exchange rate of the rupee, greater scrutiny of the foreign travels of representatives of big business houses and commercial concerns, further steps against the smuggling of gold, silver and other articles are all cognate subjects without attending to which any Bill on Foreign Exchange alone can easily be defeated.

(xiii) There must be provision in the Bill itself for the registration of all contracts, even at the outset, on consignment basis, with the R.B.I. So too in all cases of Imports Exchange Control, a copy of the Bill of Entry duly signed by the Customs authorities should be submitted to the authorised dealers for immediate transmission to the R.B.I.

(xiv) The Bill also is defective in that it does not provide for check-up on the implementation of the Act. For this purpose:—

(a) At the end of each quarter some coordinating action jointly by the I.T.C., Customs, and R.B.I. authorities should be undertaken as to the value of the import licences issued, value of imports made and remittances made.

(b) To ensure that the control, which should be centralised in the Reserve Bank (as has not been effectively done in this Bill), is not loose but is strictly and properly implemented quarterly reports of the R.B.I. on all steps taken by it in transactions involving foreign exchange must be placed before Parliament or of a Committee thereof for scrutiny and approval.

(xv) To plug leakages in imports the following new clause should also have been added to the Bill:—

“Payment for imports of the following categories should not be made without the prior approval of the R.B.I.:—

- (a) Imports made without a special authorisation i.e. an import licence by the appropriate authority.
- (b) Imports made against an import licence with a face value of say, Rs. 50,000|- and above.”

(xvi) Provision must be made in the Bill for compulsory registration of contracts or other arrangements for *purchase* of goods, with the Reserve Bank.

9. While there has been an attempt due to the pressure of public opinion and views expressed in Parliament to apparently come forward with a new measure for controlling the leakage of foreign exchange, one cannot help feeling after reading through the entire Bill that the situation will continue much as before with the present big vested interests being able to circumvent the law and with the present bureaucratic set-up not being the adequate machinery to enforce strict compliance with the legal provisions.

10. It is, therefore, not an accident that much of the old Act of 1947 is repeated. Out of the total 81 clauses of the new Bill, about 57 clauses are taken mostly verbatim from the old Act (with very minor alterations in a very few of them). Of the remaining 24 about 10 clauses relate to procedural matters or offences and penalties. The few changes actually made accord a status to foreign capital and foreign collaboration in our economy, the big monopoly houses will enjoy more or less the *status quo* privileges, the powers of control are decentralised rather than firmly centralised and made effective through an institution like the Reserve Bank of India on behalf of the Government, and even suggestions or recommendations of the Study Team or of the Law Commission have not been fully carried out.

11. Does this Bill make a complete departure from the policy hitherto pursued of conniving at the looting of foreign exchange by unscrupulous anti-national elements among Indian businessmen and industrialists and foreign capitalists? It does not. Without a change in the bureaucratic set up too, any law will only remain on paper.

12. On the face of it and by its statement of Objects and Reasons the Bill wishes to control the foreign exchange operations of the foreign capitalists and not so much the invoice manipulations in Export and Import of our indigenous big exploiters. Several clauses show this. But Banking Companies are excluded. There is an attempt to give greater powers to the R.B.I. with a view to the above. But the leakage so far was not because of absence of powers with the R.B.I. but a laxity in implementing them to the letter.

13. The foreign exchange loot had become a scandal. Naturally steps taken to end it should be welcome. The Government has taken some new powers as well, to act against the drain by foreign concerns. But the action of the Government is not likely to be thorough going. Our capitalists naturally resent the foreign competitors but they are not for fighting them out outright. May be the powers assumed in the Bill will be utilised in the economic conflict already there to drive a hard bargain for our big business. How else is one to explain the statutory sanction

in this very Bill for a 40 per cent participation of foreign capital in collaboration here? Why is there no provision to put even a ceiling of 10 per cent or 15 per cent on the repatriation of profits by foreigners?

14. I feel that the real purpose of the Bill will be served and the interests of the country protected only if the suggestions set out in this minute of dissent are considered by Government and enacted into law either through this Bill or through other appropriate enactments ensuring the success of this measure.

NEW DELHI;

M. R. VENKATARAMAN.

April 12, 1973.

IV

I give herebelow my note of dissent.

Points in the main:

The activities of the foreign banks, which are the kingpins of inflow and outflow of foreign exchange, have been left out of the purview of the bill without any rhyme or reason. The Government not only did not nationalise them, but it seems they are unwilling even to put any control on their activities inspite of the fact that they have a big hand in the existing malpractices that are there. Even our public sector Corporations do have large scale dealings with the foreign banks.

2. The recommendations have completely failed to highlight the widespread and growing malpractices in the matter of draining out our scarce foreign exchange resources that are prevalent.

3. The recommendations do not bring to light different methods that are being adopted at the present moment under the very nose of the RBI and the Ministry of Finance (Economic Affairs Wing). On the contrary there is constant effort to underplay and under-estimate the dangerous malpractices that are and that are going to continue and the exclusion of foreign banks will now give them more liberty in practising them to a far greater degree.

4. Attempts are slapdash and half hearted in that, the issues have not been pinpointed and the RBI have not been given clear and specific mandate with regard to their dealings with such offences. The RBI has several powers under the existing Act. But in spite of that because of their lack of effective and adequate application the situation has continuously deteriorated.

5. The Bill referred to the Joint Committee will hardly achieve any desired objective towards conservation of foreign exchange. Accepted amendments are of more technical character and it will hardly bring any change on the basic character of the proposed legislation. It was essential to make a thorough and deep study of the evils, identify the problems and then to suggest proper remedies. This was not done. From what the Law Commission spokesman said I could make out that the Government or its assigned institutions had hardly any intention of going deep into the matter. In fact they dwelt on the surface and applied their mind more to the legalistic aspect rather than real preventive measures. As a result the recommendation has become more or less a purposeless piece of document.

6. The Government Committee (Kaul Committee) grossly underestimated the leakage in foreign exchange in that it said that it is to the extent of 240 crores rupees whilst it is almost universally accepted the

amount is near about Rs. 1000 crores a year. The well known Economic and Political Weekly of Bombay had written that the leakage would not be below Rs. 450 crores to Rs. 500 crores per annum. Apart from this, if I have read their mind correctly the gold and other items smuggled into the country is estimated in the trade channel at around 300 to 400 crores of rupees a year.

7. The RBI with a big set up has not only failed to prevent the much prevalent malpractices of under invoicing and over invoicing which are growing every day, they have been failed to arrest deterioration in this sphere. The RBI has even gone to the extent of legalising illegal remittances which is of great deep concern to us. Most of the foreign controlled banks including their branches have already remitted amounts which are far in excess of their original imported capital. There is no restriction on the quantum of money to be remitted under various genuine and cooked up heads like royalties, profits, capitalised value of trade marks, head office and administrative expenses, technical fees etc. etc. The present recommendation, I feel, will not help in curbing these evils.

8. In the recommendation for the proposed legislation more powers have been given to the authorities, but I am positive they will be seldom put to use effectively; because of lack of clear cut guidelines and mandates. The efforts here will yield little or no result. As for example clause 76 lays down some blanket provisions. But it lacks in a provision which will make it mandatory for the authorities to apply the law rigidly and fully in the interest of conservation of foreign exchange for the country.

9. In another amendment to clause 8 (sub-clause 4), recommendations have been made to prevent over invoicing in imports. I remember the question of under invoicing of imports of productive machineries by foreign controlled companies in India are also posing a problem. Recommendations have been silent on that. Moreover, they have not touched the basic issue i.e. detection through physical checks and verifications at ports of shipment of items of export and import. The Kaul Committee had recommended for establishment of a valuation cell. I fail to understand why the Committee has bye-passed this useful piece of suggestion. The recommendation preferred to loose sight of the fact that in one case of over invoicing of raw hides as highlighted by PAC's report was to the tune of 1100 per cent.

Clause 28 (original clause 26) and clause 30 (original clause 28)

10. Here necessary provisions should have been clearly included to restrict the employment of foreign nationals unless the person was a much wanted highly technically skilled person. While approving such appointments of foreigners, the RBI should have a clear cut guideline in the matter of fixation of salaries, commissions, perquisites etc. The parity ratio between the highest paid and the lowest paid employees in the company must also be given the consideration. Instances are in abundance where the foreign nationals have been imported by certain companies despite the availability of suitable talent from our own country.

11. Amendments incorporated in the recommendation include clauses 26, 28, 29 and 31 (original clauses 25, 26, 27 and 29). The expression 40

per cent or more has been changed to 'more than 40 per cent'. In the recommendation it has been felt that it is consistent with the present policy of the Government not to allow fresh foreign equity participation in excess of 40 per cent or more except in exceptional circumstances. But what about hundreds of companies already floated with more than 50 per cent foreign equity participation? In the original bill a foreign controlled company was defined as a company with 40 per cent or more foreign equity participation. The amendments recommended by the Committee will not lead to any change in the said definition. It is known to every one that the foreigners with 10 per cent or more equity participation are today in a position to establish effective control over the operation of a Company. So the contemplated enactment as I can read, will leave out a large number of companies with effective foreign control if it is left at what it is today.

12. Now in this context I must state that I am unable to lose sight of certain basic problems that surround us today. The remedy to undo the deeprooted evils which are eating into the vitals of the country, (a process which leads into loss of wealth for ever for the country), piecemeal, half hearted measures will be totally inadequate.

13. Only a bold blanket action would prove to be successful. I am certain that unless the entire international financial dealings are nationalised, the evil can be hardly checked. I am mindful of the fact that this is outside the scope of the proposed enactment. However I reiterate what I have said previously that it is absolutely essential that foreign banks (authorised dealer) should be brought under the purview of this enactment. The Reserve Bank should have no power to appoint foreign banks or foreign nationals to act as authorised money changers and foreign exchange dealers.

14. The present definition of foreign controlled company is against the interest of the country. Any company having 15 per cent or more equity participation should be termed as a foreign controlled company. Moreover, the Government must seriously take into consideration as to who are actually controlling the business of the company. There are circumstances where foreigners with a very meagre equity holding are controlling the Indian rupee share holders' business without any hindrance. To prevent drainage of foreign exchange, financial collaborations with foreigners should be totally banned. Technical collaboration, however, in the genuine priority sector where technical know-how is not really available in the country, foreign participation can be allowed for a very limited length of time. Product of such collaborated companies should enjoy full freedom in the field of export and import. The Government of course, without exceptions should have a final say in the matter. There should be a rigidly applicable maximum ceiling on the quantum of royalty on technical knowhow etc. Under no circumstances it should exceed a maximum 5 per cent of the labour cost.

15. Use of the international brand names, capitalisation of trade marks etc. should be banned. The only alternative to that should be, for the time being, the owners of the international brand names and patents should be totally prohibited from deriving any financial benefit from such brand names and patents. Remittances on account of Head Office expenses, administration charges etc. etc. should be totally prohibited. Profit remittances for the time being should be allowed only on depreciated

value of the initial capital brought by a foreign company for investment in India. Here also there should be a ceiling on remittances which should not exceed 10 per cent of the actual initial foreign capital brought in foreign exchange. They should not be allowed to avail of funds from term financing institutions and nationalised bank.

16. Foreign companies should be strictly prohibited from diversifying their business to non-priority sectors. It may be mentioned here that this issue comes under the purview of Ministry of Industrial development. But since the whole issue is inter-related, I feel that it should be mentioned here.

Transfer of properties and assets originally belonging to non residents should go through strictest scrutiny, and in any case of under valuation or over valuation the Government should have legal authority to freeze the ownership of the same.

17. With my political affiliation and belief I hardly expect that the present Government with its class character will adopt any measure which will really hinder the interests of the monopolists which include foreign controlled ones also. I have signed the report because that I had to do so as a member, but it should be clearly understood that this note of dissent of mine should be read alongwith that.

NEW DELHI;
April 16, 1973.

JYOTIRMOY BOSU.

V

Drain of foreign exchange is really a matter of great concern. Every attempt to plug loopholes incurring loss of foreign exchange must be made. But in this anxiety, law should not take a form, which may itself cut the roots of export trade, or may create a scare in the minds of bona-fide foreign industrialists (who of course want to make profits for their own, but also add to our Nation's industrial and technological progress) and hamper industrial growth of our nation.

To earn money by illegal means cannot be a monopoly of a particular class say traders, industrialists or businessmen. The executive machinery is in most of the cases hands in gloves with these unlawful earners (I do not mean that all the traders, industrialists, businessmen or members of bureaucratic machinery are doing malpractices). In most of the cases, right from under-invoicing or over-invoicing to smuggling, the object is achieved by cooperations of several such classes—particularly some of the officials and executive machinery—unfortunately the role of bureaucracy in India is also causing great concern—corruption is getting on rampant, exploitation of one's own office is now a matter of common knowledge.

Law has, therefore, to be more strict and deterrent while dealing with executive machinery also—as it has to be against the common man, and hence I had moved an amendment in original clause 52 (new clause 58) providing imprisonment also to the defaulters. It is rather strange that even in *malafide* actions, the bill does not want to provide stringent punishment—in fact it is more heinous a crime to misuse|abuse executive power with malintention—I am sorry, Committee did not accept it.

It is true that with the changes in society, common law is also changing steadily. Increasing responsibilities of the State, for maintenance of crucial standards, to ensure proper functioning of a modern industrialised and urbanised society, require some revolutionary changes in the existing law. But what should and what could be done has to be determined with great care.

The deviation from the principle of *mens-rea* is acceptable only in case is "Administrative penal Law" or "Public Welfare" offences, where in most of the cases, fine is imposed. These offences, though go as "criminal offences" are essentially of a different character from the criminal offences based on individual wrong-doing.

Even without going into the details as to what are economic offences, and what are socio-economic offences, or other offences as mentioned in penal code.....all of them are offences against the society—and punishments are provided depending upon the balance of values of the particular society. But in all cases where a severe penalty is provided as of imprisonment, does require proof of individual guilt.

This is so mostly all over the world and particularly in all developed countries. I can have no difference in providing more stringent punishments for offences which are considered "more anti-social". But according to me, it will be ridiculous to ask an individual to prove beyond doubt that he has not done a particular act. How some positive evidence can be given of negation except ones own denial.

Laws are of course changing with the changing society but the fundamentals of administration of law cannot be done away with. I am afraid seriousness of this mis-directed change in the present Bill has not been properly considered. Even under existing Evidence Law, it will be wrong to think that burden of proof does not shift upon the accused. It does shift provided circumstances are such which in natural course of events bind the accused and require the accused to prove otherwise. In the report of the Law Commission, in chapter 3—a 'new approach' is tried to be propagated. In para 3.16 they say "concept of 'public welfare offences' be given a new dimension and extended to cover activities that affect national health or wealth on a big scale. Demands of the economic prosperity of the nation have brought into being risks of a volume and variety unheard of, and if those concerned with the transactions and activities in this field were not to observe new standards of care and conduct, vital damage will be caused to the public welfare." I am afraid this is not a correct approach because if we are to bring all offences which cover "damage to society" under Public Welfare Offences, there will hardly be any criminal act which can be left out. As submitted already above, that the 'Public Welfare Offences' have got some relationship with "Administrative Penal Law" and in such cases fine etc. and not imprisonments is the only penalty we cannot forget that for Public Welfare Offence we are creating an exception to the rule, General Rule has not and cannot be changed—*vide* L.C.R. 7.5. "It is also well-established that the burden of providing the required mental element is on the prosecution which, in accordance with the general rule applicable to criminal proceedings, is required to prove its case beyond reasonable doubt." Even in a country like Russia—which is not democratic country—prosecution has to

establish the offence. The Russian Penal Code enacts "Only a person guilty of committing a crime, that is, who intentionally or negligently commits a socially dangerous set provided for by law, shall be subject to criminal responsibility and punishment."

Therefore, I am of the clear view that wherever penalty by way of imprisonment is provided for any breach, burden is upon prosecution to prove that such a breach is and has been incurred by the offender.

Similarly in Corporations also, extent of vicarious liability cannot be extended beyond the acts which are punishable with fines, "First, a clear distinction should be made between vicarious liability of the master for acts of the servant, and imputation of the actions of a person in the employment, or acting on behalf of the corporation which are properly imputable to the latter. *Imputed liability is not vicarious, but original liability.* The principle of vicarious responsibility has been developed in the law of tort, because it has seemed socially and economically necessary to hold the master—and that is in many cases a corporation—liable *vis-a-vis* third parties for acts committed within his sphere of operations. The master is held able to recover against his servant. The law of tort is, however, concerned with the economic adjustment of burdens and risks, and the principle of *vicarious liability is applicable to the criminal law only in so far as the criminal law is approximated to the objectives of the law of tort, i.e. where the law is essentially concerned with the enforcement of certain objective standards of conduct, through the imposition of fines, rather than with the individual guilt of a person.* This points to the area of strict responsibility which is largely, though not entirely, co-extensive with the area of so-called public welfare offences. "Page 208—from *Law in a Changing Society*—By W. Friendmann. 1972 Edn." I am not in agreement to the existing provision of clause 61 of the original Bill and clause 68 of the adopted Bill.

This Bill has also not taken care of duplicity of proceedings and two, punishments for the same act. Nor it has fixed any responsibility upon the Government to simplify the whole procedure and fix the responsibilities with specific official regarding a particular matter. During the examination of official witnesses, it was noted that everybody was denying his responsibilities and was pointing simply towards other department. There appeared little coordination. When such is the confusion in the officials, one can imagine the plight of *bona-fide* people and advantages of loop-holes to the professional foreign exchange thieves.

I do want changes in the Bill, in the light of discussion made above. Particularly new clauses Nos. 26, 49, 68, 71, 72 and others be changed and Clause 59 be omitted.

NEW DELHI;
April 17, 1973.

N. K. SHEJWALKAR,
MUKHTIAR SINGH MALIK.

VI

Due to my ill-health I was not able to attend all the meetings except the last two meetings only. Therefore, I was not in a position to express my views about the provisions of this Bill. Only from the circulated papers I was able to collect facts, figures and other information regarding this Bill. I have seen the report and regret to note that I am not

able to approve the same fully. Therefore, I wish to express my views in a brief manner, point by point without any elaborate explanation, as a note of dissent. The following are some of my views regarding the substantive and procedural provisions of the Bill:

First of all, fundamentally and basically I differ with the very structure of this bill. It is not at all desirable to continue the policy of allowing fresh foreign equity participation to any extent of percentage in future in our country. Therefore, I cannot approve of the provisions to the effect of allowing foreign private capital in our country. We can allow the foreign industrial companies for manufacturing activities to a certain period in certain selected areas. We should not allow them to trade only. For this purpose some provisions in the nature of guidelines should be incorporated in the bill itself.

The powers and duties are not made clear in this bill. The exporter should have been given an opportunity by the Reserve Bank to be heard through representation or otherwise. For allowing oral representation "of being heard" should be amended as "of being heard through representation or otherwise". But it has been changed as "for making a representation". This will not serve the purpose at all. There is no provision which specifically allows oral representation. There are still different loopholes regarding under-invoicing, over-invoicing and smuggling which will entail loss of foreign-exchange. No effective provisions to check these evils are found in this Bill.

There are no sufficient provisions to check the leakage of foreign exchange arising out of tourism and appointment of foreigners etc. The economic crimes are more heinous than other crimes. Therefore drastic and deterrent provisions are necessary but the existing provisions are not so effective as they should be.

The provisions dealing with economic offences and punishments in this Bill are not clear in language and expression. There must be clear division of powers between the officers in initiating proceedings and also redressing of grievances.

NEW DELHI;

April 15, 1973.

THILLAI VILLALAN.

VII

The Bill is welcome in so far as it attempts to tighten up some of the regulations governing in-flow of foreign capital into the country and out-flow of foreign exchange. But I am constrained to say that the Bill, even as amended and approved by the Joint Committee, has not gone to the root of the malady, and the "safeguards" sought to be introduced are riddled with loopholes.

It is elementary knowledge that no really effective control over various types of leakage of foreign exchange is possible so long as the foreign commercial Banks operating in this country fall outside the net of the regulatory statute. The Bill places no restrictions, other than purely procedural ones, on the Reserve Bank's powers to authorise such foreign banks to deal in foreign exchange and foreign currency. This is, in my opinion, a major loophole in the Bill.

Secondly, while the Bill does make a welcome attempt in the Explanation (c) below sub-clause (7) of Clause 28 (Original Clause 26) to curb some of the malpractices of foreign controlled companies in India by unscrupulous use of brand names, under the fig-leaf of "processing", the Bill seems to have overlooked the danger of Indian manufacturers selling their goods outright to the foreign traders under the same foreign brand names. The least that could be done is to introduce a provision prohibiting Indian companies from selling more than, say, 10 per cent of their production to a foreign controlled company without specific permission of the Reserve Bank.

In the final analysis, however, this evil can only be stamped out by the total banning of brand names, atleast in certain most sensitive sectors which have become household words for unconscionable profiteering by foreign controlled firms with consequent heavy drainage of foreign remittances from our country. One glaring example is that of the drugs and pharmaceutical industry. Even the Government of Pakistan has recently passed a law banning the use of brand names while marketing drugs in that country, and making it compulsory to use only generic names of some 1,100 drugs and medicines prescribed under a national formulary.

If even Pakistan, which has no "socialist" pretensions can take a radical step against the foreign vested interests who have been minting profits through import and manufacture of "branded" drugs and medicines, I fail to see why India should lag behind in this respect. The present Bill does not seek at all to end brand names, but only to minimise their misuse.

Thirdly, the Bill will not effectively curb the nefarious and many sided activities of foreign controlled companies through expansion and diversification, and will not plug the channels of actual repatriations abroad. Huge sums of foreign exchange are whisked out of the country through fictitious accounting procedures which allow for so-called head office expenses, technical service charges, area office expenses, royalties, etc. which are not even liable to corporate taxes in India.

Fourthly, the problems of implementation and enforcement of the law, which are anyhow stupendous, have been made even more so by the plethora of "exemptions", provisos, condoning circumstances, etc. which abound in the Bill and will inevitably generate corrupt practices and unhealthy methods to enable the offenders to get off highly or even scot-free. These are a concession to the howl raised by certain vested interests about the danger of harassment of "innocent" persons.

It would not be surprising if, in its present form, the Bill is generally welcomed by big business.

NEW DELHI;

April 18, 1973.

INDRAJIT GUPTA.

THE FOREIGN EXCHANGE REGULATION BILL, 1972

ARRANGEMENT OF CLAUSES

CLAUSES

1. Short title, extent, application and commencement.
2. Definitions.
3. Classes of officers of Enforcement.
4. Appointment and powers of officers of Enforcement.
5. Entrustment of functions of Director or other officer of Enforcement.
6. Authorised dealers in foreign exchange.
7. Money-changers.
8. Restrictions on dealing in foreign exchange.
9. Restrictions on payments.
10. Blocked accounts.
11. Restrictions regarding assets held by non-residents.
12. Special accounts.
13. Restrictions on import and export of certain currency and bullion.
14. Acquisition by Central Government of foreign exchange.
15. Power of Central Government to direct payment in foreign currency in certain cases.
16. Duty of persons entitled to receive foreign exchange, etc.
17. Power to regulate the uses, etc., of imported gold and silver.
18. Payment for exported goods.
19. Regulation of export and transfer of securities.
20. Restrictions on payment in respect of certain securities.
21. Custody of securities.
22. Restrictions on issue of bearer securities.
23. Acquisition by Central Government of foreign securities.
24. Restriction on settlement, etc.
25. Restriction on holding of immovable property outside India.
26. Certain provisions as to companies.
27. Restrictions on persons resident in India associating themselves with or participating in concerns outside India.
28. Restrictions on the appointment of certain persons and companies as agents or technical or management advisers in India.
29. Restrictions on establishment of place of business in India.

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Bill No. 85B of 1972

THE FOREIGN EXCHANGE REGULATION BILL, 1972

(AS REPORTED BY THE JOINT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

A

BILL

to consolidate and amend the law regulating certain payments, dealings in foreign exchange and securities, transactions indirectly affecting foreign exchange and the import and export 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.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Foreign Exchange Regulation Act, 1973.

(2) It extends to the whole of India.

(3) It applies also to all citizens of India outside India and to branches and agencies outside India of companies or bodies corporate registered or incorporated in India.

(4) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,—

(a) “Appellate Board” means the Foreign Exchange Regulation Appellate Board constituted by the Central Government under subsection (1) of section 52;

(b) “authorised dealer” means a person for the time being authorised under section 6 to deal in foreign exchange;

(c) “bearer certificate” means a certificate of title to securities by the delivery of which (with or without endorsement) the title to the securities is transferable;

(d) “certificate of title to a security” means any document used in the ordinary course of business as proof of the possession or control of the security, or authorising or purporting to authorise, either by an endorsement or by delivery, the possessor of the document to transfer or receive the security thereby represented;

(e) “coupon” means a coupon representing dividends or interest on a security;

(f) “currency” includes all coins, currency notes, bank notes, postal notes, postal orders, money orders, cheques, drafts, traveller’s cheques, letters of credit, bills of exchange and promissory notes;

(g) “foreign currency” means any currency other than Indian currency;

(h) “foreign exchange” means foreign currency and includes—

(i) all deposits, credits and balances payable in any foreign currency, and any drafts, traveller’s cheques, letters of credit and bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency,

(ii) any instrument payable, at the option of the drawee or holder thereof or any other party thereto, either in Indian currency or in foreign currency or partly in one and partly in the other;

(i) “foreign security” means any security created or issued elsewhere than in India, and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in India;

(j) “gold” includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not, and jewellery or articles made wholly or mainly of gold.

Explanation.—Any jewellery or article which contains gold shall be deemed to be made wholly or mainly of gold, if the value of the gold contained therein exceeds such percentage (not being below forty per cent.), as the Reserve Bank may, from time to time, notify in the Official Gazette, of the value of such jewellery or article;

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(k) "Indian currency" means currency which is expressed or drawn in Indian rupees but does not include special bank notes and special one-rupee notes issued under section 28A of the Reserve Bank of India Act, 1934;

2 of 1934.

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(l) "Indian customs waters" means the waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of India and includes any bay, gulf, harbour, creek or tidal river;

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(m) "money-changer" means a person for the time being authorised under section 7 to deal in foreign currency;

(n) "overseas market", in relation to any goods, means the market in the country outside India and in which such goods are intended to be sold;

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(o) "owner", in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, and who has any interest therein, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys;

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(p) "person resident in India" means—

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(i) a citizen of India, who has, at any time after the 25th day of March, 1947, been staying in India, but does not include a citizen of India who has gone out of, or stays outside, India, in either case—

(a) for or on taking up employment outside India, or

35

(b) for carrying on outside India a business or vocation outside India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

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(ii) a citizen of India, who having ceased by virtue of paragraph (a) or paragraph (b) or paragraph (c) of sub-clause (i) to be resident in India, returns to, or stays in, India, in either case—

(a) for or on taking up employment in India, or

45

(b) for carrying on in India a business or vocation in India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

(iii) a person, not being a citizen of India, who has come to, or stays in, India, in either case—

(a) for or on taking up employment in India, or

(b) for carrying on in India a business or vocation in India, or

(c) for staying with his or her spouse, such spouse being a person resident in India, or

(d) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

(iv) a citizen of India, who, not having stayed in India at any time after the 25th day of March, 1947, comes to India for any of the purposes referred to in paragraphs (a), (b) and (c) of sub-clause (iii) or for the purpose and in the circumstances referred to in paragraph (d) of that sub-clause or having come to India stays in India for any such purpose and in such circumstances.

Explanation.*—A person, who has, by reason only of paragraph (a) or paragraph (b) or paragraph (d) of sub-clause (iii) been resident in India, shall, during any period in which he is outside India, be deemed to be not resident in India;

(q) "person resident outside India" means a person who is not resident in India;

(r) "precious stone" includes pearl and semi-precious stone and such other stone or gem as the Central Government may, for the purposes of this Act, notify in this behalf in the Official Gazette;

(s) "prescribed" means prescribed by rules made under this Act;

(t) "Reserve Bank" means the Reserve Bank of India;

(u) "security" means shares, stocks, bonds, debentures, debenture stock, Government securities as defined in the Public Debt Act, 1944, savings certificates to which the Government Savings Certificates Act, 1959 applies, deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts and includes certificates of title to securities, but does not include bills of exchange or promissory notes other than Government promissory notes;

(v) "silver" includes silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in India or elsewhere and jewellery or articles made wholly or mainly of silver;

(w) "transfer", in relation to any security, includes transfer by way of loan or security.

3. There shall be the following classes of officers of Enforcement, namely:—

- (a) Directors of Enforcement;
- (b) Additional Directors of Enforcement;
- 5 (c) Deputy Directors of Enforcement;
- (d) Assistant Directors of Enforcement; and
- (e) such other class of officers of Enforcement as may be appointed for the purposes of this Act.

Classes of officers of Enforcement.

10 4. (1) The Central Government may appoint such persons as it thinks fit to be officers of Enforcement.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may authorise a Director of Enforcement or an Additional Director of Enforcement or a Deputy Director of Enforcement or an Assistant Director of Enforcement to appoint officers of Enforcement 15 below the rank of an Assistant Director of Enforcement.

Appointment and powers of officers of Enforcement.

(3) Subject to such conditions and limitations as the Central Government may impose, an officer of Enforcement may exercise the powers and discharge the duties conferred or imposed on him under this Act.

20 5. The Central Government may, by order and subject to such conditions and limitations as it thinks fit to impose, authorise any officer of customs or any Central Excise Officer or any police officer or any other officer of the Central Government or a State Government to exercise such of the powers and discharge such of the duties of the Director of Enforcement or any other officer of Enforcement under this Act as may be specified 25 in the order.

Entrustment of functions of Director or other officer of Enforcement.

6. (1) The Reserve Bank may, on an application made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section shall be in writing and—

30 (i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only;

(ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only;

(iii) may be granted to be effective for a specified period, or within specified amounts;

35 (iv) may be granted subject to such conditions as may be specified therein.

(3) Any authorisation granted under sub-section (1) may be revoked by the Reserve Bank at any time if the Reserve Bank is satisfied that,—

(i) it is in the public interest to do so; or

40 (ii) the authorised dealer has not complied with the conditions subject to which the authorisation was granted or has contravened any of the provisions of this Act or of any rule, notification, direction or order made thereunder:

Authorised dealers in foreign exchange.

45 Provided that no such authorisation shall be revoked on the ground specified in clause (ii) unless the authorised dealer has been given a reasonable opportunity for making a representation in the matter.

(4) An authorised dealer shall, in all his dealings in foreign exchange and in the exercise and discharge of the powers and of the functions delegated to him under section 74, comply with such general or special directions or instructions as the Reserve Bank may, from time to time, think fit to give, and, except with the previous permission of the Reserve Bank, an authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section. 5

(5) An authorised dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rule, notification, direction or order made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Reserve Bank. 10 15

Money-changers.

7. (1) The Reserve Bank may, on an application made to it in this behalf, authorise any person to deal in foreign currency. 20

(2) An authorisation under this section shall be in writing and—

(i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only;

(ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only; 25

(iii) may be granted with respect to a particular place where alone the money-changer shall carry on his business;

(iv) may be granted to be effective for a specified period, or within specified amounts; 30

(v) may be granted subject to such conditions as may be specified therein.

(3) Any authorisation granted under sub-section (1) may be revoked by the Reserve Bank at any time if the Reserve Bank is satisfied that—

(i) it is in the public interest to do so; or 35

(ii) the money-changer has not complied with the conditions subject to which the authorisation was granted or has contravened any of the provisions of this Act or of any rule, notification, direction or order made thereunder:

Provided that no such authorisation shall be revoked on the ground specified in clause (ii) unless the money-changer has been given a reasonable opportunity for making a representation in the matter. 40

(4) The provisions of sub-sections (4) and (5) of section 6 shall, in so far as they are applicable, apply in relation to a money-changer as they apply in relation to an authorised dealer. 45

Explanation.—In this section, “foreign currency” means foreign currency in the form of notes, coins or traveller’s cheques and “dealing” means purchasing foreign currency in the form of notes, coins or traveller’s cheques or selling foreign currency in the form of notes or coins.

8. (1) Except with the previous general or special permission of the Reserve Bank, no person other than an authorised dealer shall in India, and no person resident in India other than an authorised dealer shall outside India, purchase or otherwise acquire or borrow from, or sell, or otherwise transfer or lend to or exchange with, any person not being an authorised dealer, any foreign exchange:

Restric-
tions on
dealing in
foreign
exchange

Provided that nothing in this sub-section shall apply to any purchase or sale of foreign currency effected in India between any person and a money-changer.

10 *Explanation.*—For the purposes of this sub-section, a person, who deposits foreign exchange with another person or opens an account in foreign exchange with another person, shall be deemed to lend foreign exchange to such other person.

15 (2) Except with the previous general or special permission of the Reserve Bank, no person, whether an authorised dealer or a money-changer or otherwise, shall enter into any transaction which provides for the conversion of Indian currency into foreign currency or foreign currency into Indian currency at rates of exchange other than the rates for the time being authorised by the Reserve Bank.

20 (3) Where any foreign exchange is acquired by any person, other than an authorised dealer or a money-changer, for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply
25 with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or the conditions cannot be complied with, the said person shall, within a period of thirty days from the date on which he comes to know that such foreign exchange cannot be so used or the conditions cannot be complied with,
30 sell the foreign exchange to an authorised dealer or to a money-changer

(4) For the avoidance of doubt, it is hereby declared that where a person acquires foreign exchange for sending or bringing into India any goods but sends or brings no such goods or does not send or bring goods of a value representing the foreign exchange acquired, within a reasonable
35 time or sends or brings any goods of a kind, quality or quantity different from that specified by him at the time of acquisition of the foreign exchange, such person shall, unless the contrary is proved, be presumed not to have been able to use the foreign exchange for the purpose for which he acquired it or, as the case may be, to have used the foreign
40 exchange so acquired otherwise than for the purposes for which it was acquired.

(5) Nothing in this section shall be deemed to prevent a person from buying from any post office, in accordance with any law or rules made thereunder for the time being in force, any foreign exchange in the form
45 of postal orders or money orders.

Restrictions on payments.

9. (1) Save as may be provided in and in accordance with any general or special exemption from the provisions of this sub-section which may be granted conditionally or unconditionally by the Reserve Bank, no person in, or resident in, India shall—

(a) make any payment to or for the credit of any person resident outside India; 5

(b) receive, otherwise than through an authorised dealer, any payment by order or on behalf of any person resident outside India.

Explanation.—For the purposes of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorised dealer) without a corresponding inward remittance from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorised dealer; 10 15

(c) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person resident outside India;

(d) make any payment to, or for the credit of, any person by order or on behalf of any person resident outside India; 20

(e) place any sum to the credit of any person resident outside India;

(f) make any payment to, or for the credit of, any person or receive any payment for, or by order or on behalf of, any person as consideration for or in association with,— 25

(i) the receipt by any person of a payment or the acquisition by any person of property outside India,

(ii) the creation or transfer in favour of any person of a right (whether actual or contingent) to receive payment or acquire property outside India; 30

(g) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person as consideration for or in association with any matter referred to in clause (f). 35

(2) Nothing in sub-section (1) shall render unlawful—

(a) the making of any payment already authorised either with foreign exchange obtained from an authorised dealer or a money-changer under section 8 or with foreign exchange retained by a person in pursuance of an authorisation granted by the Reserve Bank; 40

(b) the making of any payment with foreign exchange received by way of salary or payment for services not arising from any business in, or anything done while in, India. 45

(3) Save as may be provided in, and in accordance with, any general or special exemption from the provisions of this sub-section, which may be granted conditionally or unconditionally by the Reserve Bank, no person shall remit or cause to be remitted any amount from any foreign country into India except in such a way that the remittance is received in India only through an authorised dealer. 50

(4) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this Act.

(5) For the purposes of this section and section 19, "security" includes 5 coupons or warrants representing dividends or interest and life or endowment insurance policies.

10 (1) Where an exemption from the provisions of section 9 is granted by the Reserve Bank in respect of payment of any sum to any person resident outside India and the exemption is made subject to the condition that the payment is made to a blocked account—

Blocked
accounts.

(a) the payment shall be made to a blocked account in the name of that person in such manner as the Reserve Bank may by general or special order direct;

15 (b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by the Reserve Bank.

20 (3) In this section, "blocked account" means an account opened, whether before or after the commencement of this Act, as a blocked account at any office or branch in India of a bank authorised in this behalf by the Reserve Bank, or an account blocked, whether before or after such commencement, by order of the Reserve Bank.

25 11. Where the Reserve Bank considers it necessary or expedient in the public interest so to do in respect of any asset in India held by or accruing to or transferred to or to be transferred to, either a person resident outside India or a person intending to become resident outside India, it may impose a condition that the said asset shall not be transferred, assigned, pledged, charged or dealt with in any manner whatsoever except in accordance with any general or special permission, 30 which may be granted conditionally or otherwise, by the Reserve Bank.

Restrictions re-
garding
assets
held
by non-
residents.

35 12. (1) Where in the opinion of the Central Government it is necessary or expedient to regulate payments due to persons resident in any territory, the Central Government may, by notification in the Official Gazette, direct that such payments or any class of such payments shall be made only into an account (hereafter in this section referred to as a special account) to be maintained for the purpose by the Reserve Bank or an authorised dealer specially authorised by the Reserve Bank in 40 this behalf.

Special
accounts

(2) The credit of a sum to a special account shall, to the extent of the sum credited, be a good discharge to the person making the payment:

45 Provided that where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being * * authorised by the Reserve Bank.

(3) The sum standing to the credit of any special account shall, from time to time, be applied—

(a) where any agreement is entered into between the Central Government and the Government of the territory to which the aforesaid notification relates, for the regulation of payments between persons resident in India and in that territory, in such manner as the Reserve Bank, having regard to the provisions of such agreement, may direct, or

(b) where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the Central Government may direct, debts due from the persons resident in the said territory to persons resident in India or in such other territories as the Central Government may by order specify in his behalf.

Restrictions on import and export of certain currency and bullion.

13. (1) The Central Government may, by notification in the Official Gazette, order that, subject to such exemption, if any, as may be specified in the notification, no person shall, except with the general or special permission of the Reserve Bank and on payment of the fee, if any, prescribed, bring or send into India any gold or silver or any foreign exchange or any Indian currency.

Explanation.—For the purposes of this sub-section, the bringing or sending into any port or place in India of any such article as aforesaid intended to be taken out of India without being removed from the ship or conveyance in which it is being carried shall nonetheless be deemed to be a bringing, or, as the case may be, sending, into India of that article.

(2) No person shall, except with the general or special permission of the Reserve Bank or the written permission of a person authorised in this behalf by the Reserve Bank, take or send out of India any gold, jewellery or precious stones or Indian currency or foreign exchange other than foreign exchange obtained by him from an authorised dealer or from a money-changer.

Acquisition by Central Government of foreign exchange.

14. The Central Government may, by notification in the Official Gazette, order every person in, or resident in, India—

(a) who owns or holds such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered, for sale to the Reserve Bank on behalf of the Central Government or to such person, as the Reserve Bank may authorise for the purpose, at such price as the Central Government may fix, being a price which is not less than the price calculated at the rate of exchange for the time being authorised by the Reserve Bank;

(b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the Reserve Bank on behalf of the Central Government on payment of such consideration therefor as the Central Government may fix having regard to the rate for the time being authorised by the Reserve Bank in pursuance of sub-section (2) of section 8 for conversion into Indian currency of the foreign currency in which such foreign exchange is expressed:

Provided that the Central Government may, by the said notification or by a separate order, exempt any person or class of persons from the operation of the order made in the said notification:

5 Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer or from a money-changer and retained by him with the permission of the Reserve Bank for any purpose.

3 of 1906.
2 of 1934.

10 15. (1) Notwithstanding anything contained in the Indian Coinage Act, 1906, or in the Reserve Bank of India Act, 1934 or in any other law for the time being in force, the Central Government may, by notification in the Official Gazette, direct that every person resident outside India and who is on a visit to India shall, for discharging such of his liabilities as may be specified in the notification, make payments only in such foreign currencies as may be specified therein.

Power of Central Government to direct payment in foreign currency in certain cases.

15 (2) Where payment is required to be made under sub-section (1) in any foreign currency, the person to whom such payment is made shall receive the payment only in such foreign currency.

20 (3) The Central Government may, if it is of opinion that it is necessary or expedient in the public interest so to do, by notification in the Official Gazette, exempt any person or class of persons from the operation of the provisions of sub-section (1).

25 16. (1) No person who has a right to receive any foreign exchange or to receive from a person resident outside India a payment in rupees shall, except with the general or special permission of the Reserve Bank, do or refrain from doing anything, or take or refrain from taking any action, which has the effect of securing—

Duty of persons entitled to receive foreign exchange, etc.

(a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or

30 (b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in rupees, the Reserve Bank may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment, as the case may be.

17. The Central Government may, by notification in the Official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal of, or dealings in, gold and silver prior to, or at the time of, import into India.

Power to regulate the uses, etc., of imported gold and silver.

40 18. (1) (a) The Central Government may, by notification in the Official Gazette, prohibit the taking or sending out by land, sea or air (hereafter in this section referred to as export) of all goods or of any goods or class of goods specified in the notification from India directly or indirectly to any place so specified unless the exporter furnishes to the prescribed authority a declaration in the prescribed form supported by
45 4091 (B) LS—7.

Payment for exported goods.

such evidence as may be prescribed or so specified and true in all material particulars which, among others, shall include the amount representing—

(i) the full export value of the goods; or

(ii) if the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in the overseas market,

and affirms in the said declaration that the full export value of the goods (whether ascertainable at the time of export or not) has been, or will within the prescribed period be, paid in the prescribed manner.

* * * * *

(b) If the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, specify any goods, from among those goods to which a notification under clause (a) applies, and direct that in respect of the goods so specified, where an exporter makes a declaration under sub-clause (ii) of clause (a) of the value which he, having regard to the prevailing market conditions expects to receive on the sale of such goods in the overseas market, he shall not, except with the permission of the Reserve Bank on an application made to the Reserve Bank by the exporter in this behalf, authorise or permit or allow or in any manner be a party to, the sale of such goods for a value less than that declared:

Provided that no permission shall be refused by the Reserve Bank under this clause unless the exporter has been given a reasonable opportunity for making a representation in the matter:

Provided further that where the exporter makes an application to the Reserve Bank for permission under this clause and the Reserve Bank does not, within a period of twenty days from the date of receipt of the application, communicate to the exporter that permission applied for has been refused, it shall be presumed that the Reserve Bank has granted such permission.

Explanation.—In computing the period of twenty days for the purposes of the second proviso, the period, if any, taken by the Reserve Bank for giving an opportunity to the exporter for making a representation under the first proviso shall be excluded.

(2) Where any export of goods, to which a notification under clause (a) of sub-section (1) applies, has been made, no person shall, except with the permission of the Reserve Bank, do or refrain from doing anything, or take or refrain from taking any action, which has the effect of securing—

(A) in a case falling under sub-clause (i) or sub-clause (ii) of clause (a) of sub-section (1),—

(a) that payment for the goods—

(i) is made otherwise than in the prescribed manner, 45
or

(ii) is delayed beyond the period prescribed under clause (a) of sub-section (1), or

(b) that the proceeds of sale of the goods exported do not represent the full export value of the goods subject to such deductions, if any, as may be allowed by the Reserve Bank; and 50

(B) in a case falling under sub-clause (ii) of clause (a) of sub-section (1), also that the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade:

* * * * *

5 Provided that no proceedings in respect of any contravention of the provisions of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full export value has not been made in the prescribed manner within the prescribed period.

10 (3) Where in relation to any goods to which a notification under clause (a) of sub-section (1) applies the prescribed period has expired and payment therefor has not been made as aforesaid, it shall be presumed, unless the contrary is proved by the person who has sold or is entitled to sell the goods or to procure the sale thereof, that such person has not
15 taken all reasonable steps to receive or recover the payment for the goods as aforesaid and he shall accordingly be presumed to have contravened the provisions of sub-section (2).

(4) Where in relation to any goods to which a notification under clause (a) of sub-section (1) applies the prescribed period has expired
20 and payment therefor has not been made as aforesaid, the Reserve Bank may give to any person who has sold the goods or who is entitled to sell the goods or procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing—

(i) if the goods have been sold, the payment therefor, or

25 (ii) if the goods have not been sold, either the sale of the goods and payment therefor as aforesaid, or the re-import of the goods into India as the circumstances permit,

within such period as the Reserve Bank may specify in this behalf and without prejudice to the generality of the foregoing provision, may
30 direct that the goods, the right to receive the payment therefor or any other right to enforce such payment shall be transferred or assigned to the Central Government or to a person specified in the directions.

(5) Where any goods or a right to receive payment or any other right to enforce such payment, are or is transferred or assigned in accordance
35 with sub-section (4), the Central Government shall pay to the person transferring or assigning the same, the amount recovered by or on behalf of the Central Government in respect of the goods, after deducting all costs, charges and expenses incurred by the Central Government in selling the goods or in recovering or realising the amount in respect of such goods.

40 (6) Without prejudice to the provisions of sub-section (1), where the value of the goods specified in the declaration furnished under that sub-section is less than the amount which in the opinion of the Reserve Bank, in a case falling under sub-clause (i) of clause (a) of that sub-section, represents the full export value of those goods, or in a case falling under
45 sub-clause (ii) of that clause, the value which the exporter can, having regard to the prevailing market conditions, expect to receive on the sale of the goods in the overseas market, the Reserve Bank may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made
50 arrangements for the Reserve Bank or a person authorised by the Reserve Bank to receive on behalf of the exporter payment in the prescribed

manner of an amount which in the opinion of the Reserve Bank represents the full export value of such goods or the value which the exporter, having regard to the prevailing market conditions, can be expected to receive on the sale of the goods in the overseas market.

(7) For the purpose of ensuring compliance with the provisions of this section and any order or direction made thereunder, the Reserve Bank or the prescribed authority referred to in sub-section (1) may require any person making any export of goods to which a notification under clause (a) of that sub-section applies to exhibit contracts with his foreign buyer or other evidence to show that the full export value of the goods, or, as the case may be, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in the overseas market, has been, or will within the prescribed period be, paid in the prescribed manner.

(8) Without prejudice to the provisions of sub-section (1), where the Reserve Bank has permitted any authorised dealer to accept for negotiation or collection of shipping documents covering exports from his constituent [not being a person who has signed the declaration in terms of sub-section (1)], such authorised dealer shall, before accepting such documents for negotiation or collection, require the constituent concerned also to sign such declaration and thereupon such constituent shall be bound to comply with such requisition and the original declarant and such constituent signing the declaration shall each be considered to be the exporter for the purposes of this section, and shall be governed by the provisions thereof accordingly.

(9) Without prejudice to the provisions of sub-section (1), in relation to export of goods to which a notification under clause (a) of that sub-section applies, the Reserve Bank may, for the purpose of ensuring that the full export value of the goods or, as the case may be, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in the overseas market, is received in proper time or without delay, by general or special order, direct from time to time, that in respect of export of goods to any destination or any class of export transactions or any class of goods or class of exporters, the exporter shall, prior to the export of the goods, comply with any or all of the following conditions as may be specified in the order, namely:—

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

(b) that the payment for the goods is covered by an irrevocable letter of credit or by such other arrangement or document as may be specified in the order;

(c) that a copy of the declaration to be furnished to the prescribed authority under sub-section (1) shall be submitted to such authority or organisation as may be specified in the order for certifying that the value of the goods specified in such declaration represents the proper value thereof;

(d) that any declaration to be furnished to the prescribed authority under sub-section (1) shall be submitted to the Reserve Bank for its prior approval, which may, having regard to the circumstances, be given or withheld or may be given subject to such conditions as the Reserve Bank may deem fit to impose:

Provided that no approval shall be withheld by the Reserve Bank under this clause unless the exporter has been given a reasonable opportunity for making a representation in the matter.

(10) Where the Central Government is of opinion that, in respect of any goods or class of goods or class of exporters, or in respect of export to any destination, the practice of exporting goods in accordance with any term to the effect that the goods will be sold on account of the exporter and the account of such sales rendered to the exporter has resulted or is likely to result in the full export value of the goods not being brought into India in the prescribed manner or within the prescribed period, it may, by general or special order, prohibit the export, in accordance with such term, of such goods or class of goods or by such exporters or to such destination.

1 of 1956. 15 19. (1) Notwithstanding anything contained in section 81 of the Companies Act, 1956, no person shall, except with the general or special permission of the Reserve Bank,—

(a) take or send any security to any place outside India;

(b) transfer any security, or create or transfer any interest in a security, to or in favour of a person resident outside India;

20 (c) transfer any security from a register in India to a register outside India or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, India, of any security which is either outside, or registered outside, India;

25 (d) issue, whether in India or elsewhere, any security which is registered or to be registered in India, to a person resident outside India;

(e) acquire, hold or dispose of any foreign security.

30 (2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the general or special permission of the Reserve Bank, do any act, whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the person 35 previously instructing and the person substituted for that person were, immediately before the substitution, resident in India.

(3) The Reserve Bank may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred 40 shall subscribe to a declaration that the transferee is not resident outside India.

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of the Reserve Bank,—

45 (a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or

50 (b) enter in any such register or book, in respect of any security, whether in connection with the issue or transfer of the security or otherwise, an address outside India except by way of substitution for

Regulation of export and transfer of securities.

any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves entry of the said address, or

(c) transfer any share from a register outside India to a register in India. 5

(5) Notwithstanding anything contained in any other law, no transfer of any share of a company registered in India made by a person resident outside India or by a national of a foreign State to another person whether resident in India or outside India shall be valid unless such transfer is confirmed by the Reserve Bank on an application made to it in this behalf by the transferor or the transferee. 10

(6) If the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, exempt any transfer referred to in sub-section (5) or class of such transfers from the operation of the provisions of that sub-section, subject to such conditions, if any, as may be specified in the notification. 15

(7) For the purposes of this section,—

(a) "holder", in relation to a bearer security, means the person having physical custody of the security; provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security; 20

(b) "nominee" means a holder of any security (including a bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with the instructions given by some other person, and a person holding a security or coupon as a nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any rights in respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other person. 25 30 35

Restrictions on payment in respect of certain securities.

20. Notwithstanding anything contained in any other law or in any contract, agreement or other instrument, the holder of any Government security, 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, in respect of which the principal or interest or both are for the time being payable outside India in any country or place notified in this behalf by the Central Government, 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. 40

18 of 1944.

Explanation.—In this section, "holder" shall have the same meaning as in clause (a) of sub-section (7) of section 19. 45

Custody of securities.

21. (1) The Central Government may, by notification in the Official Gazette, order every person by whom or on whose behalf a security or certificate of title to a security specified in the order is held in India to cause the said security or certificate of title to be kept in the custody of an authorised depository named in the order: 50

Provided that the Reserve Bank may, by order in writing, permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the general or special permission of the Reserve Bank except to, or to the order of, another authorised depository.

(3) Except with the general or special permission of the Reserve Bank, no authorised depository shall—

10 (a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred to the name of a person resident outside India, or

15 (b) do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions relating to such security unless the person previously so instructing him and the person substituted for that person were, immediately before the substitution, resident in India.

(4) Except with the general or special permission of the Reserve Bank, no person shall purchase, sell or transfer any security, or certificate of title to a security, covered by an order under sub-section (1) unless such security or certificate of title has been deposited in accordance with the order under sub-section (1).

(5) Except with the general or special permission of the Reserve Bank, no capital moneys, interest or dividends in respect of any security covered by an order under sub-section (1) shall be paid in India except to or to the order of the authorised depository having the custody of the security.

(6) For the purposes of this section—

30 (a) "authorised depository" means a person notified by the Central Government to be entitled to accept the custody of securities and certificates of title to securities, and

(b) "security" includes coupons.

35 22. The Central Government may, by notification in the Official Gazette, order that except with the general or special permission of the Reserve Bank no person shall, in India, and no person resident in India shall, outside India, create or issue any, bearer certificate or coupon or so alter any document that it becomes a bearer certificate or coupon.

Restrictions on issue of bearer securities.

40 23. (1) Subject to any exemptions that may be contained in the notification, the Central Government may, if it is of opinion that it is expedient so to do for the purpose of strengthening its foreign exchange position, by notification in the Official Gazette,—

Acquisition by Central Government of foreign securities.

(a) order the transfer to itself of any foreign securities specified in the notification at a price so specified, being a price which, in the opinion of the Central Government, is not less than the market value of the securities on the date of the notification, or

(b) direct the owner of any foreign securities specified in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to the Reserve Bank on behalf of the Central Government or to such person as the Reserve Bank may authorise for the purpose, at such price as the Central Government may fix, being a price, which is not less than the price calculated at the rate of exchange for the time being authorised by the Reserve Bank.

(2) On the issue of a notification under clause (a) of sub-section (1),—

(a) the securities to which the notification relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit;

(b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Central Government or the Reserve Bank may order to be done, for the purpose of securing that—

(i) the securities and any certificates of title relating thereto are delivered to the Central Government and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the Central Government or of such nominee of the Central Government as it may specify, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid to the Central Government or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the Central Government thinks fit:

Provided that where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the Central Government under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

Restriction on settlement, etc.

24. No person resident in India shall, except with the general or special permission of the Reserve Bank, settle, or make a gift of, any property so that a person who at the time of the settlement or the making of the gift is resident outside India, elsewhere than in the territories notified in this behalf by the Reserve Bank, will have an interest in the property, or exercise any power for payment in favour of a person who

at the time of the exercise of the power is resident outside India elsewhere than in such notified territories:

Provided that any settlement or gift made or any power exercised as aforesaid without the permission of the Reserve Bank shall not be invalid merely on the ground that such permission has not been obtained.

25. (1) No person resident in India shall, except with the permission of the Reserve Bank, acquire or hold or transfer or dispose of by sale, mortgage, lease, gift, settlement or otherwise, any immovable property situate outside India:

Restriction on holding of immovable property outside India.

10 Provided that nothing in this sub-section shall apply to the acquisition or transfer of any such immovable property by way of lease for a period not exceeding five years.

(2) Any person resident in India and holding any immovable property outside India at the commencement of this Act shall, before the expiry of 15 a period of three months from such commencement or such further period as the Reserve Bank may allow in this behalf, declare such holding to the Reserve Bank in such form and containing such particulars as may be specified by the Reserve Bank.

(3) Notwithstanding anything contained in this Act or in any other 20 law for the time being in force, if the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by order, direct any person holding any immovable property outside India to sell the whole or any part of such property, subject to such terms and conditions as it may deem fit, and require the proceeds of such sale 25 to be received in India through an authorised dealer.

(4) Nothing in this section shall apply to a national of a foreign State.

26. (1) Where there is served on any person resident in India a notice in writing that the Central Government or the Reserve Bank wishes any 30 such requirements as are hereafter mentioned to be complied with by any such company as is specified in *Explanation I* [hereafter in this sub-section and in sub-section (2) referred to as foreign company] and that person can by doing or refraining from doing any act—

Certain provisions as to companies.

(a) cause the foreign company to comply with any of the requirements, or 35

(b) remove any obstacle to the foreign company complying with any of the requirements, or

(c) render it in any respect more probable that the foreign company will comply with any of the requirements.

40 then, except so far as permission to the contrary may be given by the Central Government or, as the case may be, by the Reserve Bank, that person shall do or, as the case may be, refrain from doing that act.

(2) The requirements with respect to which a notice under sub-section (1) may be given are as follows, that is to say, the foreign company shall—

(i) furnish to the Central Government or, as the case may be, 45 to the Reserve Bank such particulars as to its assets and business as may be specified in the notice;

(ii) sell or procure the sale to an authorised dealer of any foreign exchange specified in the notice, being foreign exchange which it is entitled to sell or of which it is entitled to procure the sale;

(iii) declare and pay such dividend as may be specified in the notice; 5

(iv) realise any of its assets specified in the notice in such manner as may be so specified;

(v) refrain from selling or transferring or doing anything which affects its rights or powers in relation to any such instruments or securities as may be specified in the notice. 10

(3) Except with the general or special permission of the Reserve Bank, no person resident in India shall, in respect of any business outside India, in which the non-resident interest is forty-nine per cent. or less, do any act, whereby the non-resident interest in that business becomes more than forty-nine per cent. 15

(4) Notwithstanding anything contained in any other law, no transfer of an interest in any business in India made by a person resident outside India to any person also resident outside India shall be valid unless such transfer is confirmed by the Reserve Bank on an application made to it in this behalf by the transferor or the transferee. 20

(5) Except with the general or special permission of the Reserve Bank, no person resident in India shall transfer any interest in any business in India, or create any interest in such business, to or in favour of a person or company referred to in sub-section (1) of section 29.

(6) Except with the general or special permission of the Central 25 Government, or the Reserve Bank, no person resident in India shall give a guarantee in respect of any debt or other obligation or liability—

(i) of a person resident in India, and due or owing to a person resident outside India, or

(ii) of a person resident outside India. 30

(7) Except with the general or special permission of the Reserve Bank—

(i) no person resident in India shall lend any money to, or deposit any money with, a firm or company (other than a banking company) in which the non-resident interest is more than forty per 35 cent. and

(ii) no firm or company (other than a banking company) in which the non-resident interest is more than forty per cent. shall borrow money from a person resident in India, or accept a deposit of money from such person. 40

Explanation I.—The companies referred to in sub-section (1) are companies not incorporated under any law in force in India in the case of which any of the following conditions is fulfilled:—

(a) that the company is one in which the non-resident interest is forty-nine per cent., or less, or 45

(b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital, would be receivable directly or indirectly by, or for the benefit of, persons resident in India; or

5 (c) that more than one-half of the assets which on a liquidation thereof, would be available for distribution after the payment to creditors, would be receivable directly or indirectly by, or for the benefit of, persons resident in India; or

(d) that more than one-half—

10 (i) of the interest payable on its loans and loan capital, if any, or

(ii) of the dividends payable on its preference share capital, if any, or

15 (iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable directly or indirectly by, or for the benefit of, persons resident in India.

20 *Explanation II.*—Where the identity of the persons by whom, or for whose benefit, any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by any person resident in India of a power vested in him in that behalf, the sum, assets, interest or dividends shall, for the purposes of clause (b) of *Explanation I*, be deemed to be receivable directly or indirectly by, or for the benefit of, persons resident in India.

25 *Explanation III.*—For the purposes of this section and sections 28, 29 and 31, “non-resident interest” means participation in the share capital by, or entitlement to the distributable profits of, any individual or company resident outside India, or * any company not incorporated under any law in force in India, or any branch of such company whether resident
30 outside India or not.

35 27. (1) Without prejudice to the provisions of clause (e) of sub-section (1) of section 19, no person resident in India shall, without the previous permission of the Central Government, associate himself with, or participate in, whether as promoter or otherwise, any concern outside India engaged in, or intending to engage in, any activity of a trading, commercial or industrial nature, whether such concern is a body corporate or not.

Restrictions on persons resident in India associating themselves with or participating in concerns outside India.

40 (2) Any person desiring to get permission under sub-section (1) may make an application to the Central Government in such form, in such manner and containing such particulars as may be prescribed.

(3) On receipt of an application under sub-section (2), the Central Government may, after making such inquiry as it deems fit, allow the application subject to such conditions, if any, as it may think fit to impose or reject the application:

45 Provided that no application shall be rejected under this sub-section unless the applicant has been given a reasonable opportunity for making a representation in the matter.

(4) Any permission granted under this section shall also be subject to the condition that the person to whom such permission has been granted shall comply with such requirements as the Reserve Bank may, from time to time, direct.

(5) If any person to whom a permission has been granted under this section does not comply with any condition imposed by the Central Government under sub-section (3) or any requirement directed by the Reserve Bank under sub-section (4) to be complied with, then, without prejudice to any other action that may be taken against him under this Act, the Central Government may, by order, revoke the permission granted to him under this section:

Provided that no order under this sub-section shall be made unless the person to be affected thereby has been given a reasonable opportunity for making a representation in the matter.

(6) (a) Every person resident in India who, at the commencement of this Act, is associating himself with, or participating in, whether as promoter or otherwise, any concern referred to in sub-section (1) shall, within a period of ninety days of such commencement or such further period as the Central Government may allow in this behalf, make an application to the Central Government in such form, in such manner and containing such particulars as may be prescribed for permission to continue such association or participation.

(b) The provisions of sub-sections (3) to (5) (both inclusive) shall apply in relation to any application made under this sub-section as they apply in relation to an application made under sub-section (2).

(7) Nothing in this section shall apply to a national of a foreign State.

Explanation.—For the purposes of this section, a person shall not be deemed to be associating himself with, or participating in, whether as promoter or otherwise, in a concern referred to in sub-section (1) merely by reason of the fact that he is an employee in such concern.

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 (whether a citizen of India or not) or a person who is not a citizen 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 more than forty per cent., or any branch of such company shall not, except with the general or special permission of the Reserve Bank, act, or accept appointment, as—

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

(b) technical or management adviser in India of any person or company.

(2) Where any such person or company (including its branch) as is referred to in sub-section (1) acts or accepts appointment as such agent or technical or management adviser without the permission of the Reserve Bank, such acting or appointment, as the case may be, shall be void.

(3) Where any such person or company (including its branch) as is referred to in sub-section (1) acts as, or holds the appointment of, any such agent or technical or management adviser as is referred to in that sub-section at the commencement of this Act, such person or company

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

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(including its branch) shall, within a period of six months from such commencement or such further period as the Reserve Bank may allow in this behalf, make an application to the Reserve Bank in such form and containing such particulars as may be specified by the Reserve Bank for permission to continue to act, or to hold the appointment, as such.

(4) On receipt of an application under sub-section (3), the Reserve Bank may, after making such inquiry as it deems fit, either allow the application subject to such conditions, if any, as the Reserve Bank may think fit to impose, or reject the application:

10 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.

(5) Where any application has been rejected under sub-section (4), the acting or appointment shall be void on the expiry of a period of ninety days, or such other later date as may be specified by the Reserve Bank, from the date of receipt by the person or company (including its branch) concerned of the communication conveying such rejection.

(6) Where no application has been made under sub-section (3) by any such person or company (including its branch) as is referred to in sub-section (1), the Reserve Bank may, by order, direct such person or company (including its branch) to desist from such acting or appointment on the expiry of such period as may be specified in the direction:

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

(7) Where any direction made under sub-section (6) has not been complied with by any person or company (including its branch), then, without prejudice to any action that may be taken under this Act, the acting or appointment shall be void with effect from the expiry of the period specified in the direction.

Explanation.—For the purposes of this section,—

(a) “agent” includes any person or company (including its branch) who or which buys any goods with a view to sell such goods before any processing thereof;

35 (b) “company” means any body corporate and includes a firm or other association of individuals;

(c) “processing” means any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation but does not include any process incidental or ancillary to the completion of a manufactured product such as dividing, pressing, compressing, packing, re-packing, labelling, re-labelling, branding or the adoption of any such treatment as is necessary to render such product marketable to the consumer.

45 (d) “technical or management adviser” includes any person or company (including its branch) required to tender any technical or management advice, even though the tendering of such advice is incidental to any other services required to be rendered by such person or company.

Restrictions
on establishment
of place
of business in
India.

29. (1) Without prejudice to the provisions of section 28 and section 47 and notwithstanding anything contained in any other provision of this Act or the provisions of the Companies Act, 1956, 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 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 more than forty per cent. or any branch of such company, shall not, except with the general or special permission of the Reserve Bank,—

1 of 1956

(a) carry on in India, or establish in India a branch, office or other place of business for carrying on, any activity of a trading, commercial or industrial nature, other than an activity for the carrying on of which permission of the Reserve Bank has been obtained under section 28; or

(b) acquire the whole or any part of any undertaking in India of any person or company carrying on any trade, commerce or industry or purchase the shares in India of any such company.

(2) (a) Where any person or company (including its branch) referred to in sub-section (1) carries on any activity referred to in clause (a) of that sub-section at the commencement of this Act or has established a branch, office or other place of business for the carrying on of such activity at such commencement, then, such person or company (including its branch) may make an application to the Reserve Bank within a period of six months from such commencement or such further period as the Reserve Bank may allow in this behalf for permission to continue to carry on such activity or to continue the establishment of the branch, office or other place of business for the carrying on of such activity, as the case may be.

(b) Every application made under clause (a) shall be in such form and contain such particulars as may be specified by the Reserve Bank.

(c) Where any application has been made under clause (a), the Reserve Bank may, after making such inquiry as it may deem fit, either allow the application subject to such conditions, if any, as the Reserve Bank may think fit to impose or reject the application:

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

(d) Where an application is rejected by the Reserve Bank under clause (c), the person or company (including its branch) concerned shall discontinue *** such activity or close down the branch, office or other place of business established for the carrying on of such activity, as the case may be, on the expiry of a period of ninety days or such other later date as may be specified by the Reserve Bank from the date of receipt by such person or company (including its branch) of the communication conveying such rejection.

(e) Where no application has been made under clause (a) by any person or company (including its branch), the Reserve Bank may, by order, direct such person or company (including its branch) to disconti-

nue such activity or to close down the branch, office or other place of business established for the carrying on of such activity, as the case may be, on the expiry of such period as may be specified in the direction:

Provided that no direction shall be made under this clause unless the parties who may be affected by such direction have been given a reasonable opportunity for making a representation in the matter.

(3) Notwithstanding anything contained in sub-section (2), the Reserve Bank may, having regard to—

(i) the fact that any person or company (including its branch), referred to in sub-section (1), is carrying on any activity referred to in clause (a) of that sub-section at the commencement of this Act or has established a branch, office or other place of business for the carrying on of such activity at such commencement, in either case, in pursuance of any permission or licence granted by the Central Government; and

(ii) the nature of the activity which is being, or intended to be, carried on by such person or company (including its branch),

by order, exempt—

(a) such person or company (including its branch); or

(b) any class of such persons or companies (including their branches),

in relation to such activity as may be specified in the order, from the operation of the provisions of sub-section (2) subject to such conditions as may be specified in the order:

25 Provided that the Reserve Bank shall not make any order under this sub-section in a case where the activity which is being, or intended to be, carried on is solely of a trading nature.

(4) (a) Where at the commencement of this Act any person or company (including its branch) referred to in sub-section (1) holds any 30 shares in India of any company referred to in clause (b) of that sub-section, then, such person or company (including its branch) shall not be entitled to continue to hold such shares unless before the expiry of a period of six months from such commencement or such further period as the Reserve Bank may allow in this behalf such person or company 35 (including its branch) has made an application to the Reserve Bank in such form and containing such particulars as may be specified by the Reserve Bank for permission to continue to hold such shares.

(b) Where an application has been made under clause (a), the Reserve Bank may, after making such inquiry as it may deem fit, either allow 40 the application subject to such conditions, if any, as the Reserve Bank may think fit to impose or reject the application:

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

45 (c) Where an application has been rejected under clause (b), or where no application has been made under clause (a), the Reserve Bank may, if it is of opinion that it is expedient so to do for the purpose of conserving the foreign exchange, direct such person or company (including its branch) to sell or procure the sale of such shares:

Provided that no direction shall be made under this clause unless notice of such direction for a period of not less than ninety days has been given to the person or company (including its branch) to be affected by such direction.

Explanation.—For the purposes of this section, “company” has the same meaning as in clause (b) of the *Explanation* to section 28.

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

30. (1) No national of a foreign State shall, without the previous permission of the Reserve Bank—

(i) take up any employment in India, or

(ii) practice any profession or carry on any occupation, trade or business in India,

in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of such employment or the practising of such profession or the carrying on of such occupation, trade or business, as the case may be.

(2) Where any national of a foreign State desires to obtain the permission of the Reserve Bank under sub-section (1), he may make an application to the Reserve Bank in such form, in such manner and containing such particulars as may be prescribed.

(3) On receipt of an application under sub-section (2), the Reserve Bank may, after making such inquiry as it deems fit, allow the application subject to such conditions, if any, as it may think fit to impose or reject the application:

Provided that no application shall be rejected under this sub-section unless the applicant has been given a reasonable opportunity for making a representation in the matter.

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

31. (1) No person who is not a citizen of India and no 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 more than forty per cent. shall, except with the previous general or special permission of the Reserve Bank, acquire or hold or transfer or dispose of by sale, mortgage, lease, gift, settlement or otherwise any immovable property situate in India:

Provided that nothing in this sub-section shall apply to the acquisition or transfer of any such immovable property by way of lease for a period not exceeding five years.

(2) Any person or company referred to in sub-section (1) and requiring a special permission under that sub-section for acquiring, or holding, or transferring, or disposing of, by sale, mortgage, lease, gift, settlement or otherwise any immovable property situate in India may make an application to the Reserve Bank in such form and containing such particulars as may be specified by the Reserve Bank.

(3) On receipt of an application under sub-section (2), the Reserve Bank may, after making such inquiry as it deems fit, either grant or refuse to grant the permission applied for:

Provided that no permission shall be refused unless the applicant has been given a reasonable opportunity for making a representation in the matter:

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Provided further that if before the expiry of a period of ninety days from the date on which the application was received by the Reserve Bank, the Reserve Bank does not communicate to the applicant that the permission applied for has been refused, it shall be presumed that the Reserve Bank has granted such permission.

Explanation.—In computing the period of ninety days for the purposes of the second proviso, the period, if any, taken by the Reserve Bank for giving an opportunity to the applicant for making a representation under the first proviso shall be excluded.

10 (4) Every person and company referred to in sub-section (1) holding at the commencement of this Act any immovable property situate in India shall, before the expiry of a period of ninety days from such commencement or such further period as the Reserve Bank may allow in this behalf, make a declaration in such form as may be specified by the Reserve
15 Bank regarding the immovable property or properties held by such person or company.

32. (1) No airline, shipping company, travel agent or other person shall carry on in India the business of booking passages for foreign travel unless such airline, shipping company, travel agent or other person, as
20 the case may be, holds a valid licence granted in that behalf by the Reserve Bank.

(2) Any airline, shipping company, travel agent or other person desiring to carry on the business of booking passages for foreign travel may, before the commencement of such business, make an application to the
25 Reserve Bank in such form and containing such particulars as may be specified by the Reserve Bank.

(3) On receipt of an application under sub-section (2), the Reserve Bank may, having regard to the standing of the applicant in booking passages for foreign travel and such other factors as the Reserve Bank
30 may consider fit in the circumstances of the case, grant, or refuse to grant, a licence:

Provided that no licence shall be refused under this sub-section unless the person affected thereby is given a reasonable opportunity for making a representation in the matter.

35 (4) Every licence granted under sub-section (3) shall be for such period, and be subject to such conditions, as the Reserve Bank may specify in this behalf.

(5) Any licence granted under sub-section (3) or deemed to be granted under sub-section (6) may be revoked by the Reserve Bank at any
40 time if the Reserve Bank is satisfied that the licensee has not complied with the conditions of the licence or has contravened any of the provisions of this Act or of any rule, notification, order or direction made thereunder: * * *

Provided that no licence shall be revoked under this sub-section unless
45 the person affected thereby is given a reasonable opportunity for making a representation in the matter.

(6) Notwithstanding anything contained in sub-sections (1) to (4), where any permission has been granted under section 18B of the Foreign Exchange Regulation Act, 1947 by the Reserve Bank to any airline, shipping company or travel agent to book passage for any person for a
50 4091(B) LS—9.

Regulation of booking of passages outside India and restrictions on foreign travels.

journey, the whole or part of which is outside India, and such permission is valid at the commencement of this Act, then, such permission shall be deemed to be a licence granted under sub-section (3) in favour of such airline, shipping company or travel agent, as the case may be, for the unexpired portion of the period for which such permission has been granted or, where while granting such permission no period has been specified, for a period of three years from such commencement and thereafter, in either case, the provisions of sub-sections (1) to (4) shall apply to such airline, shipping company or travel agent accordingly. 5

(7) No airline, shipping company, travel agent or other person shall book a passage for any person for foreign travel unless the booking of such passage has been approved by the Reserve Bank on an application made to it in this behalf in such form and containing such particulars as may be specified by the Reserve Bank and signed by both the person intending to undertake such travel and the person intending to book the passage: 10 15

Provided that where the Reserve Bank is satisfied that there are good and sufficient reasons for dispensing with the signature in such application of the person intending to undertake such travel, it may dispense with such signature. 20

(8) On receipt of an application under sub-section (7), the Reserve Bank may, after making such inquiry as it deems fit, either allow the application subject to such conditions, if any, as the Reserve Bank may think fit to impose or reject the application:

Provided that no application shall be rejected under this sub-section unless the Reserve Bank is satisfied— 25

(i) that the foreign travel intended to be undertaken by such person involves or is likely to involve the meeting or defraying, in whole or in part, the cost or expenses of his stay outside India, otherwise than out of the foreign exchange acquired by him from an authorised dealer, or 30

(ii) that such travel involves or affects, or is likely to involve or affect, whether directly or indirectly, the accrual or expenditure of foreign exchange.

(9) No person shall, without the permission of the Reserve Bank,— 35

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

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

specified by the Reserve Bank in this behalf in his passport or on the permit for foreign exchange granted to him or on his application for booking the passage, as the case may be. 40

(10) Where any person acts in contravention of the provisions of sub-section (9), the Reserve Bank may, on an application made to it in this behalf by such person, if it is satisfied that the contravention was due to unforeseen circumstances or due to circumstances beyond his control, by order, condone such act. 45

(11) If the Reserve Bank is satisfied that it is necessary or expedient in the public interest so to do, it may, by general or special order,—

(i) direct that nothing in sub-section (7) shall apply, or the provisions thereof shall apply, subject to such restrictions and conditions, if any, as may be specified in the order, to any foreign travel or class of foreign travels as may be so specified;

(ii) exempt any person or class of persons from the operation of the provisions of sub-section (9), subject to such restrictions and conditions, if any, as may be specified in the order.

Explanation.—For the purposes of this section, “foreign travel” means a travel, the whole or any part of which is outside India.

33. (1) The Central Government may, at any time by notification in the Official Gazette, direct the owners, subject to such exceptions, if any, as may be specified in the notification, of such foreign exchange or foreign securities or immovable properties held outside India as may be so specified, to submit a return, or from time to time returns, thereof to the Reserve Bank within such period, and giving such particulars, as may be so specified.

Power to call for information.

(2) Where for the purposes of this Act the Central Government or the Reserve Bank or any officer of Enforcement, not below the rank of a Chief Enforcement Officer, considers it necessary or expedient to obtain and examine any information, book or other document in the possession of any person or which in the opinion of the Central Government or the Reserve Bank or such officer it is possible for such person to obtain and furnish, the Central Government or the Reserve Bank or, as the case may be, such officer may, by order in writing, require any such person (whose name shall be specified in the order) to furnish, or to obtain and furnish, to the Central Government or the Reserve Bank or such officer or any person specified in the order with such information, book or other document and thereupon such person shall be bound to comply with such requisition.

Explanation.—For the purposes of this section, section 34 and sections 36 to 41 (both inclusive), “document” includes Indian currency, foreign exchange and books of account.

34. (1) If any officer of Enforcement authorised in this behalf by the Central Government, by general or special order, has reason to believe that any person has secreted about his person or in anything under his possession, ownership or control any documents which will be useful for, or relevant to, any investigation or proceeding under this Act, he may search that person or such thing and seize such documents.

Power to search suspected persons and to seize documents.

(2) When any officer of Enforcement is about to search any person under the provisions of this section, the officer of Enforcement shall, if such person so requires, take such person without unnecessary delay to the nearest gazetted officer of Enforcement superior in rank to him or a magistrate.

(3) If such requisition is made, the officer of Enforcement may detain the person making it until he can bring him before the gazetted officer of Enforcement or the magistrate referred to in sub-section (2).

(4) The gazetted officer of Enforcement or the magistrate before whom any such person is brought shall, if he sees no reasonable ground for

search, forthwith discharge the person but otherwise shall direct that search be made.

(5) Before making a search under the provisions of this section, the officer of Enforcement shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do; and the search shall be made in the presence of such persons and a list of all documents seized in the course of such search shall be prepared by such officer and signed by such witnesses.

(6) No female shall be searched by any one excepting a female.

Power to arrest.

35. (1) If any officer of Enforcement authorised in this behalf by the Central Government, by general or special order, has reason to believe that any person in India or within the Indian customs waters has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested under sub-section (1) shall, without unnecessary delay, be taken to a magistrate.

(3) Where any officer of Enforcement has arrested any person under sub-section (1), *** he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police station has, and is subject to, under the Code of Criminal Procedure, 1898.

5 of 1898.

Power to stop and search conveyances.

36. If any officer of Enforcement authorised in this behalf by the Central Government, by general or special order, has reason to believe that any document which will be useful for, or relevant to, any investigation or proceeding under this Act is secreted in any aircraft or vehicle or on any animal in India or in any vessel in India or within the Indian customs waters, *** he may at any time stop any such vehicle or animal or vessel or, in the case of an aircraft, compel it to stop or land, and—

(a) rummage and search any part of the aircraft, vehicle or vessel;

(b) examine and search any goods in the aircraft, vehicle or vessel or on the animal;

(c) seize any such document as is referred to above;

(d) break open the lock of any door or package for exercising the powers conferred by clauses (a), (b) and (c), if the keys are withheld.

Power to search premises.

37. (1) If any officer of Enforcement, not below the rank of an Assistant Director of Enforcement, has reason to believe that any documents which, in his opinion, will be useful for, or relevant to, any investigation or proceeding under this Act, are secreted in any place, he may authorise any officer of Enforcement to search for and seize or may himself search for and seize such documents.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches, shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Director of Enforcement or other officer exercising his powers" were substituted.

5 of 1898.

38. Without prejudice to the provisions of section 34 or section 36 or section 37, if any officer of Enforcement authorised in this behalf by the Central Government, by general or special order, has reason to believe that any document or thing will be useful for, or relevant to, any investigation or proceeding under this Act or in respect of which a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has taken place, he may seize such document or thing.

Power to seize documents, etc.

39. The Director of Enforcement or any other officer of Enforcement authorised in this behalf by the Central Government, by general or special order, may, during the course of any investigation or proceeding under this Act,—

Power to examine persons.

(a) require any person to produce or deliver any document relevant to the investigation or proceeding;

(b) examine any person acquainted with the facts and circumstances of the case.

40. (1) Any gazetted officer of Enforcement shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document during the course of any investigation or proceeding under this Act.

Power to summon persons, to give evidence and produce documents.

(2) A summons to produce documents may be for the production of certain specified documents or for the production of all documents of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by authorised agents, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents as may be required:

5 of 1908. 30 Provided that the exemption under section 132 of the Code of Civil Procedure, 1908, shall be applicable to any requisition for attendance under this section.

45 of 1860. (4) Every such investigation or proceeding as aforesaid shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

35 41. Where in pursuance of an order made under sub-section (2) of section 33 or of the provisions of section 34 or section 36 or section 37 or of a requisition or summons under section 39 or section 40, any document is furnished or seized and any officer of Enforcement has reason to believe that the said document would be evidence of the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder, and that it would be necessary to retain the document in his custody, he may so retain the said document for a period not exceeding one year or if, before the expiry of the said period of one year, any proceedings—

Custody of documents, etc.

45 (i) under section 51 have been commenced * * * *, until the disposal of those proceedings, including the proceedings, if any, before the Appellate Board and the High Court, or

(ii) under section 56 have been commenced before a court, until the document has been filed in the court.

Explanation.—In computing the period of one year during which a document (hereafter in this *Explanation* referred to as the said document) may be retained under this section, in any case where by reason of an injunction or order of any court (whether such injunction or order is in relation to the said document or is in relation to any other document reference to which would be necessary for examining or using the said document),—

(a) the said document could not be examined fully for the purpose of determining whether it would be evidence of the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder, or

(b) the said document could not be used for commencing any proceedings under section 51 or section 56, or

(c) the proceedings under section 51 or section 56 could not be commenced,

the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn, shall be excluded.

Encashment of cheque, draft, etc.

42. (1) Where—

(i) an investigation is being made into any alleged contravention of the provisions of section 13 or clause (a) of sub-section (1) of section 18 or clause (a) of sub-section (1) of section 19, read with section 67; or

(ii) an investigation is being made into any alleged contravention of any other provision of this Act or of any rule, direction or order made thereunder; or

(iii) any proceeding in respect of any such contravention as is referred to in clause (i) or clause (ii) is pending before an officer of Customs or an officer of Enforcement or a court,

and any draft, cheque (including traveller's cheque) or other instrument being the subject matter of such investigation or proceeding is in the custody of an officer of Customs or of an officer of Enforcement or of a court, then,—

(a) where such draft, cheque (including traveller's cheque) or other instrument is in the custody of an officer of Customs, the Collector of Customs; or

(b) where such draft, cheque (including traveller's cheque) or other instrument is in the custody of an officer of Enforcement, the Director of Enforcement; or

(c) where such draft, cheque (including traveller's cheque) or other instrument is in the custody of a court, the court, on an application made to it in this behalf by the Collector of Customs or, as the case may be, by the Director of Enforcement,

may, by order, direct that the sum due under such draft, cheque (including traveller's cheque) or other instrument be encashed either through the Reserve Bank or such other agency as the Collector of Customs or the Director of Enforcement or the court, as the case may be, deems fit.

5 (2) Any proceeds realised in pursuance of a direction under sub-section (1) shall be kept in a separate account to be maintained by the prescribed authority in the prescribed manner.

52 of 1962 (3) Where a direction is made under section 63, or an order has been made under the Customs Act, 1962 to confiscate any draft, cheque (including traveller's cheque) or other instrument the proceeds of which have been realised under sub-section (1), such proceeds shall vest in the Central Government and in all other cases such proceeds shall be paid to such person as may appear to the officer or the court, who or which made the direction under sub-section (1), to be entitled thereto in such currency and in such manner as he or it deems just together with interest at the rate of six per cent. per annum from the date on which such draft, cheque (including traveller's cheque) or other instrument came into his or its custody till the date of payment:

20 Provided that nothing in this sub-section shall affect the liability of any person, who may receive the whole or any part of the proceeds, to pay the same to the person lawfully entitled thereto.

25 43. (1) Any officer of Enforcement not below the rank of an Assistant Director of Enforcement specially authorised in writing by the Director of Enforcement in this behalf, or any officer of the Reserve Bank specially authorised in writing by the Reserve Bank in this behalf, may inspect the books and accounts and other documents of any authorised dealer.

Inspection.

30 (2) It shall be the duty of every authorised dealer and, where the authorised dealer is a company or a firm, of every director, partner or other officer of the authorised dealer to produce to any officer making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statement or information relating to the affairs of the authorised dealer as the said officer may require of him within such time as the said officer may specify.

35 (3) Any officer making an inspection under sub-section (1) may examine on oath any authorised dealer or his agent or, where the authorised dealer is a company or a firm, any director, partner or other officer of the authorised dealer in relation to its business.

40 (4) If any person fails to produce any book, account or other document or to furnish any statement or information relating to the authorised dealer which, under sub-section (2), it is his duty to produce or furnish, or to answer any question relating to the business of the authorised dealer which he is asked by an officer making an inspection under this section, he shall be deemed to have contravened the provisions of this Act.

45 (5) The provisions of this section shall, so far as may be, apply in relation to a money-changer and to a person to whom a licence has been granted or deemed to have been granted under section 32 as they apply in relation to an authorised dealer.

Prohibition of disclosure of documents or information except in certain cases.

44. (1) If *** the Director of Enforcement or any other officer of Enforcement not below the rank of an Assistant Director of Enforcement is of opinion that the contents of any documents which have come into his possession or control during the course of any investigation or proceeding under this Act would be useful for, or relevant to, any proceeding which is in progress or may be started under any other law for the time being in force, he may disclose such document or any information contained therein as he thinks fit to an officer duly authorised by or under such other law.

5

(2) If any officer of Enforcement, except in the discharge in good faith of his duty as such officer in accordance with sub-section (1), or in compliance with any requisition made under any law for the time being in force, discloses any document or information obtained by him in his official capacity, *** he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

15

Power of police officers and other officers to enter, search, etc.

45. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any police officer not below the rank of a Sub-Inspector of Police, or any other officer of the Central Government or a State Government authorised by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit a contravention of the provisions of sub-section (1) of section 8.

5 of 1898.

20

Explanation.—For the purposes of this sub-section, the expression “public place” includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to, the public.

25

(2) Where any person is arrested under sub-section (1) by an officer other than a police officer, such officer shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or before the officer-in-charge of a police station.

30

(3) The provisions of the Code of Criminal Procedure, 1898, shall, subject to the provisions of this section, apply, so far as may be, in relation to any entry, search or arrest, made under this section.

5 of 1898.

(4) The provisions of this section shall have effect notwithstanding anything inconsistent therewith contained in any other provision of this Act.

35

Procedure in respect of foreign exchange or any other goods seized by police officers.

46. (1) Where any police officer seizes any foreign exchange or any other goods which is alleged or suspected to have been stolen, or which is found, in either case, under circumstances which create suspicion of the commission of an offence under this Act, such police officer shall forthwith report the seizure of—

40

(i) such foreign exchange to the nearest officer of Enforcement, not below the rank of an Assistant Director of Enforcement; and

(ii) such other goods to the nearest officer of Customs, not below the rank of an Assistant Collector of Customs.

45

5 of 1898.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, in every case referred to in sub-section (1), the police officer shall, immediately after the dismissal of the complaint or the conclusion of the inquiry or trial, as the case may be, cause—

5 (i) such foreign exchange to be delivered to an officer of Enforcement, not below the rank of an Assistant Director of Enforcement; and

(ii) such other goods to be conveyed to an officer of Customs, not below the rank of an Assistant Collector of Customs.

10 47. (1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

Contracts
in evasion
of the
Act.

15 (2) Any provision of, or having effect under, this Act that a thing shall not be done without the permission of the Central Government or the Reserve Bank, shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that that thing shall not be done unless permission is granted by the Central Government or the Reserve Bank, as the case may be; and it shall be an implied term of
20 every contract governed by the law of any part of India that anything agreed to be done by any term of that contract which is prohibited to be done by or under any of the provisions of this Act except with the permission of the Central Government or the Reserve Bank, shall not be done unless such permission is granted.

25 (3) Neither the provisions of this Act nor any term (whether express or implied) contained in any contract that anything for which the permission of the Central Government or the Reserve Bank is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in India to recover any
30 sum which, apart from the said provisions and any such term, would be due, whether as debt, damages or otherwise, but—

(a) the said provisions shall apply to sums required to be paid by any judgment or order of any court as they apply in relation to other sums;

35 (b) no steps shall be taken for the purpose of enforcing any judgment or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the Central Government or the Reserve Bank, as the case may be, may permit to be paid; and

40 (c) for the purpose of considering whether or not to grant such permission, the Central Government or the Reserve Bank, as the case may be, may require the person entitled to the benefit of the judgment or order and the debtor under the judgment or order, to produce such documents and to give such information as may be
45 specified in the requisition.

26 of 1881. (4) Notwithstanding anything contained in the Negotiable Instruments Act, 1881, neither the provisions of this Act or of any rule, direction or

order made thereunder, nor any condition, whether expressed or to be implied having regard to those provisions, that any payment shall not be made without permission under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

False
state-
ments.

48. No person shall, when complying with any direction or order under section 33 or with any requirement under section 43 or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular. 5 10

Failure to
comply
with
conditions
subject
to which
permis-
sions or
licences
have been
given or
granted
under the
Act to be
contra-
vention of
the provi-
sions of
the Act.

49. Where under any provision of this Act any permission or licence has been given or granted to any person subject to any conditions and—

(i) such person fails to comply with all or any of such conditions; or

(ii) any other person abets such person in not complying with all or any of such conditions, 15

then, for the purposes of this Act,—

(a) in a case referred to in clause (i), such person shall be deemed to have contravened such provision; and

(b) in a case referred to in clause (ii), such other person shall be deemed to have abetted the contravention of such provision. 20

Penalty.

50. If any person contravenes *** any of the provisions of this Act [other than section 13, clause (a) of sub-section (1) of section 18 and clause (a) of sub-section (1) of section 19] or of any rule, direction or order made thereunder, he shall be liable to such penalty not exceeding five times the amount or value involved in any such contravention or five thousand rupees, whichever is more, as may be adjudged by the Director of Enforcement or any other officer of Enforcement not below the rank of an Assistant Director of Enforcement specially empowered in this behalf by order of the Central Government (in either case hereinafter referred to as the adjudicating officer). 25 30

Power to
adjudicate.

51. *For the purpose of adjudging under section 50 whether any person has committed a contravention of any of the provisions of this Act (other than those referred to in that section) or of any rule, direction or order made thereunder, the adjudicating officer shall hold an inquiry in the prescribed manner after giving that person a reasonable opportunity for making a representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty as he thinks fit in accordance with the provisions of that section. 35 40

Appeal to
Appellate
Board.

52. (1) The Central Government may, by notification in the Official Gazette, constitute an Appellate Board to be called the Foreign Exchange Regulation Appellate Board consisting of a Chairman [being a person who has for at least ten years held a civil judicial post or who has been a member of the Central Legal Service (not below Grade I) for at least 45

three years or who has been in practice as an advocate for at least ten years] and such number of other members, not exceeding four, to be appointed by the Central Government for hearing appeals against the orders of the adjudicating officer made under section 51.

5 (2) Any person aggrieved by such order may, after depositing the sum imposed by way of penalty under section 50 and within forty-five days from the date on which the order is served on the person committing the contravention, prefer an appeal to the Appellate Board:

10 Provided that the Appellate Board may entertain any appeal after the expiry of the said period of forty-five days, but not after ninety days, from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

15 Provided further that where the Appellate Board is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, in its own discretion, dispense with such a deposit either unconditionally or subject to such conditions as it may deem fit.

20 (3) On receipt of an appeal under sub-section (2), the Appellate Board may, * * * * after making such further inquiry as it deems fit, confirm, modify or set aside the order appealed against and the decision of the Appellate Board shall, subject to the provisions of section 54, be final and if the sum deposited by way of penalty under sub-section (2) exceeds the amount directed to be paid by the Appellate Board, the excess amount shall be refunded.

25 (4) The Appellate Board may, for the purpose of examining the legality, propriety or correctness of any order made by the adjudicating officer under section 50 read with section 51 in relation to any proceeding, on its own motion or otherwise, call for the records of such proceeding and make such order in the case as it thinks fit.

30 (5) No order of the adjudicating officer made under section 50 read with section 51 shall be varied by the Appellate Board so as to prejudicially affect any person without giving such person a reasonable opportunity for making a representation in the matter; and subject thereto, the Appellate Board shall follow such procedure, in respect of the proceedings before it, as may be prescribed.

35 (6) The powers and functions of the Appellate Board may be exercised and discharged by Benches consisting of two members and constituted by the Chairman of the Appellate Board:

40 Provided that if the members of the Bench differ on any point or points, they shall state the point or points on which they differ and refer the same to a third member (to be specified by the Chairman) for hearing on such point or points and such point or points shall be decided according to the opinion of that member:

45 Provided further that it shall be competent for the Chairman or any other member of the Appellate Board authorised by the Chairman in this behalf to exercise the powers and discharge the functions of the Appellate Board in respect of any appeal against an order imposing a penalty of an amount not exceeding fifty thousand rupees.

Powers of the adjudicating officer and the Appellate Board to summon witnesses, etc.

53. (1) Without prejudice to any other provision contained in this Act, the adjudicating officer and the Appellate Board shall have all the powers of a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

5 of 1908.

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

5

10

(2) The adjudicating officer or the Appellate Board while exercising any powers under this Act shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898.

5 of 1898.

Appeal to High Court.

54. An appeal shall lie to the High Court only on questions of law from any decision or order of the Appellate Board under sub-section (3) or sub-section (4) of section 52:

15

Provided that the High Court shall not entertain any appeal under this section if it is filed after the expiry of sixty days of the date of communication of the decision or order of the Appellate Board, unless the High Court is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

20

Explanation.—In this section and in section 55, “High Court” means—

- (i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and
- (ii) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain.

25

30

Continuance of proceeding in the event of death or insolvency

55. (1) Where—

(i) a penalty has been imposed under section 50 read with section 51 by the adjudicating officer on any person and no appeal against the order imposing such penalty has been preferred to the Appellate Board; or

35

(ii) any such appeal has been preferred to the Appellate Board,

and—

(a) in a case referred to in clause (i), such person dies or is adjudicated an insolvent before preferring an appeal to the Appellate Board; or

40

(b) in a case referred to in clause (ii), such person dies or is adjudicated an insolvent during the pendency of the appeal,

then, it shall be lawful for the legal representatives of such person, or the official assignee or the official receiver, as the case may be, to prefer an appeal to the Appellate Board, or as the case may be, to continue the appeal before the Appellate Board, in place of such person and the provisions of section 52 shall, so far as may be, apply or continue to apply to such appeal.

(2) Where—

(i) after the passing of a decision or order by the Appellate Board, no appeal has been preferred to the High Court under section 54; or

(ii) any such appeal has been preferred to the High Court,

and—

(a) in a case referred to in clause (i), the person entitled to file the appeal dies or is adjudicated an insolvent before preferring an appeal to the High Court; or

(b) in a case referred to in clause (ii), the person who had filed the appeal dies or is adjudicated an insolvent during the pendency of the appeal before the High Court,

then, it shall be lawful for the legal representatives of such person, or the official assignee or the official receiver, as the case may be, to prefer an appeal to the High Court or to continue the appeal before the High Court in place of such person and the provisions of section 54 shall, so far as may be, apply or continue to apply to such appeal.

(3) The powers of the official assignee or the official receiver under sub-section (1) or sub-section (2) shall be exercised by him subject to the provisions of the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, as the case may be.

5 of 1909.
5 of 1920.

56. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes any of the provisions of this Act [other than section 13, clause (a) of sub-section (1) of section 18, clause (a) of sub-section (1) of section 19, sub-section (2) of section 44 and sections 57 and 58], or of any rule, direction or order made thereunder, he shall, upon conviction by a court, be punishable,—

Offences
and prose-
cutions.

(i) in the case of an offence the amount or value involved in which exceeds one lakh of rupees, with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months;

(ii) in any other case, with imprisonment for a term which may extend to three years or with fine or with both.

(2) If any person convicted of an offence under this Act [not being an offence under section 13 or clause (a) of sub-section (1) of section 18]

or clause (a) of sub-section (1) of section 19 or sub-section (2) of section 44 or section 57 or section 58] is again convicted of an offence under this Act [not being an offence under section 13 or clause (a) of sub-section (1) of section 18 or clause (a) of sub-section (1) of section 19 or sub-section (2) of section 44 or section 57 or section 58], he shall be punishable for the second and for every subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine: 5

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months. 10

(3) Where a person having been convicted of an offence under this Act [not being an offence under section 13 or clause (a) of sub-section (1) of section 18 or clause (a) of sub-section (1) of section 19 or sub-section (2) of section 44 or section 57 or section 58] is again convicted of an offence under this Act [not being an offence under section 13 or clause (a) of sub-section (1) of section 18 or clause (a) of sub-section (1) of section 19 or sub-section (2) of section 44 or section 57 or section 58], the court by which such person is convicted may, in addition to any sentence * * which may be imposed on him under this section, by order, direct that that person shall not carry on such business as the court may specify, being a business which is likely to facilitate the commission of such offence, for such period not exceeding three years, as may be specified by the court in the order. 15 20

(4) For the purposes of sub-sections (1) and (2), the following shall not be considered as adequate and special reasons for awarding a sentence of imprisonment for a term of less than six months, namely:— 25

(i) the fact that the accused has been convicted for the first time of an offence under this Act;

(ii) the fact that in any proceeding under this Act, other than a prosecution, the accused has been ordered to pay a penalty or the goods in relation to such proceedings have been ordered to be confiscated or any other penal action has been taken against him for the same offence; 30

(iii) the fact that the accused was not the principal offender and was acting merely as a carrier of goods or otherwise was a secondary party in the commission of the offence; 35

(iv) the age of the accused.

(5) For the purposes of sub-sections (1) and (2), the fact that an offence under this Act has caused no substantial harm to the general public or to any individual shall be an adequate and special reason for awarding a sentence of imprisonment for a term of less than six months. 40

(6) Nothing in the first proviso to section 188 of the Code of Criminal Procedure, 1898 shall apply to any offence punishable under this section.

57. If any person fails to pay the penalty imposed by the adjudicating officer or the Appellate Board or the High Court or fails to comply with any of his or its directions or orders, he shall, upon conviction by a court, be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Penalty for contravention of order made by adjudicating officer, Appellate Board and High Court.

58. (1) Any officer of Enforcement exercising powers under this Act or any rule made thereunder who,—

Vexatious search, etc., by officers of Enforcement.

(a) without reasonable ground of suspicion, searches or causes to be searched any place, premises, aircraft, vehicle or vessel; or

10 (b) vexatiously * * * detains or searches or arrests any person,*

* * * * *

shall, for every such offence, upon conviction by a court, be punishable with fine which may extend to two thousand rupees.

15 (2) Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall, upon conviction by a court, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

20 59. (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Presumption of culpable mental state.

25 *Explanation.*—In this section, “culpable mental state” includes intention, motive, knowledge of a fact and belief in, or reason to believe, a fact.

30 (2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

(3) The provisions of this section shall, so far as may be, apply in relation to any proceeding before an adjudicating officer as they apply in relation to any prosecution for an offence under this Act.

35 60. (1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder, it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code, or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full

Power to tender immunity from prosecution.

and true disclosure of the whole circumstances relating to such contravention.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which tender was made or from the imposition of any penalty under this Act. 5

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn and such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable. 10 15

Cogni-
zance of
offences.

61. (1) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class and for any presidency magistrate to pass a sentence of imprisonment for a term exceeding two years or of fine exceeding two thousand rupees on any person convicted of an offence punishable under section 56. 20

5 of 1898.

(2) No court shall take cognizance—

(i) of any offence punishable under sub-section (2) of section 44 or sub-section (1) of section 58,— 25

(a) where the offence is alleged to have been committed by an officer of Enforcement not lower in rank than an Assistant Director of Enforcement, except with the previous sanction of the Central Government;

(b) where the offence is alleged to have been committed by an officer of Enforcement lower in rank than an Assistant Director of Enforcement, except with the previous sanction of the Director of Enforcement; or 30

(ii) of any offence punishable under section 56 or section 57, except upon complaint in writing made by— 35

(a) the Director of Enforcement; or

(b) any officer authorised in writing in this behalf by the Director of Enforcement or the Central Government; or

(c) any officer of the Reserve Bank authorised by the Reserve Bank by a general or special order: 40

Provided that where any such offence is the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder which prohibits the doing of an act without permission, no such complaint shall be made unless the person accused of the offence has been given an opportunity of showing that he had such permission. 45

5 of 1898.

62. Subject to the provisions of section 45 and notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under section 56 shall be deemed to be non-cognizable within the meaning of that Code.

Certain offences to be non-cognizable.

63. Any court trying a contravention under section 56 and the adjudicating officer adjudging any contravention under section 51 may, if it or he thinks fit and in addition to any sentence or penalty which it or he may impose for such contravention, direct that any currency, security * * * or any other money or property in respect of which the contravention has taken place shall be confiscated to the Central Government and further direct that the foreign exchange holdings, if any, of the person committing the contravention or any part thereof, shall be brought back into India or shall be retained outside India in accordance with the directions made in this behalf.

Confiscation of currency, security, etc.

19 *Explanation.*—For the purposes of this section, property in respect of which contravention has taken place shall include—

(a) deposits in a bank, where the said property is converted into such deposits;

20 (b) Indian currency, where the said property is converted into that currency;

(c) any other property which has resulted out of the conversion of that property.

64. (1) Whoever makes preparation to contravene any of the provisions of this Act [other than section 13, clause (a) of sub-section (1) of section 18, clause (a) of sub-section (1) of section 19, sub-section (2) of section 44 and sections 57 and 58] or of any rule, direction or order made thereunder and from the circumstances of the case it may be reasonably inferred that if not prevented by circumstances independent of his will, the contravention as aforesaid would have taken place, shall, for the purposes of section 56, be deemed to have contravened that provision, rule, direction or order, as the case may be.

Preparation, attempt, etc.

35 (2) Whoever attempts to contravene, or abets any contravention of, any of the provisions of this Act [other than section 13, clause (a) of sub-section (1) of section 18, clause (a) of sub-section (1) of section 19, sub-section (2) of section 44 and sections 57 and 58] or of any rule, direction or order made thereunder, shall, for the purposes of this Act, be deemed to have contravened that provision, rule, direction or order, as the case may be.

65. Clerical or arithmetical mistakes in any decision or order passed by the Appellate Board or the adjudicating officer under this Act, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Appellate Board or the adjudicating officer or his successor in office, as the case may be:

Correction of clerical errors, etc.

45 Provided that where any correction proposed to be made under this section will have the result of prejudicially affecting any person no such correction shall be made—

(i) after the expiry of a period of two years from the date of such decision or order; and

(ii) unless the person affected thereby is given a reasonable opportunity for making a representation in the matter.

Application of section 562 of the Code of Criminal Procedure, 1898 and of the Probation of Offenders Act, 1958.

66. (1) Nothing contained in section 562 of the Code of Criminal Procedure, 1898, or in the Probation of Offenders Act, 1958 shall apply to a person convicted of an offence under this Act unless that person is under 5 eighteen years of age.

5 of 1898.
20 of 1958.

(2) The provisions of sub-section (1) shall have effect notwithstanding anything contained in sub-section (4) of section 56.

Application of the Customs Act, 1962.

67. The restrictions imposed by or under section 13, clause (a) of sub-section (1) of section 18 and clause (a) of sub-section (1) of section 19 10 shall be deemed to have been imposed under section 11 of the Customs Act, 1962, and all the provisions of that Act shall have effect accordingly.

52 of 1962.

Offences by companies.

68. (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: 15

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention. 20

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction 25 or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and 30 shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(i) "company" means any body corporate and includes a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm. 35

Power of court to publish name, place of business, etc., of companies convicted under the Act.

69. (1) Where any company is convicted under this Act for contravention of any of the provisions thereof or of any rule, direction or order made thereunder, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and 40 such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspapers or in such other manner as the court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

5 (3) The expenses of any publication under sub-section (1) shall be recoverable from the company as if it were a fine imposed by the court.

Explanation.—For the purposes of this section, “company” has the same meaning as in clause (i) of the *Explanation* to section 68.

10 70. (1) Where any penalty imposed on any person under this Act is not paid,—

Recovery
of sums
due to
Govern-
ment.

(i) the adjudicating officer may deduct the amount so payable from any money owing to such person which may be under the control of any officer of Enforcement; or

15 (ii) the adjudicating officer may recover the amount so payable by detaining or selling any goods belonging to such person which are under the control of any officer of Enforcement; or

20 (iii) if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii), the adjudicating officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from the said person the amount specified thereunder as if it were an arrear of land revenue.

25 (2) Where the terms of any bond or other instrument executed under this Act or any rule made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

30 (3) The several modes of recovery specified in this section shall not affect in any way—

(i) any other law for the time being in force relating to the recovery of debts due to the Government; or

35 (ii) the right of the Government to institute a suit for the recovery of the penalty due to the Government,

and it shall be lawful for the Central Government to have recourse to any such law or suit notwithstanding that the amount is to be recovered by any mode specified in this section.

40 71. (1) Where any person is prosecuted or proceeded against for contravening any of the provisions of this Act or of any rule, direction or order made thereunder which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him.

Burden of
proof in
certain
cases.

45 (2) Where any person is prosecuted or proceeded against for contravening the provisions of sub-section (3) of section 8, the burden of proving that the foreign exchange acquired by such person has been used for

the purpose for which permission to acquire it was granted shall be on him.

(3) If any person is found or is proved to have been in possession of any foreign exchange exceeding in value two hundred and fifty rupees, the burden of proving that the foreign exchange came into his possession lawfully shall be on him. 5

Presump-
tion as
to docu-
ments in
certain
cases.

72. Where any document—

(i) is produced or furnished by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law, or 10

(ii) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed) in the course of investigation of any offence under this Act alleged to have been committed by any person,

and such document is tendered in any proceedings under this Act in evidence against him, or against him and any other person who is proceeded against jointly with him, the court or the adjudicating officer, as the case may be, shall— 15

(a) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested; 20 25

(b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence;

(c) in a case falling under clause (i), also presume, unless the contrary is proved, the truth of the contents of such document. 30

Supple-
mental
provi-
sions.

73. (1) For the purposes of this Act and of any rules, directions or orders made thereunder—

(a) in the case of any person who, having been resident in India, ceases to be such, the Reserve Bank may, by order, declare the territory in which such person shall be treated as being resident; 35

(b) in the case of any person resident in India who leaves India, the Reserve Bank may give a direction to any bank that until the direction is revoked, any sum, from time to time, standing to the credit of that person and any security held on his behalf at any office or branch of that bank in India specified in the direction shall not be dealt with except with the permission of the Reserve Bank; 40

(c) a firm or the branch of a firm shall be treated in all respects as if such firm or branch were a body corporate resident where it is situated; 45

(d) subject to the provisions of clause (c), a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated;

(e) the making of any book entry or other statement regarding a debit against a branch of any business in favour of the head office or any other branch of that business shall be treated as the acknowledgment of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

19 (2) Nothing in this Act relating to the payment of any price or sum by the Central Government shall be construed as requiring the Central Government to pay that price or sum otherwise than in Indian currency or otherwise than in India.

15 (3) The Reserve Bank may give directions in regard to the making of payment and the doing of other acts by bankers, authorised dealers, money-changers, stock brokers, persons referred to in sub-section (1) of section 32 or other persons, who are authorised by the Reserve Bank to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing 20 compliance with the provisions of this Act and of any rules, directions or orders made thereunder.

(4) Subject to any other express provision in this behalf contained in this Act, where any provision of this Act requires the permission of the Reserve Bank for doing anything under such provision, the Reserve 25 Bank may specify the form in which an application for such permission shall be made and the particulars which such application shall contain:

Provided that different forms and different particulars may be specified in respect of applications for permission under different provisions of this Act.

30 74. The Reserve Bank may, with the previous approval of the Central Government, by order, delegate any of its powers or functions—

Delegation.

(i) under section 8, 9, 10 or 11 or sub-clause (b) of clause (A) of sub-section (2) of section 18 or sub-section (7) of section 18 to any authorised dealer; or

35 (ii) under section 8 or 9 to any money-changer,

subject to such restrictions, conditions and limitations as may be specified in the order.

40 75. For the purposes of this Act, the Central Government may, from time to time, give to the Reserve Bank such general or special directions as it thinks fit, and the Reserve Bank shall, in the discharge of its functions under this Act, comply with any such directions.

Power of Central Government to give directions.

Board constituted under this Act in accordance with the provisions of sub-section (6) of section 52 of this Act;

(d) every appeal from any decision or order of the Foreign Exchange Regulation Appellate Board under sub-section (3) or sub-section (4) of section 23E of the Act hereby repealed shall, if not filed before the commencement of this Act, be filed before the High Court within a period of sixty days of such commencement:

Provided that the High Court may entertain any such appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

APPENDIX I

(Vide para 2 of the Report)

Motion in Lok Sabha for reference of the Bill to the Joint Committee

“That the Bill to consolidate and amend the law regulating certain payments, dealings in foreign exchange and securities, transactions indirectly affecting foreign exchange and the import and export 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, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely:—

- (1) Shri Arvind Netam
- (2) Shri R. N. Barman
- (3) Shri Raghunandan Lal Bhatia
- (4) Shri M. Bheeshmadev
- (5) Shri Jyotirmoy Bosu
- (6) Shri M. C. Daga
- (7) Shri Dharnidhar Das
- (8) Shri D. D. Desai
- (9) Shri Jambuvant Dhote
- (10) Shri J. P. Dube
- (11) Shri K. R. Ganesh
- (12) Shri J. Matha Gowder
- (13) Shri Indrajit Gupta
- (14) Shri Y. S. Mahajan
- (15) Shri Gajadhar Majhi
- (16) Shri Inder J. Malkotra
- (17) Shri Mukhtiar Singh Malik
- (18) Shri K. Mallana
- (19) Shri Shyamnandan Mishra
- (20) Shri Piloo Mody
- (21) Shri Sudhakar Pandey
- (22) Shri Narain Chand Parashar
- (23) Shri M. R. Gopal Reddy
- (24) Shri Shibban Lal Saksena
- (25) Shri Satish Chandra
- (26) Shri Shashi Bhushan
- (27) Shri Rajaram Shastri
- (28) Shri Hari Kishore Singh

(29) Shri Rudra Pratap Singh

(30) Shri Y. B. Chavan

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(Vide para 3 of the Report)

Motion in Rajya Sabha

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to consolidate and amend the law regulating certain payments, dealings in foreign exchange and securities, transactions indirectly affecting foreign exchange and the import and export 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, and resolves that the following 15 members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

- (1) Shri N. K. Shejwalkar
- (2) Shri Thillai Villalan
- (3) Shri Bal Krishna Kaul
- (4) Shri B. V. Abdulla Koya
- (5) Shri M. R. Venkataraman
- (6) Shri B. N. Mandal
- (7) Shri Mohan Singh Oberoi
- (8) Shri Bindeshwari Prasad Singh
- (9) Shri Manubhai Shah
- (10) Shri Chakrapani Shukla
- (11) Shri V. B. Raju
- (12) Shri Nripati Ranjan Choudhury
- (13) Shri H. S. Narasiah
- (14) Shri Babubhai M. Chinai
- (15) Shri N. P. Chaudhari.”

APPENDIX III

(Vide para 7 of the Report)

List of Associations, Organisations, etc. from whom memoranda were received by the Joint Committee.

1. Shri A. Qadeer, New Delhi.
2. Shri S. P. Chauhan, Bombay.
3. Shri Jagmohan Kejriwal, Bombay.
4. Shri Pinakin K. Shah, Bombay.
5. Bengal Chamber of Commerce and Industry, Calcutta.
6. Indo-German Chamber of Commerce, Bombay.
7. Indian Tea Association, Calcutta.
8. Porbandar Chamber of Commerce, Porbandar.
9. Indo-American Chamber of Commerce, Bombay.
10. Shri J. Bhattacharjee, New Delhi.
11. Punjab, Haryana & Delhi Chamber of Commerce & Industry, New Delhi.
12. Porbandar Industrial Association, Porbandar.
13. Bombay Chamber of Commerce & Industry, Bombay.
14. Federation of Indian Chambers of Commerce & Industry, New Delhi.
15. Associated Chambers of Commerce & Industry of India, New Delhi.
16. Calcutta Jute Fabrics Shippers Association, Calcutta.
17. Indian Banks' Association, Bombay.
18. Madras Chamber of Commerce and Industry, Madras.
19. Federation of India Export Organisations, New Delhi.
20. All India Reserve Bank Employees Association, Calcutta.
21. All India Importers' Association, Bombay.
22. Indian Chamber of Commerce, Calcutta.
23. India, Pakistan and Bangladesh Association, London.
24. Confederation of British Industry, London.
25. Organisation of Pharmaceutical Producers of India, Bombay.
26. Foreign Exchange Dealers' Association of India, Bombay.
27. Travel Agents Association of India, Bombay.
28. Shri H. P. Nanda, Managing Director, Escorts Limited, Delhi.
29. Shri J. B. Dadachanji, Advocate, Supreme Court, New Delhi.
30. Indian Merchants' Chamber, Bombay.
31. Merchants' Chamber of Commerce, Calcutta.
32. Bharat Chamber of Commerce, Calcutta.

33. Calcutta Trades Association, Calcutta.
34. Southern India Chamber of Commerce and Industry, Madras.
35. Bengal National Chamber of Commerce and Industry, Calcutta.
36. Tobacco Export Promotion Council, Madras.
37. Shri N. Dandeker, *Ex-M.P.*, Chartered Accountant, Bombay.
38. Shri R. P. Gupta, Kailash Colony, New Delhi.
39. All India Manufacturers' Organisation, Bombay.

APPENDIX IV

(Vide para 9 of the Report)

List of officials of the Ministries/Departments of the Government of India and representatives of various Associations, Organisations, etc. who gave evidence before the Joint Committee

| S. No. | Name of Official/Association/Organisation, etc. | Date on which evidence was taken. |
|--------|---|-----------------------------------|
| (1) | (2) | (3) |
| 1. | Shri P.B. Gajendragadkar, Chairman, Law Commission, New Delhi. | 20-9-72 |
| 2. | (i) Shri M.M. Sen, Chief Controller of Imports and Exports, New Delhi. | 20-9-72 |
| | (ii) Shri Takhat Ram, Deputy Chief Controller of Imports and Exports, New Delhi. | 21-9-72 |
| 3. | Shri B.N. Raman, Additional Director General of Tourism, New Delhi | 20-9-72 |
| 4. | Shri V.R. Lakshminarayan, Deputy Director, Central Bureau of Investigation, New Delhi. | 20-9-72 |
| 5. | Shri S.B. Jain, Additional Director, Directorate of Enforcement, New Delhi. | 20-9-72 & 21-9-72 |
| 6. | (i) Shri S.S. Shiralkar, Deputy Governor, Reserve Bank of India, Bombay. | } 21-9-72 |
| | (ii) Shri C.L. Thareja, Controller, Exchange Control Department, Reserve Bank of India, Bombay. | |
| | (iii) Shri R.M. Halasyam, Legal Adviser, Reserve Bank of India, Bombay. | |
| 7. | Shri R.N. Ghosh, Deputy Director General, Commercial Intelligence, Calcutta. | 21-9-72 |
| 8. | Shri Y.T. Shah, Additional Secretary, Ministry of Foreign Trade, New Delhi. | 12-10-72 |
| 9. | Shri R. Prasad, Secretary, Department of Company Affairs, New Delhi. | 12-10-72 |
| 10. | Shri B.B. Lal, Secretary, Ministry of Industrial Development, New Delhi. | 13-10-72 |
| 11. | (i) Dr. I. G. Patel, Secretary, Ministry of Finance (Department of Economic Affairs), New Delhi. | } 13-10-72 & 22-11-72 |
| | (ii) Shri M.G. Kaul, Additional Secretary, Ministry of Finance. (Department of Economic Affairs), New Delhi. | |

| (1) | (2) | (3) |
|-----|---|---------------------------|
| 12. | (i) Shri Jasjit Singh, Chairman, Central Board of Excise and Customs, New Delhi. (ii) Shri R.C. Misra, O.S.D., Ministry of Finance (Department of Revenue & Insurance), New Delhi. (iii) Shri P.K. Kapoor, Under Secretary, Central Board of Excise & Customs, New Delhi. (iv) Shri L.P. Asthana, Assistant Collector, Inspecting Officer, Central Board of Excise Customs, New Delhi. | 21-11-72 & 29-11-72 |
| 13. | Shri D.B. Kulkarni, Chairman, Foreign Exchange Regulation Appellate Board, New Delhi. | 29-11-72 |
| 14. | Punjab, Haryana & Delhi Chamber of Commerce & Industry, New Delhi | 14-12-72 |
| | <i>Spokesmen :</i> | |
| | (i) Shri Prem Pandhi (ii) Shri V.P. Arya (iii) Shri C.K. Hazari (iv) Shri L.C. Jain (v) Shri B.P. Jain (vi) Shri B.M. Srinivasa Rao (vii) Shri M.L. Nandrajog (viii) Shri P. Srinivasan | |
| 15. | Shri J.B. Dadachanji, Advocate, Supreme Court of India, New Delhi. | 15-12-72 |
| 16. | Federation of Indian Chamber of Commerce and Industry, New Delhi | 18-12-72 |
| | <i>Spokesmen :</i> | |
| | (i) Shri S.L. Kirloskar (ii) Shri M.L. Khaitan (iii) Shri H.S. Singhanian (iv) Shri G.L. Bansal (v) Shri P. Chantsal Rao (vi) Dr. Ram Gopal Agarwal (vii) Shri Eric de Souza | |
| 17. | (i) Shri H.P. Nanda, Managing Director, Escorts Limited, New Delhi. (ii) Shri Charanjit Singh, Secretary, Escorts Limited, New Delhi. | 19-12-72 |
| 18. | Shri A.P. Sharma, M.P. | 19-12-72 |
| 19. | Associated Chamber of Commerce and Industry of India, New Delhi | 20-12-72 |
| | <i>Spokesmen :</i> | |
| | (i) Shri P.K. Nanda (ii) Shri A. D. Moddie (iii) Shri M.H. Mody (iv) Shri S.H. Gurshani (v) Shri Mohinder Puri (vi) Shri M.M. Sabharwal (vii) Shri S.K. Mehera (viii) Shri D.B. Mahindra (ix) Shri R.L. Mehta | |

| (1) | (2) | (3) |
|---|-----------------------------------|--------|
| 20. Bengal Chamber of Commerce and Industry, Calcutta | | 6-1-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri S.K. Mehra | |
| | (ii) Shri D.K. Basu | |
| | (iii) Shri K.V. Raghavan | |
| | (iv) Shri T.K. Ramasubramanyam | |
| | (v) Shri C.S. Samuel | |
| | (vi) Shri J. Sen Gupta | |
| | (vii) Shri M. Ghose | |
| 21. Calcutta Traders Association, Calcutta | | 6-1-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri M.K. Himmatsinghka | |
| | (ii) Shri R.S. Singhania | |
| | (iii) Shri I.C. Sancheti | |
| | (iv) Shri P.K. Jalan | |
| 22. Bharat Chamber of Commerce, Calcutta | | 8-1-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri Rajaram Bhiwaniwalla | |
| | (ii) Shri K.L. Chowdhary | |
| | (iii) Shri H.G. Pachisia | |
| | (iv) Shri K.C. Mukherjee | |
| 23. Indian Chamber of Commerce, Calcutta | | 8-1-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri Sanjoy Sen | |
| | (ii) Shri B.M. Khaitan | |
| | (iii) Shri D.N. Maluste | |
| | (iv) Shri P.K. Khaitan | |
| | (v) Shri R.S. Lodha | |
| | (vi) Shri C.S. Pande | |
| | (vii) Shri M. Chaudhuri | |
| 24. All India Reserve Bank Employees' Association, Calcutta | | 8-1-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri Ashis Sen | |
| | (ii) Shri Biren Sen | |
| | (iii) Shri Bishnu Prosad Banerjee | |
| | (iv) Shri Pabitra Banerjee | |
| 25. Calcutta Jute Fabrics Shippers' Association, Calcutta | | 8-1-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri P. Guha Thakurta | |
| | (ii) Shri K.N. Srivastava | |
| 26. Merchants' Chamber of Commerce, Calcutta | | 8-1-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri Atma Ram Kanoria | |
| | (ii) Shri Shriniwas Dalmia | |
| | (iii) Shri H.R. Bose | |

| (1) | (2) | (3) |
|---|--|--------|
| 27. Indian Merchants' Chamber, Bombay | | 1-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri Charandas V. Mariwala | |
| | (ii) Shri J.R. Doshi | |
| | (iii) Shri Harish Mahindra | |
| | (iv) Dr. R.C. Cooper | |
| | (v) Shri Arvind N. Kilachand | |
| | (vi) Shri Tanubhai D. Desai | |
| | (vii) Shri C.L. Gheevala | |
| | (viii) Shri M.K. Desai | |
| | (ix) Shri N.Y. Gaitonde | |
| 28. Shri N. Dandekar, Ex-M P., Chartered Accountant, Bombay | | 1-2-73 |
| 29. Shri S.P. Chauhan, Bombay | | 1-2-73 |
| 30. Bombay Chamber of Commerce and Industry, Bombay | | 2-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri M.H. Mody | |
| | (ii) Shri S.R. Vakil | |
| | (iii) Shri R.A. Shah | |
| | (iv) Shri D.P. Mehta | |
| 31. Indo-German Chamber of Commerce, Bombay | | 2-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Mr. D. Laengenfelder | |
| | (ii) Mr. H.D. Grabenhorst | |
| | (iii) Dr. G. Krueger | |
| | (iv) Dr. K. Wagner | |
| 32. Travel Agents Association Of India, Bombay | | 2-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri N.J. Katgara | |
| | (ii) Shri A.N. Parikh | |
| | (iii) Shri Dinesh Mody | |
| | (iv) Shri V.B. Dewan | |
| 33. Indian Banks' Association, Bombay | | 3-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri S.B. Kaji, Deputy General Manager, Bank of India, Bombay. | |
| | (ii) Shri S.G. Shah, Secretary, Indian Banks' Association, Bombay. | |
| | (iii) Shri H.N. Vesuvalla, Assistant General Manager, Bank of India, Bombay. | |
| | (iv) Shri Bana Paranjape, Deputy General Manager, Bank of Baroda, Bombay. | |
| | (v) Shri A.N. Hussirabadwalla, Chief Officer, (Foreign Exchange), Central Bank of India, Bombay. | |
| 34. Indo-American Chamber of Commerce, Bombay | | 3-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri N.B. Vakil | |
| | (ii) Shri Manmohan Singh | |
| | (iii) Dr. B.V. Bhoota | |
| | (iv) Shri A.R. Burton | |
| | (v) Shri Ramu Pandit | |
| | (iv) Shri G. D. Parelkar | |

| (1) | (2) | (3) |
|--|---|---------|
| 35. Porbandar Industrial Association, Porbandar | | 3-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri Tanubhi D. Desai | |
| | (ii) Shri A.U. Shah | |
| | (iii) Shri C. D. Dhupelia | |
| 36. Madras Chamber of Commerce & Industry, Madras | | 12-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Mr. M.E. Bourcier | |
| | (ii) Shri C. S. Vidyasankar | |
| | (iii) Shri A. Ramamurthy | |
| 37. Tobacco Export Promotion Council, Madras | | 12-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri R. Ramananda Rao—Vice-Chairman | |
| | (ii) Shri T.R. Jayaraman—Secretary. | |
| 38. Southern India Chamber of Commerce and Industry, Madras | | 13-2-73 |
| | <i>Spokesmen :</i> | |
| | (i) Shri S. Narayanaswamy—President | |
| | (ii) Shri N.C. Krishnan | |
| | (iii) Shri C.S. Vidyasankar | |

APPENDIX V

Minutes of the Sitzings of the Joint Committee on the Foreign Exchange Regulation Bill, 1972.

I

First Sitting

The Committee sat on Wednesday, the 6th September, 1972 from 12.00 to 12.45 hours.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri M. C. Daga
4. Shri Dharnidhar Das
5. Shri K. R. Ganesh
6. Shri Y. S. Mahajan
7. Shri Shyamnandan Mishra
8. Shri Narain Chand Parashar
9. Shri M. R. Gopal Reddy
10. Shri Y. B. Chavan

Rajya Sabha

11. Shri N. P. Chaudhari
12. Shri Nripati Ranjan Choudhury
13. Shri Bal Krishna Kaul
14. Shri B. N. Mandal
15. Shri V. B. Raju
16. Shri Manubhai Shah
17. Shri Chakrapani Shukla

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri M. G. Kaul—*Additional Secretary*
2. Shri S. Krishnaswami—*Joint Secretary*
3. Shri K. Subramanian—*Under Secretary*

SECRETARIAT

1. Shri P. K. Patnaik—*Joint Secretary*
2. Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee decided that the following might be invited to give oral evidence before the Committee on the provisions of the Bill:

- (i) Chairman, Central Board of Excise and Customs;
- (ii) Chairman, Foreign Exchange Regulation Appellate Board;
- (iii) Shri P. B. Gajendragadkar, Chairman, Law Commission;
- (iv) Director, Directorate of Enforcement, Cabinet Secretariat (Department of Personnel);
- (v) Director of the Central Bureau of Investigation;
- (vi) Director General of Commercial Intelligence, Calcutta;
- (vii) Director General of Tourism;
- (viii) Governor of Reserve Bank of India or Director, incharge of Foreign Exchange, Reserve Bank of India;
- (ix) Chief Controller of Imports and Exports;
- (x) Federation of Indian Exporters Organisation, New Delhi;
- (xi) Exchange Dealers Association of India, Bombay;
- (xii) Indian Merchants' Chamber, Bombay;
- (xiii) Indian Chamber of Commerce, Calcutta;
- (xiv) Importers & Exporters Association of India, Bombay.

3. The Committee also decided that the Chambers of Commerce and Industry as well as import and export organisations and associations, economists and individuals interested in the subject-matter of the Bill and desirous of submitting memoranda thereon for the consideration of the Committee might do so by the 25th September, 1972. The Committee directed the Lok Sabha Secretariat to issue necessary Press Communique in that regard.

4. The Committee desired that the Ministry of Finance (Department of Economic Affairs) might furnish to them certain material on the subject matter of the Bill including a background note.

5. The Committee then decided to meet on Wednesday, the 20th September and Thursday, the 21st September, 1972 at 11.00 hours to hear oral evidence.

The Committee then adjourned.

II
Second Sitting

The Committee sat on Wednesday, the 20th September, 1972 from 11.00 to 13.30 hours and again from 15.00 to 18.30 hours.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri Arvind Netam

3. Shri R. N. Barman
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshmadev
6. Shri Jyotirmoy Bosu
7. Shri M. C. Daga
8. Shri Dharnidhar Das
9. Shri D. D. Desai
10. Shri J. P. Dube
11. Shri K. R. Ganesh
12. Shri Inder J. Malhotra
13. Shri Mukhtiar Singh Malik
14. Shri K. Mallanna
15. Shri Shyamnandan Mishra
16. Shri Piloo Mody
17. Shri Sudhakar Pandey
18. Shri Narain Chand Parashar
19. Shri M. R. Gopal Reddy
20. Shri Shibban Lal Saksena
21. Shri Rajaram Shastri
22. Shri Hari Kishore Singh
23. Shri Rudra Pratap Singh

Rajya Sabha

24. Shri N. P. Chaudhari
25. Shri Babubhai M. Chinai
26. Shri Nripati Ranjan Choudhury
27. Shri Bal Krishna Kaul
28. Shri B. V. Abdulla Koya
29. Shri H. S. Narasiah
30. Shri V. B. Raju
31. Shri Manubhai Shah
32. Shri N. K. Shejwalkar
33. Shri Chakrapani Shukla
34. Shri Bindeshwari Prasad Singh

LEGISLATIVE COUNSEL :

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri M. G. Kaul—*Additional Secretary*
2. Shri S. Krishnaswami—*Joint Secretary*
3. Shri V. U. Eradi—*Deputy Secretary*
4. Shri K. Subramanian—*Under Secretary*

REPRESENTATIVE OF THE CABINET SECRETARIAT (DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVE OF THE RESERVE BANK OF INDIA

Shri C. L. Thareja—*Controller, Exchange Control Department.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard the evidence of the officers etc. mentioned below:

[In the beginning, the Chairman drew the attention of the officers etc. to the provisions of Direction 58 of the Directions by the Speaker]

- I. Shri P. B. Gajendragadkar, Chairman, Law Commission, New Delhi.
[11.00 to 12.50 hours]
- II. (1) Shri M. M. Sen, Chief Controller of Imports and Exports, New Delhi.
(2) Shri Takhat Ram, Deputy Chief Controller of Imports and Exports, New Delhi.
[12.50 to 13.30 hours]
- III. Shri B. N. Raman, Additional Director General of Tourism, New Delhi.
[15.00 to 16.15 hours]
- IV. Shri V. R. Lakshminarayan, Deputy Director, Central Bureau of Investigation, New Delhi.
[16.15 to 17.30 hours]
- V. Shri S. B. Jain, Additional Director, Directorate of Enforcement, New Delhi.
[17.30 to 18.15 hours]

3. The evidence of the following officers was not concluded and they were requested to continue on the 21st September, 1972:—

- I. (1) Shri M. M. Sen, Chief Controller of Imports & Exports.
(2) Shri Takhat Ram, Deputy Chief Controller of Imports & Exports.
- II. Shri S. B. Jain, Additional Director, Directorate of Enforcement.

4. A verbatim record of evidence was kept.

5. The Committee then decided that the following might be invited for oral evidence on the provisions of the Bill before the Committee:—

1. Secretary, Ministry of Foreign Trade.
2. Secretary, Ministry of Finance (Department of Economic Affairs).

3. Secretary, Department of Company Affairs.

4. Secretary, Ministry of Industrial Development.

6. The Committee then adjourned to meet again at 10.30 hours on Thursday, the 21st September, 1972.

III

Third Sitting

The Committee sat on Thursday, the 21st September, 1972 from 10.30 to 13.30 hours and again from 15.00 to 17.30 hours.

PRESENT

Shri Satish Chandra—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri R. N. Barman
4. Shri M. Bheeshmadev
5. Shri Jyotirmoy Bosu
6. Shri Dharnidhar Das
7. Shri D. D. Desai
8. Shri J. P. Dube
9. Shri K. R. Ganesh
10. Shri Inder J. Malhotra
11. Shri Mukhtiar Singh Malik
12. Shri K. Mallanna
13. Shri Shyamnandan Mishra
14. Shri Pилоo Mody
15. Shri Sudhakar Pandey
16. Shri Narain Chand Parashar
17. Shri M. R. Gopal Reddy
18. Shri Shibban Lal Saksena
19. Shri Rajaram Shastri
20. Shri Hari Kishore Singh
21. Shri Rudra Pratap Singh

Rajya Sabha

22. Shri N. P. Chaudhari
23. Shri Babubhai M. Chinai
24. Shri Nripati Ranjan Choudhury
25. Shri Bal Krishna Kaul
26. Shri B. V. Abdulla Koya
27. Shri H. S. Narasiah
28. Shri V. B. Raju

29. Shri Manubhai Shah
30. Shri N. K. Shejwalkar
31. Shri Chakrapani Shukla
32. Shri Bindeshwari Prasad Singh
33. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE & INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise and Customs.*

REPRESENTATIVES OF THE CABINET SECRETARIAT (DEPARTMENT OF PERSONNEL)

1. Shri U. C. Aggarwal—*Joint Secretary.*
2. Shri S. B. Jain—*Additional Director, Directorate of Enforcement*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard the evidence of the officers etc. mentioned below:—

[In the beginning, the Chairman drew the attention of the officers etc. to the provisions of Direction 58 of the Directions by the Speaker].

- I. (1) Shri M. M. Sen,
Chief Controller of Imports & Exports,
New Delhi.
- (2) Shri Takhat Ram,
Deputy Chief Controller of Imports & Exports,
New Delhi.

(Further evidence)

[10.30 to 11.25 hours]

- II. (1) Shri S. S. Shiralkar,
Deputy Governor,
Reserve Bank of India,
Bombay.

(2) Shri C. L. Thareja,
Controller, Exchange Control Department,
Reserve Bank of India,
Bombay.

(3) Shri R. M. Halasyam,
Legal Adviser,
Reserve Bank of India,
Bombay.

[11.25 to 13.15 hours]

III. Shri S. B. Jain,
Additional Director,
Directorate of Enforcement,
New Delhi.

(Further evidence)

[15.00 to 16.45 hours]

IV. Shri R. M. Ghosh,
Deputy Director General,
Commercial Intelligence,
Calcutta.

[16.45 to 17.00 hours]

3. A verbatim record of evidence was kept.

4. The Committee then considered the proposal made by some members to the effect that sub-Committees or Study Groups might be constituted to examine, study and report on the involvement of the following Ministries on the regulation of foreign exchange leakage from India:—

- (i) Ministry of Foreign Trade;
- (ii) Ministry of Industrial Development;
- (iii) Department of Company Affairs;
- (iv) Ministry of Finance;
- (v) Central Bureau of Investigation; and other Enforcement Authorities.

The Committee felt that the whole Committee rather than a sub-Committee or a Study Group should examine and study the subjects mentioned above. The Committee did not, therefore, accept the proposal to constitute sub-Committees or Study Groups.

5. The Chairman informed the Committee that various organisations/associations etc. had requested that in view of the importance of the Bill, the last date for presentation of the memoranda on the provisions of the Bill be extended by at least two to three weeks in order to enable them to examine the Bill in all its aspects. The Committee, after some discussion, decided to extend the time for submission of memoranda on the Bill upto the 20th October, 1972 and desired that the organisations/

associations etc. who had sought the extension might be informed accordingly.

6. The Committee then decided to hold their next round of sittings for the purpose of hearing further oral evidence from official witnesses on the afternoon of Thursday, the 12th and Friday, the 13th October, 1972.

7. The Committee then adjourned.

IV

Fourth Sitting

The Committee sat on Thursday, the 12th October, 1972 from 15.00 to 18.00 hours.

PRESENT

Shri Satish Chandra—*Chairman*,

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri B. N. Barman
4. Shri M. Bheeshmadev
5. Shri Jyotirmoy Bosu
6. Shri M. C. Daga
7. Shri Dharnidhar Das
8. Shri K. R. Ganesh
9. Shri Y. S. Mahajan
10. Shri Inder J. Malhotra
11. Shri Mukhtiar Singh Malik
12. Shri K. Mallanna
13. Shri Shyamnandan Mishra
14. Shri Sudhakar Pandey
15. Shri Narain Chand Parashar
16. Shri M. R. Gopal Reddy
17. Shri Shibban Lal Saksena
18. Shri Rajaram Shastri
19. Shri Hari Kishore Singh
20. Shri Rudra Pratap Singh

Rajya Sabha

21. Shri N. P. Chaudhari
22. Shri Babubhai M. Chinai
23. Shri Nripati Ranjan Choudhury
24. Shri Bal Krishna Kaul

25. Shri B. V. Abdulla Koya
26. Shri B. N. Mandal
27. Shri H. S. Narasiah
28. Shri Manubhai Shah
29. Shri N. K. Shejwalkar
30. Shri Chakrapani Shukla
31. Shri Bindeshwari Prasad Singh
32. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE (DEPARTMENT OF
ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE & INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise & Customs.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard the evidence of the officers mentioned below:—

[In the beginning, the Chairman drew the attention of the officers to the provisions of Direction 58 of the Directions by the Speaker].

- I. Shri Y. T. Shah,
Additional Secretary,
Ministry of Foreign Trade,
New Delhi.

[15.00 to 17.05 hours].

- II. Shri R. Prasad,
Secretary,
Department of Company Affairs,
New Delhi.

[17.05 to 18.00 hours].

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 15.00 hours on Friday, the 13th October, 1972.

Fifth Sitting

The Committee sat on Friday, the 13th October, 1972 from 15.00 to 18.30 hours.

PRESENT

Shri Satish Chandra—*Chairman*,

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri Raghunandan Lal Bhatia
4. Shri M. Bheeshmadev
5. Shri Jyotirmoy Bosu
6. Shri M. C. Daga
7. Shri Dharnidhar Das
8. Shri K. R. Ganesh
9. Shri Y. S. Mahajan
10. Shri Mukhtiar Singh Malik
11. Shri K. Mallanna
12. Shri Shyamnandan Mishra
13. Shri Sudhakar Pandey
14. Shri Narain Chand Parashar
15. Shri M. R. Gopal Reddy
16. Shri Rajaram Shastri
17. Shri Rudra Pratap Singh
18. Shri Shibban Lal Saksena

Rajya Sabha

19. Shri N. P. Chaudhari
20. Shri Babubhai M. Chinai
21. Shri Nripati Ranjan Choudhury
22. Shri Bal Krishna Kaul
23. Shri B. V. Abdulla Koya
24. Shri B. N. Mandal
25. Shri H. S. Narasiah
26. Shri Manubhai Shah
27. Shri N. K. Shejwalkar
28. Shri Chakrapani Shukla
29. Shri Bindeshwari Prasad Singh
30. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel*.
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel*.

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE & INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise and Customs.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard the evidence of the officers mentioned below:

[In the beginning, the Chairman drew the attention of the officers to the provisions of Direction 58 of the Directions by the Speaker].

- I. Shri B. B. Lal,
Secretary,
Ministry of Industrial Development,
New Delhi.

[15.00 to 16.30 hours]

- II. (1) Dr. I. G. Patel,
Secretary,
Ministry of Finance,
(Department of Economic Affairs),
New Delhi.

- (2) Shri M. G. Kaul,
Additional Secretary,
Ministry of Finance,
(Department of Economic Affairs),
New Delhi.

[16.30 to 18.15 hours].

3. The evidence of Dr. I. G. Patel and Shri M. G. Kaul was not concluded. They were requested to appear before the Committee again at a later date.

4. A verbatim record of evidence was kept.

5. The Committee decided to seek extension of time for presentation of their Report upto the last day of the first week of the Budget Session (1973), as it was not possible for the Committee to complete the evidence of officials of the Government of India, Associations, Organisations, etc. and to finalise their Report by the appointed date i.e., 17th November, 1972. The Committee authorised the Chairman and, in his absence, Shri Narain Chand Parashar to move necessary motion in the House to that effect.

6. The Committee decided to meet again during the next session to continue taking oral evidence in New Delhi.

7. The Committee also decided to visit Bombay, Calcutta and other major port towns, if necessary, depending on the requests for tendering oral evidence by various Chambers of Commerce and industry etc. after the next Session sometime during January, 1973. The Chairman was authorised to finalising the programme after ascertaining convenient dates from points of view of accommodation and transport facilities at places to be visited.

8. The Committee then adjourned.

VI

Sixth Sitting

The Committee sat on Tuesday, the 21st November, 1972 from 15.00 to 17.30 hours.

PRESENT

Shri Manubhai Shah—*In the Chair.*

MEMBERS

Lok Sabha

2. Shri Raghunandan Lal Bhatia
3. Shri M. Bheeshmadev
4. Shri Jyotirmoy Bosu
5. Shri Dharnidhar Das
6. Shri K. R. Ganesh
7. Shri J. Matha Gowder
8. Shri Indrajit Gupta
9. Shri Y. S. Mahajan
10. Shri Shyamnandan Mishra
11. Shri Pilloo Mody
12. Shri M. R. Gopal Reddy
13. Shri Shashi Bhushan
14. Shri Rudra Pratap Singh

Rajya Sabha

15. Shri Babubhai M. Chinai
16. Shri Nripati Ranjan Choudhury
17. Shri Bal Krishna Kaul
18. Shri B. N. Mandal
19. Shri N. K. Shejwalkar
20. Shri Bindeshwari Prasad Singh

LEGISLATIVE COUNSEL

Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. In the absence of the Chairman, Shri Manubhai Shah was elected as the Chairman for the sitting under Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. Before the Committee proceeded to hear the evidence of the following officials, the Chairman drew their attention to the provisions of Direction 58 of Directions by the Speaker:

1. Shri Jasjit Singh,
Chairman, Central Board of Excise & Customs,
New Delhi.
2. Shri R. C. Misra,
O.S.D., Ministry of Finance,
(Department of Revenue & Insurance),
New Delhi.
3. Shri P. K. Kapoor,
Under Secretary,
Central Board of Excise & Customs,
New Delhi.
4. Shri L. P. Asthana,
Assistant Collector Inspecting Officer,
Central Board of Excise & Customs,
New Delhi.

4. The evidence was not concluded and they were requested to appear again before the Committee on Wednesday, the 29th November, 1972 at 16.00 hours.

5. The Committee decided to cancel their sitting fixed for Thursday, the 23rd November, 1972. They desired that Shri D. B. Kulkarni, Chairman, Foreign Exchange Regulation Appellate Board might be requested to appear before the Committee at 15.00 hours on Wednesday, the 29th November, 1972.

6. A verbatim record of evidence was kept.

7. The Committee then adjourned to meet again at 15.00 hours on Wednesday, the 22nd November, 1972.

VII

Seventh Sitting

The Committee sat on Wednesday, the 22nd November, 1972 from 15.00 to 17.30 hours.

PRESENT

Shri Manubhai Shah—*In the Chair*

MEMBERS

Lok Sabha

2. Shri D. D. Desai
3. Shri K. R. Ganesh
4. Shri Y. S. Mahajan
5. Shri Shyamnandan Mishra
6. Shri Piloo Mody
7. Shri Sudhakar Pandey
8. Shri Narain Chand Parashar
9. Shri M. R. Gopal Reddy
10. Shri Shashi Bhushan

Rajya Sabha

11. Shri Babubhai M. Chinai
12. Shri Nripati Ranjan Choudhury
13. Shri Bal Krishna Kaul
14. Shri B. N. Mandal
15. Shri H. S. Narasiah
16. Shri Bindeshwari Prasad Singh

LEGISLATIVE COUNSEL

Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS)

Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVES OF RESERVE BANK OF INDIA

1. Shri C. L. Thareja—*Controller, Exchange Control Department.*
2. Shri R. M. Halasyam—*Legal Adviser.*

REPRESENTATIVE OF THE CENTRAL BOARD OF EXCISE AND CUSTOMS

Shri L. P. Asthana—*Assistant Collector, Inspecting Officer.*

REPRESENTATIVE OF THE CABINET SECRETARIAT (DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. In the absence of the Chairman, Shri Manubhai Shah was elected as the Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. Before the Committee proceeded to hear the evidence of the following officials, the Chairman drew their attention to the provisions of Direction 58 of the Directions by the Speaker:

1. Dr. I. G. Patel,
Secretary, Ministry of Finance
(Department of Economic Affairs), New Delhi.
2. Shri M. G. Kaul,
Addl. Secretary, Ministry of Finance
(Department of Economic Affairs), New Delhi.
3. Shri S. Krishnaswami,
Joint Secretary, Ministry of Finance
(Department of Economic Affairs), New Delhi.
4. Shri V. U. Eradi,
Deputy Secretary, Ministry of Finance
(Department of Economic Affairs), New Delhi.
5. Shri R. C. Misra,
O.S.D., Ministry of Finance,
(Department of Revenue and Insurance), New Delhi.

4. The evidence lasted till 17.30 hours.

5. A verbatim record of evidence was kept.

6. The Committee then adjourned to meet again at 15.00 hours on Wednesday, the 29th November, 1972.

VIII

Eighth Sitting

The Committee sat on Wednesday, the 29th November, 1972 from 15.00 to 17.15 hours.

PRESENT

Shri Manubhai Shah—*In the Chair*

MEMBERS

Lok Sabha

2. Shri R. N. Barman
3. Shri Raghunandan Lal Bhatia
4. Shri Jyotirmoy Bosu
5. Shri D. D. Desai
6. Shri Jambuvant Dhote
7. Shri J. P. Dube
8. Shri K. R. Ganesh

9. Shri J. Matha Gowder
- 10 Shri Y. S. Mahajan
11. Shri Shyamnandan Mishra
12. Shri Shashi Bhushan
- 13 Shri Rajaram Shastri

Rajya Sabha

14. Shri N. P. Chaudhari
15. Shri Nripati Ranjan Choudhury
16. Shri Bal Krishna Kaul
17. Shri B. N. Mandal
18. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

Shri A. P. Pandey—*Assistant Legislative Counsel.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswamy—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. In the absence of the Chairman, Shri Manubhai Shah was elected as the Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee heard the evidence of the officers mentioned below:—

[In the beginning, the Chairman drew the attention of the officers to the Provisions of Direction 58 of the Directions by the Speaker]

I. Shri D. B. Kulkarni,
Chairman,
Foreign Exchange Regulation Appellate Board,
New Delhi.
[15.00 to 16.15 hours]

II. (1) Shri Jasjit Singh,
Chairman, Central Board of Excise & Customs,
New Delhi.

(2) Shri R. C. Misra,
O.S.D., Ministry of Finance
(Department of Revenue & Insurance),
New Delhi

(3) Shri P. K. Kapoor,
Under Secretary,
Central Board of Excise & Customs,
New Delhi

(4) Shri L. P. Asthana,
Assistant Collector Inspecting Officer,
Central Board of Excise & Customs,
New Delhi

[16.15 to 17.10 hours]

4. A verbatim record of evidence was kept.

5. The Committee decided to hear oral evidence of the representatives of various Associations, Organisations, etc. at their sittings to be held on the 14th, 15th, 18th, 19th and 20th December, 1972.

6. The Committee then adjourned.

IX

Ninth Sitting

The Committee sat on Thursday, the 14th December, 1972 from 15.00 to 17.30 hours.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri Raghunandan Lal Bhatia
3. Shri Jyotirmoy Bosu
4. Shri D. D. Desai
5. Shri Jambuvant Dhote
6. Shri K. R. Ganesh
7. Shri Piloo Mody
8. Shri Sudhakar Pandey
9. Shri Narain Chand Parashar
10. Shri M. R. Gopal Reddy

Rajya Sabha

11. Shri Babubhai M. Chinai
12. Shri Nripati Ranjan Choudhury
13. Shri Bal Krishna Kaul
14. Shri H. S. Narasiah
15. Shri V. B. Raju
16. Shri Bindeshwari Prasad Singh
17. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*

2. Shri V. U. Eradi—*Deputy Secretary.*

3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE AND INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise & Customs.*

REPRESENTATIVE OF THE RESERVE BANK OF INDIA

Shri C. L. Thareja—*Controller, Exchange Control Department.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. At the outset, the Committee considered their future programme of work. They decided to hold their sittings at Calcutta on Saturday, the 6th January, and Monday, the 8th January, 1973 and at Bombay from Tuesday, the 1st February to Wednesday, the 3rd February, 1973 to hear oral evidence of the representatives of various Associations, Organisations, etc.

The Committee authorised the Chairman to select parties to be called for oral evidence at Calcutta and Bombay.

3. Before the Committee proceeded to hear evidence of the following representatives of the Punjab, Haryana and Delhi Chamber of Commerce & Industry, New Delhi, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:

1. Shri Prem Pandhi
2. Shri V. P. Arya
3. Shri C. K. Hazari
4. Shri L. C. Jain
5. Shri B. P. Jain
6. Shri B. M. Srinivasa Rao
7. Shri M. L. Nandrajog
8. Shri P. Srinivasan

[15.30 to 17.30 hours]

4. A verbatim record of evidence was kept.

5. The Committee then adjourned to meet again at 15.00 hours on Friday, the 15th December, 1972.

X

Tenth Sitting

The Committee sat on Friday, the 15th December, 1972 from 15.00 to 16.45 hours.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri Jyotirmoy Bosu

3. Shri M. C. Daga
4. Shri D. D. Desai
5. Shri Jambuvant Dhote
6. Shri K. R. Ganesh
7. Shri Y. S. Mahajan
8. Shri Pилоo Mody
9. Shri M. R. Gopal Reddy

Rajya Sabha

10. Shri Babubhai M. Chinai
11. Shri Nripati Ranjan Choudhury
12. Shri Bal Krishna Kaul
13. Shri B. V. Abdulla Koya
14. Shri H. S. Narasiah
15. Shri V. B. Raju
16. Shri Bindeshwari Prasad Singh

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE (DEPARTMENT OF
ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Before Shri J. B. Dadachanji, Advocate, Supreme Court of India, New Delhi proceeded to give evidence, the Chairman drew his attention to Direction 58 of the Directions by the Speaker.

3. The evidence lasted till 16.45 hours.

4. A verbatim record of evidence was kept.

5. The Committee then adjourned to meet again at 15.00 hours on Monday, the 18th December, 1972.

XI

Eleventh Sitting

The Committee sat on Monday, the 18th December, 1972 from 15.00 to 17.30 hours.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri K. R. Ganesh

4. Shri J. Matha Gowder
5. Shri Gajadhar Majhi
6. Shri Piloo Mody
7. Shri Narain Chand Parashar
8. Shri M. R. Gopal Reddy
9. Shri Shashi Bhushan
10. Shri Rajaram Shastri
11. Shri Rudra Pratap Singh

Rajya Sabha

12. Shri Babubhai M. Chinai
13. Shri Nripati Ranjan Choudhury
14. Shri Bal Krishna Kaul
15. Shri B. V. Abdulla Koya
16. Shri V. B. Raju
17. Shri N. K. Shejwalkar

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE

(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise and Customs.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Before the Committee proceeded to hear evidence of the following representatives of the Federation of Indian Chambers of Commerce and Industry, New Delhi, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:

1. Shri S. L. Kirloskar
2. Shri M. L. Khaitan
3. Shri H. S. Singhanian
4. Shri G. L. Bansal
5. Shri P. Chentsal Rao
6. Dr. Ram Gopal Agarwal
7. Shri Eric de Souza

[15.00 to 17.30 hours]

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 15.00 hours on Tuesday, the 19th December, 1972.

XII

Twelfth Sitting

The Committee sat on Tuesday, the 19th December, 1972 from 15.00 to 16.45 hours.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri K. R. Ganesh
4. Shri J. Matha Gowder
5. Shri Indrajit Gupta
6. Shri Shyamnandan Mishra
7. Shri Pilo Mody
8. Shri Narain Chand Parashar
9. Shri Rajaram Shastri
10. Shri Rudra Pratap Singh

Rajya Sabha

11. Shri Nripati Ranjan Choudhury
12. Shri Bal Krishna Kaul
13. Shri B. V. Abdulla Koya
14. Shri V. B. Raju
15. Shri Bindeshwari Prasad Singh

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard the evidence of the individuals, etc. mentioned below:—

[In the beginning, the Chairman drew their attention to the provisions of Direction 58 of the Directions by the Speaker.]

I. (1) Shri H. P. Nanda, Managing Director, Escorts Limited, New Delhi.

(2) Shri Charanjit Singh, Secretary, Escorts Limited, New Delhi,

[15.00 to 16.15 hours]

II. Shri A. P. Sharma, M.P.

[16.15 to 16.45 hours]

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 15.00 hours on Wednesday, the 20th December, 1972.

XIII

Thirteenth Sitting

The Committee sat on Wednesday the 20th December, 1972 from 15.00 to 18.45 hours

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri Raghunandan Lal Bhatia
3. Shri Jyotirmoy Bosu
4. Shri M. C. Daga
5. Shri Dharnidhar Das
6. Shri K. R. Ganesh
7. Shri Gajadhar Majhi
8. Shri Mukhtiar Singh Malik
9. Shri Piloo Mody
10. Shri Narain Chand Parashar
11. Shri Shashi Bhushan
12. Shri Hari Kishore Singh
13. Shri J. Matha Gowder

Rajya Sabha

14. Shri Bal Krishna Kaul
15. Shri B. V. Abdulla Koya
16. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

**REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)**

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Before the Committee proceeded to hear evidence of the following representatives of the Associated Chambers of Commerce & Industry of India, New Delhi, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:

1. Shri P. K. Nanda
 2. Shri A. D. Moddie
 3. Shri M. H. Mody
 4. Shri S. H. Gurshani
 5. Shri Mohinder Puri
 6. Shri M. M. Sabharwal
 7. Shri S. K. Mehera
 8. Shri D. B. Mahindra
 9. Shri R. L. Mehta
3. The evidence lasted till 18.45 hours.
 4. A verbatim record of evidence was kept.
 5. The Committee then adjourned.

XIV

Fourteenth Sitting

The Committee sat on Saturday, the 6th January, 1973 from 10.00 to 14.00 hours in Council Chamber, Assembly Building, Calcutta.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri R. N. Barman
3. Shri Raghunandan Lal Bhatia
4. Shri M. Bheeshmadev
5. Shri Jyotirmoy Bosu
6. Shri M. C. Daga
7. Shri J. P. Dube
8. Shri K. R. Ganesh
9. Shri Indrajit Gupta
10. Shri Y. S. Mahajan
11. Shri Inder J. Malhotra
12. Shri K. Mallanna
13. Shri Shyamnandan Mishra
14. Shri Narain Chand Parashar
15. Shri M. R. Gopal Reddy
16. Shri Shibban Lal Saksena
17. Shri Shashi Bhushan
18. Shri Rajaram Shastri

Rajya Sabha

19. Shri N. P. Chaudhari
20. Shri Babubhai M. Chinai
21. Shri Bal Krishna Kaul
22. Shri B. V. Abdulla Koya
23. Shri B. N. Mandal
24. Shri H. S. Narasiah
25. Shri N. K. Shejwalkar
26. Shri Bindeshwari Prasad Singh
27. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE CABINET SECRETARIAT
(DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVE OF THE RESERVE BANK OF INDIA

Shri C. L. Thareja—*Comptroller, Exchange Control Department.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard evidence of the representatives of the Associations, Organisations, etc. mentioned below:

[In the beginning, the Chairman drew the attention of the representatives of the following Associations, Organisations, etc. to the provisions of Direction 58 of the Directions by the Speaker.]

I. *Bengal Chamber of Commerce & Industry, Calcutta*

Spokesmen:

1. Shri S. K. Mehera
2. Shri D. K. Basu
3. Shri K. V. Raghavan
4. Shri T. K. Ramasubramanyan
5. Shri C. S. Samuel
6. Shri J. Sen Gupta
7. Shri M. Ghose

[10.00 to 13.30 hours]

II. Calcutta Trades Association, Calcutta

Spokesmen:

1. Shri M. K. Himmatsinghka
2. Shri R. S. Singhanian
3. Shri I. C. Sancheti
4. Shri P. K. Jalan

[13.30 to 14.00 hours]

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 09.30 hours on Monday, the 8th January, 1973 in Council Chamber, Assembly Building Calcutta.

XV

Fifteenth Sitting

The Committee sat on Monday, the 8th January, 1973 from 09.30 to 14.00 hours in Council Chamber, Assembly Building, Calcutta.

PRESENT

Shri Satish Chandra—*Chairman*

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri R. N. Barman
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshmadev
6. Shri Dharnidhar Das
7. Shri J. P. Dube
8. Shri K. R. Ganesh
9. Shri Y. S. Mahajan
10. Shri Inder J. Malhotra
11. Shri Mukhtiar Singh Malik
12. Shri K. Mallanna
13. Shri Shyamnandan Mishra
14. Shri Narain Chand Parashar
15. Shri M. R. Gopal Reddy
16. Shri Shibban Lal Saksena
17. Shri Rajaram Shastri
18. Shri Hari Kishore Singh

Rajya Sabha

19. Shri N. P. Chaudhari
20. Shri Babubhai M. Chinai

21. Shri Nripati Ranjan Choudhury
22. Shri Bal Krishna Kaul
23. Shri B. V. Abdulla Koya
24. Shri B. N. Mandal
25. Shri H. S. Narasiah
26. Shri N. K. Shejwalkar
27. Shri Bindeshwari Prasad Singh
28. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

**REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)**

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

**REPRESENTATIVE OF THE CABINET SECRETARIAT
(DEPARTMENT OF PERSONNEL)**

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVE OF THE RESERVE BANK OF INDIA

Shri C. L. Thareja—*Controller, Exchange Control Department.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard evidence of the representatives of the Associations, Organisations, etc. mentioned below:

[In the beginning, the Chairman drew the attention of the representatives of the following Associations, Organisations, etc. to the provisions of Direction 58 of the Directions by the Speaker.]

I. *Bharat Chamber of Commerce, Calcutta*
Spokesmen:

1. Shri Rajaram Bhiwaniwalla
2. Shri K. L. Chowdhary
3. Shri H. G. Pachisia
4. Shri K. C. Mukherjee

[09.30 to 10.30 hours]

II. *Indian Chamber of Commerce, Calcutta*
Spokesmen:

1. Shri Sanjoy Sen

2. Shri B. M. Khaitan
3. Shri D. N. Maluste
4. Shri P. K. Khaitan
5. Shri R. S. Lodha
6. Shri C. S. Pande
7. Shri M. Chaudhuri

[10.30 to 12.30 hours]

III. All India Reserve Bank Employees' Association, Calcutta Spokesmen:

1. Shri Ashis Sen
2. Shri Biren Sen
3. Shri Bishnu Prosad Banerjee
4. Shri Pabitra Banerjee

[12.30 to 13.15 hours]

IV. Calcutta Jute Fabrics Shippers' Association, Calcutta Spokesmen:

1. Shri P. Guha Thakurta
2. Shri K. N. Srivastava

[13.15 to 13.45 hours]

V. Merchants' Chamber of Commerce, Calcutta Spokesmen:

1. Shri Atma Ram Kanoria
2. Shri Shrinivas Dalmia
3. Shri H. R. Bose

[13.15 to 13.35 hours]

3. A verbatim record of evidence was kept.
4. The Committee decided to hold their sittings at Delhi on the 12th, 13th and, if necessary, on the 15th February, 1973 to hear further oral evidence and also to hold general discussion on the various suggestions received on the Bill.
5. The Committee then placed on record their appreciation of the valuable assistance rendered to them by the Secretary, West Bengal Legislative Assembly, their Reporters and other members of staff in holding their sittings in the Council Chamber.
6. The Committee also placed on record their appreciation of the assistance rendered to them by the officers of the Ministry of Finance, Reserve Bank of India and Directorate of Enforcement in holding the sittings at Calcutta.
7. The Committee then adjourned.

XVI

Sixteenth Sitting

The Committee sat on Thursday, the 1st February, 1973 from 10.00 to 13.40 hours in Council Hall, Bombay.

PRESENT

Shri Satish Chandra—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri R. N. Barman
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshmadev
6. Shri M. C. Daga
7. Shri J. P. Dube
8. Shri K. R. Ganesh
9. Shri J. Matha Gowder
10. Shri Y. S. Mahajan
11. Shri Inder J. Malhorta
12. Shri Mukhtiar Singh Malik
13. Shri K. Mallanna
14. Shri Pилоo Mody
15. Shri Narain Chand Parashar
16. Shri M. R. Gopal Reddy
17. Shri Shibban Lal Saksena
18. Shri Rajaram Shastri
19. Shri Hari Kishore Singh
20. Shri Rudra Pratap Singh

Rajya Sabha

21. Shri N. P. Chaudhari
22. Shri Babubhai M. Chinai
23. Shri Nripati Ranjan Choudhury
24. Shri Bal Krishna Kaul
25. Shri B. V. Abdulla Koya
26. Shri B. N. Mandal
27. Shri H. S. Narasiah
28. Shri V. B. Raju
29. Shri N. K. Shejwalker
30. Shri Bindeshwari Prasad Singh
31. Shri M. R. Venkataraman

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
ECONOMIC AFFAIRS)

1. Shri V. U. Eradi—*Deputy Secretary.*
2. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE AND INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise and Customs.*

REPRESENTATIVE OF THE CABINET SECRETARIAT (DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVES OF THE RESERVE BANK OF INDIA

1. Shri C. L. Thareja—*Controller, Exchange Control Department.*
2. Shri S. S. Thakur—*Deputy Controller, Exchange Control Department.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard evidence of the representatives of the Associations, Organisations, etc. mentioned below:

† [In the beginning, the Chairman drew the attention of the representatives of the following Associations, Organisations, etc. to the provisions of Direction 58 of the Directions by the Speaker].

1. *Indian Merchants' Chamber, Bombay.*

Spokesmen:

1. Shri Charandas V. Mariwala
2. Shri J. H. Doshi
3. Shri Harish Mahindra
4. Dr. R. C. Cooper
5. Shri Arvind N. Kilachand
6. Shri Tanubhai D. Desai
7. Shri C. L. Gheevala
8. Shri M. K. Desai
9. Shri N. Y. Gaitonde

[10.00 to 11.45 hours]

II. Shri N. Dandekar, *Ex-M.P., Chartered Accountant, Bombay.*

[11.45 to 13.15 hours]

III. Shri S. P. Chauhan, *Bombay.*

[13.15 to 13.40 hours]

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 10.00 hours on Friday, the 2nd February, 1973 in Council Hall, Bombay.

XVII

Seventeenth Sitting

The Committee sat on Friday, the 2nd February, 1973 from 10.00 to 13.45 hours in Council Hall, Bombay.

PRESENT

Shri Satish Chandra—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri R. N. Barman
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshmadev
6. Shri M. C. Daga
7. Shri Jambuvant Dhote
8. Shri J. P. Dube
9. Shri K. R. Ganesh
10. Shri J. Matha Gowder
11. Shri Y. S. Mahajan
12. Shri Inder J. Malhotra
13. Shri Mukhtiar Singh Malik
14. Shri Piloo Mody
15. Shri Narain Chand Parashar
16. Shri M. R. Gopal Reddy
17. Shri Shibban Lal Saksena
18. Shri Rajaram Shastri
19. Shri Hari Kishore Singh
20. Shri Rudra Pratap Singh

Rajya Sabha

21. Shri N. P. Chaudhari
22. Shri Babubhai M. Chinai
23. Shri Nripati Ranjan Choudhury
24. Shri Bal Krishna Kaul
25. Shri B. V. Abdulla Koya
26. Shri B. N. Mandal
27. Shri H. S. Narasiah
28. Shri V. B. Raju
29. Shri N. K. Shejwalkar
30. Shri Bindeshwari Prasad Singh.

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Council.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
ECONOMIC AFFAIRS)

1. Shri V. U. Eradi—*Deputy Secretary.*
2. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE AND INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise and Customs.*

REPRESENTATIVE OF THE CABINET SECRETARIAT (DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVES OF THE RESERVE BANK OF INDIA

1. Shri C. L. Thareja—*Controller, Exchange Control Department.*
2. Shri S. S. Thakur—*Deputy Controller, Exchange Control Department.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard evidence of the representatives of the Associations, Organisations, etc. mentioned below:

[In the beginning, the Chairman drew the attention of the representatives of the following Associations, Organisations, etc. to the provisions of Direction 58 of the Directions by the Speaker].

I. *Bombay Chamber of Commerce and Industry, Bombay.*

Spokesmen:

1. Shri M. H. Mody
2. Shri S. R. Vakil
3. Shri R. A. Shah
4. Shri D. P. Mehta

[10.00 to 12.00 hours]

II. *Indo-German Chamber of Commerce, Bombay.*

Spokesmen:

1. Mr. D. Laengenfelder
2. Mr. H. D. Grabenhorst
3. Dr. G. Krueger
4. Dr. K. Wagner

[12.00 to 13.00 hours]

III. *Travel Agents Association of India, Bombay.*

Spokesmen:

1. Shri N. J. Katgara

2. Shri A. N. Parikh
3. Shri Dinesh Mody
4. Shri V. B. Dewan

[13.00 to 13.45 hours]

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 10.00 hours on Saturday, the 3rd February, 1973 in Council Hall, Bombay.

XVIII

Eighteenth Sitting

The Committee sat on Saturday, the 3rd February, 1973 from 10.00 to 13.00 hours in Council Hall, Bombay.

PRESENT

Shri Satish Chandra—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Arvind Netam
3. Shri R. N. Barman
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshmadev
6. Shri Jyotirmoy Bosu
7. Shri M. C. Daga
8. Shri Jambuvant Dhote
9. Shri J. P. Dube
10. Shri K. R. Ganesh
11. Shri J. Matha Gowder
12. Shri Y. S. Mahajan
13. Shri Inder J. Malhotra
14. Shri Mukhtiar Singh Malik
15. Shri K. Mallanna
16. Shri Pилоo Mody
17. Shri Narain Chand Parashar
18. Shri M. R. Gopal Reddy
19. Shri Shibban Lal Saksena
20. Shri Rajaram Shastri
21. Shri Hari Kishore Singh
22. Shri Rudra Pratap Singh
23. Shri Y. B. Chavan

Rajya Sabha

24. Shri N. P. Chaudhari
25. Shri Babubhai M. Chinai

26. Shri Nripati Ranjan Choudhury
27. Shri Bal Krishna Kaul
28. Shri B. N. Mandal
29. Shri H. S. Narasiah
30. Shri V. B. Raju
31. Shri N. K. Shejwalkar
32. Shri Bindeshwari Prasad Singh.

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
ECONOMIC AFFAIRS)

1. Shri V. U. Eradi—*Deputy Secretary.*
2. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE AND INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise and Customs.*

REPRESENTATIVE OF THE CABINET SECRETARIAT (DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVES OF THE RESERVE BANK OF INDIA

1. Shri C. L. Thareja—*Controller, Exchange Control Department.*
2. Shri S. S. Thakur—*Deputy Controller, Exchange Control Department.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard evidence of the representatives of the Associations, Organisations, etc. mentioned below:

[In the beginning, the Chairman drew the attention of the representatives of the following Associations, Organisations, etc. to the provisions of Direction 58 of the Directions by the Speaker].

I. *Indian Banks' Association, Bombay.*

Spokesmen:

1. Shri S. B. Kaji, Deputy General Manager, Bank of India, Bombay.
2. Shri S. G. Shah, Secretary, Indian Banks, Association, Bombay.
3. Shri H. N. Vesuvalla, Assistant General Manager, Bank of India, Bombay.
4. Shri Bana Paranjape, Deputy General Manager, Bank of Baroda, Bombay.

5. Shri A. N. Nussirabadwalla, Chief Officer (Foreign Exchange),
Central Bank of India, Bombay.

[10.00 to 11.00 hours]

II. *Indo-American Chamber of Commerce, Bombay.*

Spokesmen:

1. Shri N. B. Vakil
2. Shri Manmohan Singh
3. Dr. B. V. Bhoota
4. Shri A. R. Burton
5. Shri Ramu Pandit
6. Shri G. D. Parelkar

[11.00 to 12.45 hours]

III. *Porbandar Industrial Association, Porbandar.*

Spokesmen:

1. Shri Tanubhai D. Desai
2. Shri A. U. Shah
3. Shri C. D. Dhupelia

[12.45 to 13.00 hours]

3. A verbatim record of evidence was kept.

4. The Committee then placed on record their appreciation of the valuable assistance rendered to them by the Secretary, Maharashtra Legislature and other members of staff in holding their sittings in the Council Hall, Bombay.

5. The Committee also placed on record their appreciation of the assistance rendered to them by the officers of the Ministry of Finance and Reserve Bank of India in holding their sittings at Bombay.

6. The Committee then adjourned.

XIX

Nineteenth Sitting

The Committee sat on Monday, the 12th February, 1973 from 11.00 to 13.30 hours.

PRESENT

Shri Satish Chandra—*Chairman.*

MEMBERS

Lok Sabha

2. Shri R. N. Barman
3. Shri M. Bheeshmadev

4. Shri Jyotirmoy Bosu
5. Shri M. C. Daga
6. Shri Jambuvant Dhote
7. Shri K. R. Ganesh
8. Shri Y. S. Mahajan
9. Shri Inder J. Malhotra
10. Shri Mukhtiar Singh Malik
11. Shri K. Mallanna
12. Shri Pилоo Mody
13. Shri Sudhakar Pandey
14. Shri Narain Chand Parashar
15. Shri Shibban Lal Saksena
16. Shri Hari Kishore Singh
17. Shri Rudra Pratap Singh

Rajya Sabha

18. Shri N. P. Chaudhari
19. Shri Babubhai M. Chinai
20. Shri Bal Krishna Kaul
21. Shri H. S. Narasiah
22. Shri V. B. Raju
23. Shri Manubhai Shah
24. Shri N. K. Shejwalkar
25. Shri Chakrapani Shukla
26. Shri Bindeshwari Prasad Singh
27. Shri M. R. Venkataraman.

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE CABINET SECRETARIAT
(DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee heard evidence of the representatives of the Associations, Organisations, etc. mentioned below:—

[In the beginning, the Chairman drew the attention of the representatives of the following Associations, Organisations, etc. to the provisions of Direction 58 of the Directions by the Speaker.]

I. *Madras Chamber of Commerce and Industry, Madras*

Spokesmen:

1. Mr. M. E. Bourcier
2. Shri C. S. Vidyasankar
3. Shri A. Ramamurthy.

[11.00 to 11.45 hours]

II. *Tobacco Export Promotion Council, Madras*

Spokesmen:

1. Shri R. Ramananda Rao—*Vice-Chairman.*
2. Shri T. R. Jayaraman—*Secretary.*

[11.45 to 12.55 hours]

3. A verbatim record of evidence was kept.

4. The Committee then took up consideration of their future programme of work. After some discussion, the Committee decided to hold a general discussion on the suggestions made during the course of evidence on the provisions of the Bill on the 15th February, 1973, as scheduled.

5. The Committee then adjourned to meet again at 11.00 hours on Tuesday, the 13th February, 1973.

XX

Twentieth Sitting

The Committee sat on Saturday, the 3rd February, 1973 from 10.00 to 13.15 hours.

PRESENT

Shri Satish Chandra—*Chairman.*

MEMBERS

Lok Sabha

2. Shri R. N. Barman
3. Shri M. C. Daga
4. Shri Jambuvant Dhote
5. Shri K. R. Ganesh
6. Shri J. Matha Gowder
7. Shri Y. S. Mahajan
8. Shri Inder J. Malhotra
9. Shri Mukhtiar Singh Malik
10. Shri K. Mallanna
11. Shri Pилоo Mody

12. Shri Narain Chand Parashar
13. Shri M. R. Gopal Reddy
14. Shri Shibban Lal Saksena
15. Shri Shashi Bhushan
16. Shri Hari Kishore Singh
17. Shri Rudra Pratap Singh

Rajya Sabha

18. Shri N. P. Chaudhari
19. Shri Babubhai M. Chinai
20. Shri Bal Krishna Kaul
21. Shri H. S. Narasiah
22. Shri V. B. Raju
23. Shri Manubhai Shah
24. Shri N. K. Shejwalkar
25. Shri Chakrapani Shukla
26. Shri Bindeshwari Prasad Singh
27. Shri M. R. Venkataraman.

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel.*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri S. Krishnaswami—*Joint Secretary.*
2. Shri V. U. Eradi—*Deputy Secretary.*
3. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE CABINET SECRETARIAT
(DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVE OF THE RESERVE BANK OF INDIA

Shri R. M. Halasyam—*Legal Adviser.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Before the Committee proceeded to hear evidence of the following representatives of the Southern India Chamber of Commerce and Industry, Madras, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:

1. Shri S. Narayanaswamy—*President*
2. Shri N. C. Krishnan
3. Shri C. S. Vidyasankarar

3. The evidence lasted till 13.15 hours.

4. A verbatim record of evidence was kept.

5. The Committee then adjourned to meet again at 11.00 hours on Thursday, the 15th February, 1973.

XXI

Twenty-First Sitting

The Committee sat on Thursday, the 15th February, 1973 from 11.00 to 13.30 hours.

PRESENT

Shri Satish Chandra—*Chairman*.

MEMBERS

Lok Sabha

2. Shri R. N. Barman
3. Shri M. C. Daga
4. Shri Dharnidhar Das
5. Shri Jambuvant Dhote
6. Shri K. R. Ganesh
7. Shri J. Matha Gowder
8. Shri Y. S. Mahajan
9. Shri Inder J. Malhotra
10. Shri K. Mallanna
11. Shri Shyamnandan Mishra
12. Shri Sudhakar Pandey
13. Shri Narain Chand Parashar
14. Shri Shibban Lal Saksena
15. Shri Rajaram Shastri
16. Shri Hari Kishore Singh
17. Shri Y. B. Chavan

Rajya Sabha

18. Shri N. P. Chaudhari
19. Shri Babubhai M. Chinai
20. Shri Nripati Ranjan Choudhury
21. Shri Bal krishna Kaul
22. Shri B. V. Abdulla Koya
23. Shri B. N. Mandal
24. Shri V. B. Raju
25. Shri Manubhai Shah
26. Shri N. K. Shejwalkar
27. Shri Chakrapani Shukla.

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel*.
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel*.

REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri M. G. Kaul—*Secretary.*
2. Shri S. Krishnaswami—*Joint Secretary.*
3. Shri R. M. Bhandari—*Joint Secretary.*
4. Shri V. U. Eradi—*Deputy Secretary.*
5. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE AND INSURANCE)

Shri R. C. Misra—*O.S.D., Central Board of Excise and Customs.*

REPRESENTATIVE OF THE CABINET SECRETARIAT
(DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVES OF THE RESERVE BANK OF INDIA

1. Shri S. Jagannathan—*Governor.*
2. Shri C. L. Thareja—*Controller, Exchange Control Department.*
3. Shri R. M. Halasyam—*Legal Adviser.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee held general discussion on the suggestions made during the course of evidence on the provisions of the Bill.

3. The Committee decided that the Ministry of Finance might consolidate the various points raised in the memoranda, etc. and furnish the same together with their comments for circulation to the Members of the Committee by the 24th February, 1973. The Committee further decided that a list of papers so far circulated to the members of the Committee might also be prepared by the Lok Sabha Secretariat and circulated to them for their information.

4. The Committee then decided to take up clause-by-clause consideration of the Bill as per programme given below:—

- | | |
|--|-------------------------|
| (i) Last date for receipt of notices of Government amendments together with explanatory notes thereon. | 9-3-1973 (Friday) |
| (ii) Last date for receipt of notices of amendments from Members of the Committee. | 12-3-1973 (Monday) |
| (iii) Clause-by-clause consideration of the Bill. | 17-3-1973 (Saturday) |

5. The Committee also decided to ask for another extension of time for presentation of their report by Monday, the 30th April, 1973. The Committee authorised the Chairman and, in his absence, Shri Y. S. Mahajan to move the necessary motion in the House.

6. In the end, the Committee decided that—

- (i) Evidence given before the Committee be laid on the Table of both the Houses; and

- (ii) Two copies of memoranda received by the Committee from various associations, organisations, etc. be placed in Parliament Library, after the report of the Committee had been presented to the House for reference by Members.

7. The Committee then adjourned.

XXII

Twenty-second Sitting

The Committee sat on Saturday, the 17th March, 1973 from 10.00 to 13.15 hours and again from 15.00 to 17.30 hours.

PRESENT

Shri Satish Chandra—*Chairman*.

MEMBERS

Lok Sabha

2. Shri M. Bheeshmadev
3. Shri M. C. Daga
4. Shri J. P. Dube
5. Shri K. R. Ganesh
6. Shri Y. S. Mahajan
7. Shri Piloo Mody
8. Shri Sudhakar Pandey
9. Shri Rudra Pratap Singh
10. Shri Y. B. Chavan.

Rajya Sabha

11. Shri Babubhai M. Chinai
12. Shri B. N. Mandal
13. Shri H. S. Narasiah
14. Shri V. B. Raju
15. Shri Manubhai Shah
16. Shri N. K. Shejwalkar
17. Shri M. R. Venkataraman
18. Shri Thillai Villalan

LEGISLATIVE COUNSEL

1. Shri S. Harihara Iyer—*Joint Secretary and Legislative Counsel*.
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel*.

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS)

1. Shri M. G. Kaul—*Secretary*.
2. Shri S. Krishnaswami—*Joint Secretary*.
3. Shri R. N. Bhandari—*Joint Secretary*.

4. Shri V. U. Eradi—*Deputy Secretary.*

5. Shri K. Subramanian—*Under Secretary.*

REPRESENTATIVE OF THE CABINET SECRETARIAT (DEPARTMENT OF PERSONNEL)

Shri S. B. Jain—*Additional Director, Directorate of Enforcement.*

REPRESENTATIVES OF THE RESERVE BANK OF INDIA

1. Shri S. S. Shiralkar—*Deputy Governor.*

2. Shri C. L. Thareja—*Controller, Exchange Control Department.*

3. Shri R. M. Halasyam—*Legal Adviser.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee took up clause-by-clause consideration of the Bill.
3. *Clause 2.*—The following amendments were accepted:
 - (i) Page 4, omit lines 20 to 23.
 - (ii) Page 4, line 24,
for “Explanation II” substitute “Explanation”
 The clause, as amended, was adopted.
4. *Clause 3.*—The clause was adopted without any amendment.
5. *Clause 4.*—The following amendment was accepted:

Page 5, line 16,
for “restrictions” substitute “limitations”

 The clause, as amended, was adopted.
6. *Clause 5.*—The following amendment was accepted:

Page 5, line 20,
for “restrictions” substitute “limitations”

 The clause, as amended, was adopted.
7. *Clause 6.*—The following amendments were accepted:
 - (i) Page 5, line 42,
for “the provisions” substitute “any of the provisions”
 - (ii) Page 5, line 46,
for “of being heard” substitute “for making a representation”
 The clause, as amended, was adopted.
8. *Clause 7.*—The following amendments were accepted:
 - (i) Page 6, line 38,
for “the provisions” substitute “any of the provisions”

(ii) Page 6, line 42,

for "of being heard" substitute "for making a representation"

The clause, as amended, was adopted.

9. *Clause 8.*—The following amendments were accepted:

(i) Page 7, line 33,

after "such goods" insert

"or does not send or bring goods of a value representing the foreign exchange acquired,"

(ii) Page 7, line 34,

for "kind or quality" substitute "kind, quality or quantity"

The clause, as amended, was adopted.

10. *Clauses 9, 10 and 11.*—These clauses were adopted without any amendment.

11. *Clause 12.*—The following amendment was accepted:

Page 9, line 46, *omit "fixed or"*

The clause, as amended, was adopted.

12. *Clause 13.*—The following amendment was accepted:

Page 10, line 20,

for "Indian bank notes or currency notes or coins."

substitute "Indian currency."

The clause, as amended, was adopted.

13. *Clause 14.*—The following amendment was accepted:

Page 10, *for lines 39 and 40 substitute*

"which is not less than the price calculated at the rate of exchange for the time being authorised by the Reserve Bank;"

The clause, as amended, was adopted.

14. *New clause 14A.*—The following new clause was adopted:

Page 11, *after line 7, insert*

"14A. (1) Notwithstanding anything contained in the Indian Coinage Act, 1906, the Reserve Bank of India Act, 1934 or in any other law for the time being in force, the Central Government may, by notification in the Official Gazette, direct that every person resident outside India and who is on a visit to India shall, for discharging such of his liabilities as may be specified in the notification, make payments only in such foreign currencies as may be specified therein.

(2) Where payment is required to be made under sub-section (1) in any foreign currency, the person to whom such payment is made shall receive the payment only in such foreign currency.

- (3) The Central Government may, if it is of opinion that it is necessary or expedient so to do, it may, by notification in the Official Gazette, exempt any person or class of persons from the operation of the provisions of sub-section (1)."

15. *Clauses 15 and 16.*—These clauses were adopted without any amendment.

16. *Clause 17.*—The following amendments were accepted:

(i) Page 11, *omit* lines 43 to 45.

(ii) Page 12, line 1, for "(c)" substitute "(b)".

(iii) Page 12, lines 14 and 23,

for "of being heard" substitute "for making a representation"

(iv) Page 12, line 17, for "sixty" substitute "twenty"

(v) Page 12, line 21, for "sixty" substitute "twenty"

(vi) Page 12, for lines 35 to 38, substitute

"(ii) is delayed beyond the period prescribed under clause (a) of sub-section (1), or"

(vii) Page 12, *omit* lines 45 and 46.

The clause, as amended, was adopted.

17. *Clause 18.*—The following amendment was accepted:

Page 16, *after* line 14, *insert*

"(5A) If the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, exempt any transfer referred to in sub-section (5) or class of such transfers from the operation of the provisions of that sub-section, subject to such conditions, if any, as may be specified in the notification."

The clause, as amended, was adopted.

18. *Clauses 19, 20 and 21.*—These clauses were adopted without any amendment.

19. *Clause 22.*—The following amendment was accepted:

Page 18, for lines 7 to 9, substitute

"a price, which is not less than the price calculated at the rate of exchange for the time being authorised by the Reserve Bank."

The clause, as amended, was adopted.

20. *Clause 23.*—The clause was adopted without any amendment.

21. *Clause 24.*—The following amendments were accepted:

(i) Page 19, line 24,

for "acquire" substitute "require"

(ii) Page 19 after line 25, insert

“(4) Nothing in this section shall apply to a national of a foreign state.”

The clause, as amended, was adopted.

22. Clause 25.—The following amendments were accepted:

(i) Page 20, lines 35-36,

for “forty per cent. or more” substitute “more than forty per cent.”

(ii) Page 20, line 38,

for “forty per cent or more” substitute “more than forty per cent.”

(iii) Page 20, lines 44 and 45,

for “by any means controlled, directly or indirectly, by persons resident in India, or”

substitute “one in which the non-resident interest is forty-nine per cent or less, or”

(iv) Page 21, lines 26 and 27,

for “capital or distributable surplus, either by”

substitute “share capital by, or entitlement to the distributable profits of,”

(v) Page 21, line 28 omit “by”

The clause, as amended, was adopted.

23. New clause 25A.—The following new clause was adopted:

Page 21, after line 30, insert

Restrictions on persons resident in India associating themselves with or participating in concerns outside India.

“25A. (1) Without prejudice to the provisions of clause (e) of sub-section (1) of section 18, no person resident in India shall, without the previous permission of the Central Government, associate himself with, or participate in, whether as promoter or otherwise, any concern outside India engaged in, or intending to engage in, any activity of a trading, commercial or industrial nature, whether such concern is a body corporate or not.

(2) Any person desiring to get permission under sub-section (1) may make an application to the Central Government in such form, in such manner and containing such particulars as may be prescribed.

(3) On receipt of an application under sub-section (2), the Central Government may, after making such inquiry as it deems fit, allow the application subject to such conditions, if any, as it may think fit to impose or reject the application:

Provided that no application shall be rejected under this sub-section unless the applicant has been given a reasonable opportunity for making a representation in the matter.

- (4) Any permission granted under this section shall also be subject to the condition that the person to whom such permission has been granted shall comply with such requirements as the Reserve Bank may, from time to time, direct.
- (5) If any person to whom a permission has been granted under this section does not comply with any condition imposed by the Central Government under sub-section (3) or any requirement directed by the Reserve Bank under sub-section (4) to be complied with, then, without prejudice to any other action that may be taken against him under this Act, the Central Government may by order revoke the permission granted to him under this section:

Provided that no order under this sub-section shall be made unless the person to be affected thereby has been given a reasonable opportunity for making a representation in the matter.

- (6) (a) Every person resident in India who, at the commencement of this Act, is associating himself with, or participating in, whether as promoter or otherwise, any concern referred to in sub-section (1) shall, within a period of ninety days of such commencement of such further period as the Central Government may allow in this behalf, make an application to the Central Government in such form, in such manner and containing such particulars as may be prescribed.
- (b) The provisions of sub-section (3) to (5) (both inclusive) shall apply in relation to any application made under this sub-section as they apply in relation to an application made under sub-section (2).
- (7) Nothing in this section shall apply to a national of a foreign state.

Explanation.—For the purposes of this section, a person shall not be deemed to be associating himself with, or participating in, whether as promoter or otherwise, in a concern referred to in sub-section (1) merely by reason of the fact that he is an employee in such concern.”

24. *Clause 26.*—I. The following amendments were accepted:

(i) Page 21, line 33,

after “resident outside India” insert “(whether a citizen of India or not)”

(ii) Page 21, line 34, for “national” substitute “citizen”

(iii) Page 21, line 36,

for “forty per cent or more” substitute “more than forty per cent”

(iv) Page 22, lines 16 and 29

for “of being heard” substitute “for making a representation”

II. The following amendment was accepted subject to drafting changes:

Page 22, for lines 41—43, substitute

“(c) ‘processing’ means any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation but does not include any process incidental or ancillary to the completion of a manufactured product such as dividing, pressing, compressing, packing, re-packing, labelling, re-labelling, branding or the adoption of any such treatment as is necessary to render such product marketable to the consumer.”

The clause, as amended, was adopted.

25. Clause 27.—The following amendments were accepted:

(i) Page 23, line 4,

for “India or a person who is not a national”

substitute “India (whether a citizen of India or not) or a person who is not a citizen”

(ii) Page 23, line 7,

for “forty per cent or more” substitute “more than forty per cent”

(iii) Page 23, line 36,

for “of being heard” substitute “for making a representation”

(iv) Page 23, line 39, omit “to carry on”

(v) Page 24, after line 3 insert

“(2A) Notwithstanding anything contained in sub-section (2), the Reserve Bank may, having regard to—

(i) the fact that any person or company (including its branch), referred to in sub-section (1) is carrying on any activity referred to in clause (a) of that sub-section at the commencement of this Act or has established a branch office or other place of business for the carrying on of such activity at such commencement, in either case, in pursuance of any permission or licence granted by the Central Government; and

(ii) the nature of the activity which is being, or intended to be, carried on by such person or company (including its branch), or order, exempt—

(a) such person or company (including its branch); or

(b) any class of such persons or companies (including their branches), in relation to such activity as may be specified in the order, from the operation of the provisions of sub-section (2) subject to such conditions as may be specified in the order:

Provided that the Reserve Bank shall not make any order under this sub-section in a case where the activity which

is being, or intended to be, carried on is solely of a trading nature."

(vi) Page 24, lines 3 and 20,

for "of being heard" substitute "for making a representation"

The clause, as amended, was adopted.

26. Clause 28.—The following amendments were accepted:

(i) Page 24, for lines 31 to 48 substitute—

"28. (1) No national of a foreign State shall, without the previous permission of the Reserve Bank—

(i) take up any employment in India, or

(ii) practice any profession or carry on any occupation, trade or business in India,

in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of such employment or the practising of such profession or the carrying on of such occupation, trade or business, as the case may be.

(2) Where any national of a foreign State desires to obtain the permission of the Reserve Bank under sub-section (1), he may make an application to the Reserve Bank in such form, in such manner and containing such particulars as may be prescribed.

(3) On receipt of an application under sub-section (2), the Reserve Bank may, after making such inquiry as it deems fit, allow the application subject to such conditions, if any, as it may think fit to impose or reject the application:

Provided that no application shall be rejected under this sub-section unless the applicant has been given a reasonable opportunity for making a representation in the matter."

(ii) Page 25, omit lines 1 to 27.

The clause, as amended, was adopted.

27. Clause 29.—The following amendments were accepted:

(i) Page 25, line 28,

for "person resident outside India or who is not a national" substitute "person who is not a citizen"

(ii) Page 25, line 29,

for "but is resident in India or a company" substitute "and no company"

(iii) Page 25, line 31,

for "forty per cent or more" substitute "more than forty per cent."

Prior permission of Reserve Bank required for taking up employment etc., in India.

- (iv) Page 25, line 32,
for "with the permission"
substitute "with the previous general or special permission"
- (v) Page 25, lines 38 and 39,
for "desiring to acquire or hold or transfer or dispose"
substitute "and requiring a special permission under that sub-
section for acquiring or holding or transferring or dis-
posing"
- (vi) Page 25, line 47,
for "of being heard"
substitute "for making a representation"
- (vii) Page 26, line 8,
for "of being heard"
substitute "for making a representation"

The clause, as amended, was adopted.

28. *Clause 30.*—I. The following amendments were accepted:

- (i) Page 26, lines 35, 45 and 46,
for "of being heard"
substitute "for making a representation"
- (ii) Page 26, lines 40 and 41,
for "acted otherwise than in conformity with"
substitute "not complied with the conditions of the licence or
has contravened any of"
- (iii) Page 26, lines 42 and 43, *omit*
"or has contravened any of the conditions of the licence"

II. The following amendment was accepted subject to drafting changes:

Page 27, after line 41, *add*—

"Provided that nothing in this sub-clause shall apply to travel under permits granted by the Reserve Bank and provided also that the Reserve Bank shall give *ex-post-facto* sanction to stay outside India beyond the stipulated period and travel to places other than those specified by the Reserve Bank on being satisfied that sufficient grounds existed therefor."

The clause, as amended, was adopted.

29. *Clause 31.*—The clause was adopted without any amendment.

30. *Clause 32.*—The following amendments were accepted:

- (i) Page 28 line 35, for "baggage" substitute "thing"
- (ii) Page 28, line 37, after "any" insert "investigation or"

(iii) Page 28, line 38, for "baggage" substitute "thing"

The clause, as amended, was adopted.

31. *Clause 33.*—The following amendment was accepted:

Page 29, lines 18 and 19,

omit "for any offence punishable under sub-section (2) of section 41 or under section 51 or under section 52"

The clause, as amended, was adopted.

32. *Clause 34.*—The following amendments were accepted:

(i) Page 29, line 25,

for "aircraft, vehicle or animal in India or any vessel",
substitute "document which will be useful for or relevant to any investigation or proceeding under this Act is secreted in any aircraft or vehicle or on any animal in India or in any vessel"

(ii) Page 29, lines 26 to 29,

omit "has been, is being, or is about to be, used in the commission of an offence under this Act, or that any document which will be useful for or relevant to any proceeding under this Act is secreted therein,"

(iii) Page 29, line 30,

after "to" *insert* "stop or"

The clause, as amended, was adopted.

33. *Clause 35.*—The clause was adopted without any amendment.

34. *Clause 35A.*—The following new clause was adopted:

Page 30, *after* line 6, *insert*

"35A. Without prejudice to the provisions of section 32 or section 34 or section 35, if any officer of Enforcement authorised in this behalf by the Central Government, by general or special order, has reason to believe that any document or thing will be useful for, or relevant to, any investigation or proceeding under this Act or in respect of which a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has taken place, he may seize such document or thing."

35. *Clause 36.*—The following amendments were accepted:

(i) Page 30, lines 9 and 10,

for "inquiry in connection with any offence"

substitute "investigation or proceeding"

(ii) Page 30, line 12,

for "inquiry"

substitute "investigation or proceeding"

The clause, as amended, was adopted.

36. *Clause 37.*—The following amendments were accepted:

(i) Page 30, lines 17 and 18,

for “in any inquiry which such officer is making in connection with any offence under this Act.”

substitute “during the course of any investigation or proceeding under this Act.”

(ii) Page 30, line 31,

for “inquiry”

substitute “investigation or proceeding”

The clause, as amended, was adopted.

37. *Clause 38.*—The following amendments were accepted:

(i) Page 30, line 37,

for “the Director of Enforcement or any other”

substitute “any”

(ii) Page 30, line 44, omit “before him”

The clause, as amended, was adopted.

38. *Clause 39.*—I. The following amendments were accepted:

(i) Page 31, for lines 21 to 34, substitute

“39 (1) Where—

(i) an investigation is being made into any alleged contravention of the provisions of section 13 or clause (a) of sub-section (1) of section 17 or clause (a) of sub-section (1) of section 18, read with section 60; or

(ii) an investigation is being made into any alleged contravention of any other provision of this Act or of any rule, direction or order made thereunder; or

(iii) any proceeding in respect of any such contravention as is referred to in clause (i) or clause (ii) is pending before an officer of customs or an officer of Enforcement or a court, and any draft, cheque (including traveller’s cheque) or other instrument being the subject matter of such investigation or proceeding is in the custody of an officer of customs or of an officer of Enforcement or of a court; then,—

(a) where such draft, cheque (including traveller’s cheque) or other instrument is in the custody of an officer of Customs, the Collector of Customs; or

(b) where such draft, cheque (including traveller’s cheque) or other instrument is in the custody of an officer of Enforcement, the Director of Enforcement; or

(c) where such draft, cheque (including traveller’s cheque) or other instrument is in the custody of a court, the court, on an application made to it in this behalf by

the Collector of Customs or, as the case may be, by the Director of Enforcement,

may, by order, direct that the sum due under such draft, cheque (including traveller's cheque) or other instrument be encashed either through the Reserve Bank or such other agency as the Collector of Customs or the Director of Enforcement or the court, as the case may be, deems fit."

- (ii) Page 31, line 38, after "section 56"
insert

"or an order has been made under the Customs Act, 1962"

- (iii) Page 31, line 43, after "person" *insert* ", "

- (iv) Page 31, lines 44 and 45,

for "Director of Enforcement or such other officer of Enforcement or the Court"

substitute "officer or the court, who or which made the direction under sub-section (1),"

II. The following amendment was accepted subject to drafting changes:

Page 31, for lines 42 to 46, *substitute*

"shall be paid to such persons as may appear to the Director of Enforcement or such other officer of Enforcement or the Court to be entitled thereto together with interest at the rate of six per cent per annum from the date of seizure of such draft, cheque (including traveller's cheque) or other instrument till the date of payment."

The clause, as amended, was adopted.

39. *Clause 40.*—The clause was adopted without any amendment.

40. *Clause 41.*—The following amendments were accepted:

- (i) Page 32, line 32, *omit* "in the course of any inquiry under this Act"

- (ii) Page 32, line 35, for "in his possession or control"

substitute "which have come into his possession or control during the course of any investigation or proceeding under this Act"

- (iii) Page 32, line 44, *omit* "in the course of any inquiry under this Act"

The clause, as amended, was adopted.

41. *Clause 42.*—The clause was adopted without any amendment.

42. *Clause 43.*—I. The following amendments were accepted:

- (i) Page 33, line 23, after "stolen" *insert* ", "

- (ii) Page 33, line 24, for "found under the"

substitute "found in either case under"

the Collector of Customs or, as the case may be, by the Director of Enforcement,

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