

Title: Combined discussion on the Prevention of Money Laundering Bill, 1999 and Foreign Exchange Management Bill, 1999 moved by Shri Yashwant Sinha. (Concluded).(Bill Passed.)

16.15 hrs.

MR. SPEAKER: Now, the House will take up Item Nos. 9 and 10 together. The time allotted is four hours. Shri Yashwant Sinha.

1615 hours

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA): Sir, I beg to move:

"That the Bill to prevent money-laundering and to provide for confiscation of property derived from, or involved in money-laundering and for matters connected therewith or incidental thereto, be taken into consideration.

That the Bill to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India, be taken into consideration."

1616 hours (Mr. Deputy-Speaker in the Chair)

The Foreign Exchange Regulation Act, 1973 primarily made compensatory transactions (known as Havala) illegal. The basic aim was to ensure that no one contravenes the exchange control regulations through unofficial channels. The emphasis was, therefore, on violation of foreign exchange regulations rather than on "money-laundering". Money-laundering, that is the cleansing of proceeds of crimes such as extortion, treason, drug trafficking, gun running etc. poses a serious threat to the integrity and sovereignty of a country and also to its financial systems. This threat to the nation and its economy has been recognised the world over and several UN and other international conventions have called upon member countries to take legislative and other preventive measures to combat the menace of money-laundering. As India is a signatory to some of these conventions, a committee was set up to examine and suggest a draft legislation for this purpose. Based on their report, a separate legislation has been introduced with stringent penal provisions. At the same time, there is a need to consolidate and amend the law relating to foreign exchange consistent with the liberalisation policies pursued during the last eight years. While the provisions of Foreign Exchange Management Bill make foreign exchange contraventions civil wrongs, the offences under the prevention of Money-Laundering Bill have been made criminal and will attract stringent punishment.

It may be recalled that the Prevention of Money-Laundering Bill, 1998 and the Foreign Exchange Management Bill, 1998 were introduced in the 12th Lok Sabha and thereafter referred to the Standing Committee on Finance. The Reports submitted by the Standing Committee on Finance have been examined and the current Bills incorporate many of the suggestions made by the Standing Committee.

Let me briefly speak about the Prevention of Money-Laundering Bill.

The offence of money-laundering relates to only proceeds of such crimes which have been mentioned in the Schedule to the Bill. These are heinous crimes which are certain offences under the Indian Penal Code, the Prevention of Corruption Act, the Narcotics Drug and Psychotropic Substances Act, the Arms Act and the Immoral Traffic Prevention Act.

The Bill seeks to make the offence of money-laundering punishable by way of rigorous imprisonment for three to seven years and fine upto Rs.5 lakhs. In case of drug related offences, the punishment may extend upto ten years plus fine of Rs.5 lakh.

The Bill also seeks to provide for attachment of property believed to be involved in money-laundering. The Bill also has provisions for granting powers, similar to those conferred under other economic legislations, of summons, survey, search and seizure. The Bill also seeks to cast certain reporting obligations on the financial institutions including banks. Special Courts are proposed to be set up to try the offence of money-laundering, and their orders will be appealable before the High Court. The Bill has provisions

for having Treaties for Mutual Legal Assistance and Extradition Proceedings with other countries so as to facilitate the transfer of funds involved in money-laundering kept outside the country and extradition of the accused persons from abroad.

Sir, now allow me to say something very briefly about the Foreign Exchange Management Bill.

In the on-going process of economic liberalization, many changes in regard to foreign investment and foreign trade have been brought about since 1991 for closer interaction with the world economy. In this context, the Foreign Exchange Regulation Act, 1973 (FERA) was reviewed in 1993 and it was felt that many of the restrictive provisions of this Act needed modifications. Further, certain Sections of this Act had lost their relevance and needed to be deleted from the Act. As a result of comprehensive review, the 1973 Act was amended in 1993.

At this stage the Ministry of Law had suggested that better course of action would be to repeal and introduce a new legislation. Reserve Bank of India was accordingly asked to undertake a fresh exercise and suggest an altogether fresh legislation. A Task Force constituted for the purpose submitted its report in 1994 recommending substantial changes in the Act. Besides, there have been rapid developments in the external sector like better reserves position, substantial increase in India's foreign trade, progressive reduction in customs duties and India's decision to undertake the obligations of Article VIII of the IMF Articles of Agreement whereby all current account transactions are to be freely allowed.

Thus, this Bill aims to repeal and replace the Foreign Exchange Regulation Act, 1973 and to further consolidate the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India.

I commend these two Bills for consideration and passing by the House.

MR. DEPUTY-SPEAKER: Motions moved:

"That the Bill to prevent money-laundering and to provide for confiscation of property derived from, or involved in money-laundering and for matters connected therewith or incidental thereto, be taken into consideration."

"That the Bill to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India, be taken into consideration."

Before I call any Member to speak, there are amendments from Shri Varkala Radhakrishnan. Let him move his amendments. I think he is not here.

Shri Pawan Kumar Bansal to speak.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Deputy-Speaker Sir, these are two important pieces of legislation which have rather come a little late. We have over the years witnessed to our chagrin that illicit trafficking in drugs and arms has taken a heavy toll of the economies of various countries. According to one estimate, an amount as staggering as five billion dollars represents illegal trafficking in drugs per year the world over and an amount of seven hundred billion dollars represents the volume of illicit trade in arms.

">We know of the Golden Crescent, that is, Afghanistan, Pakistan and Iran and what we call the Golden Triangle comprising of Myanmar, Laos and Thailand as far as the trafficking in drugs is concerned. India, unfortunately, has been a transit country for drugs and has been the recipient of illicit arms as well. We know of the famous Purulia arms dropping case. Nothing much could be found out in that. But it certainly points to the gravity of the situation, the enormity of the problem which various countries, particularly the developing countries, face because of the illicit trafficking in drugs and arms. Therefore, it was quite imperative that a piece of legislation like the Prevention of Money Laundering Bill should have been brought before Parliament. I unreservedly support this Bill because that has been our stand all through.

">From time to time measures have been taken to protect the Indian economy from the onslaught of the inimical forces outside the country using crime, using the ill-gotten money from this activity to destabilise our country.

">Coming from Punjab, one just cannot forget the turmoil, the uncertainty, and insecurity that stalked the State for a decade because of some association with or easy flow of money to the terrorists.

">Another important aspect that immediately comes to one's mind when we take up a legislation like prevention of money laundering is the extent of ill-gotten money, money tainted with crime being used in various ways which may perhaps not be within our knowledge also. The hon. Minister has talked about and rather enumerated in the Bill in the form of Schedule certain offences which he rightly considers to be heinous ones and have to be addressed to on priority. I got a little late in moving my amendments which are not before the House as such. I have moved an amendment not because I have any problem or difficulty with his classification of offences but to bring to the notice of the honourable House that the matter just does not end there. The ramifications of the problem, and the ways crime and money are interrelated are enormous. It is not just these few offences which have been mentioned there, there are various other offences committed for money. Say, of course, an argument can be well given that in case of any violation of Passports Act, it could attract a penalty or action under the Prevention of Corruption Act, etc. But in today's world, when the information technology is growing at an exponential rate, crime need not be committed by a person actually visiting the place of crime. It is through the internet even that crime can be committed today. Therefore, we have got to be innovative. We have got to visualise all sorts of possibilities, ways and means which could be devised by the underworld, by various mafia groups to perpetrate crime and be benefited by the proceeds thereof. Since I do agree with the spirit of the Bill, I would not take much time in going into the details of the Bill or the principles behind that.

">I would very briefly refer to some of the provisions and I would request the hon. Minister to consider my amendments, even though they have not been formally circulated as I got late in moving them today.

">Firstly, personally speaking, I would like the reference to the scheduled offences to be deleted. I want the hon. Minister to consider that if we can incorporate the offence of murder in the Schedule, then I think there are other cases where even a lesser offence committed for pecuniary gains should attract a similar response from us.

">And therefore, any crime which is committed and from which arises the monetary consideration should be included in the scope of this Act and for that reason, I would, further, like to draw the hon. Minister's attention to the definition of money laundering itself. Here, Clause 5 (1) (a) of the Bill stipulates:

">"any person is in possession of any proceeds of crime;

">This is fine. Then, Clause 5 (1) (c) further says:

">"such person has been charged of having committed a scheduled offence;"

">I think, this has to be omitted. Then, Clause 5 (1) (c) says:

">"such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,"

">If there is a reasonable apprehension or information with the concerned authority that a person is in possession of any proceeds of

crime and also as mentioned in Clause 5 (1) (c) above, these two reasons should be good enough to take action.

">Sir, the hon. Minister said that the law which he is proposing to this House is a stringent one. With respect, I would like to say that it is not stringent. The response is not commensurate with the problem that stares at our face menacingly. There could, very well, be a case where, for example, we know that there is a murder committed at a particular place. Some amount of money is related with that crime and recovered at some other place because an information is received by the concerned authority that such and such amount of money could be recovered from that place. So, now the murder turns out to be a blind one or you do not really, with an amount of certainty, trace the person who is the culprit in that crime. Not only this; let us take a case of narcotics, money is recoverable there also, but not the actual offender.

">Unless we remove this Clause which says that unless such a person has been charged with that offence, the property cannot be attached, it will not serve the desired purpose. So, I think, this should be deleted to give more teeth to this piece of legislation.

">Sir, when I say that certain more powers have to be given to the concerned authorities and their hands are not to be tied by the requirements like the one that that particular person should also be charged with the offence, I, at the same time, feel that in Section 19 where, after the adjudicating authority has decided in a particular way that the property which has been attached need not be attached any further, a provision, somehow, has been made that despite that order of the adjudicating authority - which is a quasi-judicial authority comprising of senior officers - power has been given to the Director, to the Joint Director, to the Assistant Director etc., to still withhold release of that property. I think an amendment is required there also to say that in case the adjudicating authority feels that that property is relevant for the decision of the appeal, it is the adjudicating authority which should permit the withholding of the release of the property.

">I now come to the provision regarding the composition of the appellate authority which, again, is a little technical.

">Today, when we have a plethora of cases accumulating in the courts and when we talk of judicial reforms being necessary because of piling up of cases in the High Courts and the Supreme Court, we have to - as far as the new legislations are concerned - ensure that the procedure prescribed is simple and effective.

">I do agree that the appeal from the adjudicating authority goes to the Appellate Authority. But I further see, as the hon. Minister has provided for, the Chairman of the Appellate Authority can be a person who is or has been a Judge of the Supreme Court and the appeal from the Appellate Authority further goes to the High Court. I would like to suggest to him that as is the normal practice elsewhere in many other laws that we have, the appellate authority should be confined only to those people who have been or are qualified to be Judges of the High Courts.

">I have a serious objection here. I would like the hon. Minister to consider this. This is the first piece of legislation where I find that this particular clause is missing "a person's qualification", that is, a Member of that appellate tribunal will be a person who has been or is a Judge of the High Court and, of course, thereafter the various officers. The words missing are:

">"who is qualified to be a Judge of the High Court."

">There is no other piece of legislation where this is provided for. You have a good number of competent jurists and lawyers who can very well perform this job. District Judges and Sessions Judges, who have done commendable jobs, are qualified to be Judges of the High Court, but because of this provision in the Act, they cannot be appointed Members of this appellate tribunal.

">Thereafter, I have another suggestion to make, that is, for expeditious disposal of matters. I can understand at the initial stage where an appeal is sought to be filed against the decision of the adjudicating authority to the appellate authority. If the Government feels that the adjudicating authority has not taken notice of a particular provision of law or has somehow gone wrong in the decision of the case, they could very well appeal to the appellate authority. But I would humbly submit that the right of the Government to file a further appeal in the High Court should be restricted. The amendment that I have moved is an omnibus one that the State should not have the right to file an appeal. On a second thought, I find that on a question of law if an appeal were to be filed in the High Court, it is good enough. But if, on facts, the Government were to act like an ordinary litigant, filing appeals or revisions at every stage of the litigation, we will not come to an end of the matter. The point at issue would continue to linger on. We would end up with the same situation that is there in the courts today. The High Courts, as I just submitted to this hon. House, are already overburdened with work. So, we should spare the High Courts of additional work in this manner.

">The cases could very well be decided by the adjudicating authorities and the appellate authorities. ..(Interruptions).....I am talking of the powers given by the Act. What the Parliament cannot curtail is the right of the High Court under article 226 of the Constitution, that is, the writ jurisdiction. The other powers are all creation of the statutes. It is for any particular law to give any particular power to the High Courts or not or to decide upon any authority as the appellate authority. So, I think, the powers of the Government should be restricted, in filing appeals only, up to the level of the appellate authority.

">Sir, when I began with my intervention in this matter, I very briefly referred to the money that is tainted by the blood of the people, by the poverty of the people. Rightly so, I find that an effort has been made to seek the active assistance of the banks and other financial institutions in tracing certain offences or in trying to prevent money laundering. But I think, we have to give a little deeper thought to see as to how the banks can be made to ensure total transparency in their work. We know that crime rises at places where, what you could say, there is more of cash involved in the transaction.

">What ways could be devised to see that there is regular flow of information to the Directorate from the banks, from the financial institutions and from the intermediaries? When I talk of intermediaries, I see that in the definition of this word in the Bill, there is omission of -- there may be a little deviation from the clause here as such but that is very relevant as far as the question of money laundering is concerned -- the word Property Dealer.

We know that large amounts of ill-gotten money, money which is involved in crime is invested in real estate. A few years back, we saw a tremendous upsurge in the price of real estate. We have laws under the Income Tax Act to deal with the situation, but we at the same

time, know with what impunity those laws are violated, and how the price of the real estate for registration purposes is undervalued. At the same time, because of the obstinacy of the Government to not really bring about reforms in laws relating to the transfer of property in metropolitan cities like Delhi and Chandigarh, large chunks of properties are being sold repeatedly on 'Power of Attorney'. That is again where huge amount of money, which could very well again be traced to crime, is utilised. It may work hardship on property dealers but ensuring that it does not, we have to also ensure that they also pass on that information to the Directorate which stipulated under this Act is to be provided by the financial institutions, the banks and the intermediaries, etc.

Sir, another point which is very relevant here is that such money besides the hawala cases which is quite a normal practice for people living abroad, transferring their money in that form another very ingenious way of using this money is by over-invoicing the general exports. There were two instances in the recent past which exposed a practice like this. One was, basing my information on news items appeared in the newspapers, regarding the export of large amount of fountain pens from our country. Nothing really was there. The other case was of nail polish being exported to Russia.

Again it was over-invoicing. I do not know what could possibly be the route but certainly when the general exports are over-invoiced, that procedure, that system is used again to launder money which is connected with plugged. That is the reason why, to begin with, I had said that the Schedule enumerating certain offences therein is just not enough to tackle the situation, the enormity of the situation that we face.

Sir, the two pieces of legislation which we are discussing are to an extent inter-related in so far as the problem which we intend to tackle is concerned. While the changed economic scenario, the on-going process of liberalisation warrant a liberal law like the Foreign Exchange Management Bill in place of the earlier FERA, which today could be termed, in retrospect harsh. It was enacted to deal with the situation that prevailed then in the country. In a changing, moving and a dynamic society such as ours, laws cannot really be static. Law is the manifestation of people's will expressed through their representatives in the Parliament.

1647 hours (Shri Basu Deb Acharia in the Chair)

Therefore, today, in the new economic scenario, a law like the Foreign Exchange Management Bill, which is before us today, is needed. But here again, Sir, I rise to suggest only a few amendments if the hon. Minister considers them.

I think that institution of the Special Director (Appeals) should be totally done away with. I find here that if the adjudicating authority is of a status below a particular rank, the appeal would go to the Special Director (Appeals) and against the Order of the Special Director (Appeals), there would be an appeal to the Appellate Authority and as in the other Act, against the Order of the Appellate Authority, there would be an appeal to the High Court. So, there are three appeals. Thereafter, of course, there is Special Leave, etc. to the Supreme Court. To what extent you can protract, stretch the procedure. I think--this is my humble submission--it may be provided that the adjudicating authority shall not consist of Officers below a particular rank and thereafter the appeal should straightaway go, in all cases, to the Appellate Authority and further, the same procedure be followed. Of course, by reiteration of my earlier suggestion that in the case of the Central Government, the right to appeal should come to an end with the decision of the Appellate Authority because up to that extent it is good enough for the Government and thereafter only if an individual feels aggrieved against the Order, he may file an appeal in the High Court. That will not only cut down the period of litigation but that will also mean less of expenditure on this. Today, when the Government is committed, when we are all committed, when we all want--that is the general feeling of the people--what is required is downsizing the Government. Through these measures, which are well intended measures, we are unwittingly expanding the system of Government.

Again, I find the word 'Authority' is not defined in the Prevention of Money Laundering Bill. Subsequently in Sections 47, 48 and 52, we go to say that the Government can appoint authorities. Now, there is a long list of officers under different other laws who could be summoned to assist the authorities under this Act. That could, while working, lead to certain problems because you only say the police officers are hereby empowered. I think that is not the way of doing it. I again humbly submit that you may say, though it is a very small amendment otherwise, that these officers are empowered. Then, further, after providing all those things, finally you again say "whomsoever the Government may appoint." We do not know what would be the limit or the nature of duties assigned to different officers drawn from different Departments. When we are taking these two Bills together for discussion, I think, it could have been worthwhile if the Government had adopted an integrated approach to the problem. It is because, as I said, there is a slight interrelation because certain crimes are committed across the borders. The money may flow in here. The money may be utilized here for abetting, for triggering off certain type of activities in our country. If there had been one integrated approach to the problem and we had one piece of

legislation, thereby this multiplicity of authorities could have also been, to an extent, checked. These powers of the adjudicating authority could have been given to the same people and subsequently to the Appellate Authority also.

When I talk of the Appellate Authority, there is one very small amendment which I would again suggest. It says that the Appellate Authority shall consist of the Chairman and two other Members. I think it should be the Chairman and two or more Members because subsequently you talk of various Benches also. The Benches will be part and parcel of the Appellate Authority itself because the Chairman is empowered to transfer those people from one place to another or to fix the Benches to decide cases. In certain cases, he could even ask two Members of the Appellate Tribunal to decide the cases.

MR. CHAIRMAN : Shri Pawan Kumar Bansal, you can conclude now.

SHRI PAWAN KUMAR BANSAL : The Chairman could ask the other Members to take the matter singly or sitting in a Bench of two. I find from the financial memorandum that the Government proposes to set up such Benches at three places. That itself contradicts the earlier thing. So, I think if the Bill were to provide that the Appellate Authority shall consist of the Chairman and two or more Members, that could meet the situation like that.

Finally, bowing to your directions to conclude, I would support these two Bills. But at the same time, I would caution the Government not to be complacent about it. The problem of money laundering is a very grave one which, as the Minister in his opening remarks as also

in the Statement of Objects and Reasons has said, not only threatens your economy but it at times tends to destabilize the society itself. It impinges upon your political system. It threatens security, sovereignty and integrity of our country. As I

said, India is only a conduit in this. For that reason, what scheme could be prepared when a particular drug starts its journey from say, South America or from the Golden Crescent or Golden Triangle that I have mentioned, before finding its way to Europe and America, what havoc it plays enroute with our economy here, are all points which we have to ponder over and be ever vigilant. Thank you very much.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Mr. Chairman, Sir, I rise to support the Foreign Exchange Management Bill and grudgingly, of course, the Prevention of Money Laundering Bill.

">By any stretch of imagination, I am not able to know as to how the FEMA Bill and the Prevention of Money Laundering Bill could go together except for a few provisions like Clauses 11, 13 and 14 where there could be presumption that money is laundered and is being used by foreign persons.

">I will start with FEMA. Before starting with FEMA, I crave your indulgence to recite a Rubaiyat from Omar Khayyam:

">"Before the phantom of False morning died,

">Methought a Voice within the Tavern cried,

">"When all the Temple is prepared within,

">Why nods the drowsy Worshipper outside?"

">We are bringing in a new dawn of millennium. The new millennium is a millennium which is ushering in liberalisation in attitude, in behaviour, in trade, in merchandise, etc. So, when you are thinking of the new dawn, the nodding person outside the tavern should not feel drowsy. He should come forward, be active and take part in new system of work that is being ushered in.

">Sir, in 1947, the FERA was enacted because of difficulties in foreign exchange reserves and other things. That man I do not know who he is. Shri S.P. Jain's, soul must be squirming in the ether because of the penalty of Rs. 55 lakh which was imposed on him for violation of keeping about Rs. 19,000 in the Deutsche Bank. That is because of the FERA. In 1973, after the Law Commission's advice and after taking into consideration the prevailing economic situation the FERA was enacted with very harsh provisions. At that time, it was necessary because of the difficulty in foreign exchange reserves and other things. Things have changed now and we are going in for liberalisation in a broad way. That is why, there is a necessity of the Foreign Exchange Management Act. Any regulatory function with a criminal will prick the conscience of a person and regulatory functions create problems for human beings. It is said in Latin Summum Jus Summa Injuria too much of legislations, too much of regulations create problems for a man.

">Now, it is good that the Government has brought in a new Act where management will be done of foreign exchange and when you are managing things, there must be cooperation, there must be give-and-take basis and a belief and feeling that we go together.

">My friend, who spoke earlier, was speaking of different stages of appeal and all related matter. Since we are managing things, the management has to be in a broad manner. Now, that is why, the liberal Management, the FEMA has come. In the present scenario, we have very high foreign exchange reserves which the hon. Minister of Finance has told about it yesterday itself. There is a new investment regime. When there is a new investment regime, there must be liberal views. That is why, things have changed in the FEMA which has been taken up. He has dealt with them in detail. I am not going into the details. But in FEMA also some of the provisions of the FERA have been incorporated. But the harsh provisions have been softened, softened with a view to allow a better management of foreign exchange. The punitive provisions have been diluted. That is a very good thing which has been done because a person who was violating the FERA laws and all those things was being incarcerated and lots of punishment was there. When there is some trade, there might be a little bit of criminal action or civil violation and all those things. But one should not be stringent in his attitude when there is a little bit of trade violations and all that. That is why, the punitive provisions have been deleted and there will be no criminal proceedings.

">17.00 hrs.

">It is a very important provision which has been incorporated in the FEMA. The most important is the process of adjudication before imposition of penalty. Since there is the process of adjudication, that is why it is management. And when there is the process of adjudication, the adjudication and the appellate matters could go together in a sense that at different stages, the adjudicating authority, the appellate authority and the special appellate authority can take different views to help the persons involved and to allow them to keep their money. But there are certain provisions which are too liberal. I invite the attention of the Finance minister to certain provisions which are too liberal. The second proviso to Clause 19 reads:

">"Provided further that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, the Appellate Tribunal may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty."

">I do not know how they would be able to safeguard the realisation of the penalty when they have allowed the money to be taken. There are certain other very liberal provisions which I think need to be thought of before giving a final shape to this Act.

">In clause 40, a very liberal attitude has been taken. The Central Government has been given powers to render it necessary that any protection granted or restriction imposed by his Act should cease to be granted or imposed. That is a very liberal view which has been taken by the Central Government and by a notification, many of the provisions can be stopped for the time being. That is in keeping with the requirement of the time, the requirement of the trade, the requirement of the foreign trade and investments. As the scenario

has been changing everyday, it would be necessary to keep such provision in the Act. It may look a little ridiculous now but it is absolutely necessary and may prove to be corrected later.

">In view of these things, I would like to say that this is a very good Bill which has been brought. I am very precise on this FEMA Bill and I support it.

">But so far as the Prevention of Money-Laundering Bill is concerned, this is a very peculiar legislation which is being enacted. The Civil procedure Code, 1908 and the Criminal Procedure Code of 1973 (Act 2 of 1974) are being clubbed together. I do not know how the provisions of the Civil Procedure Code and the Criminal Procedure Code can be taken together and the Prevention of Money-laundering Bill can have its teeth, or it would not become cumbersome. So far as I understand, in the Prevention of Money-Laundering Bill, the first thing is that a crime has been committed under the Schedule. Part I of the Schedule deals with offences under the Indian Penal Code, Part II deals with offences under the Immoral Traffic (Prevention) Act, Part III deals with offences under the Arms Act, and Part IV deals with offences under the Narcotic Drugs and Psychotropic Substances Act and Part V deals into Prevention Corruption Act. Now, the crime has to be committed and a charge-sheet has to be placed. That is the import of this Prevention of Money-laundering Bill. If you kindly see clause 16, it is stated there:

">"Provided that no search shall be conducted unless, in relation to an offence under--

">(a) Part I, Part II, Part III or Part V of the Schedule, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973; or

">(b) Part IV of the Schedule, a police report or a complaint has been filed for taking cognizance of an offence by the Special Court constituted under sub-section (1) of section 36 of the Narcotic Drugs and Psychotropic Substances Act, 1985."

">The Narcotic Drugs and Psychotropic Substances Act provides very harsh punishment and also requires lots of stipulations in the Act itself, but the investigation is almost very simple so far as other agencies are concerned. But so far as the police investigation under the Narcotics Drugs and Psychotropic Substances Act is concerned, it is very cumbersome. That is why many persons always try to get the offences under Narcotics Drugs and Psychotropic Substances Act to be charge-sheeted or the charges to be framed by persons other than the policemen.

">A policeman always has to send a report first to the Magistrate and he cannot take the written statement and all those things. The Narcotic Drugs and Psychotropic Substances Act is better handled by other agencies than policemen. But the first thing is that a chargesheet has to be placed. Then only the authorities will swing into action. There are many other things in Clause 15. It also says :

">"Where it has been indicated that the authorities will record the statement of any person present in the place which may be useful for or relevant to any proceedings under this Act".

">It says "record their statement". At some places it is said seizure is to be done. At some places it has been said inventory is to be done. These are the things which would create problem at the time of taking steps in the Act. At the time of implementation problems may arise.

">Now, when a chargesheet has been placed under Section 173 of the Criminal Procedure Code, Clause 15 says that the authorities will make a survey and then give in writing for entry and search and seizure. Once a chargesheet has been placed under Section 173 Cr.P.C. all these search, seizure etc. have been completed. Under Section 170 of the Criminal Procedure Code, a person has been remanded to custody and in Section 173 Cr.P.C. the officer incharge of the police station or the investigating officer, with the consent of the officer incharge of the police station, writes who are the persons who have been chargesheeted as in the case of Rajiv Gandhi's case where a lot of storm has been raised.

">Once a chargesheet has been placed, records have been seized, how is it possible for the Authority himself to act under clause 15 to take steps which will create lots of confusion at a later stage. There might be double jeopardy. That is why I said about the clubbing of the Criminal Procedure Code and the Civil Procedure Code which would create problem.

">Now, take the special courts. I do not know whether the special courts under the Prevention of Corruption Act, under the Narcotic Drugs and Psychotropic Substances Act will be the same as the special court in this Prevention of Money-Laundering Bill. If there is a separate court for this purpose and a person has been tried in the Narcotic Drugs and Psychotropic Substances Act in the special court, even under the Immoral Traffic Act, there might be contradiction and there might be difficulties if somebody has been tried by a special court with special procedure and later on to try him in this Act. As my Hon"ble friend was saying, there might be some tooth in the initial stage but the tooth might have been uprooted because of caries. This is the most important thing which has to be taken into account.

The Standing Committee on Finance had given some suggestions. I do not know why, but the Government, in their wisdom, did not think it proper to incorporate many of the suggestions of the Standing Committee. In my humble opinion, what is the necessity of keeping the Immoral Traffic Act in Schedule II in this Bill?

In the last Clause of the Immoral Traffic Act it says : "Seducing a person in custody". I do not know in what manner it will help in the case of money-laundering because I have no such experience in my 30 years of police service. I did not have any experience of seduction of a person in custody and money-laundering. Maybe there are some instances here and there. But it may be fraught with danger. An authority has been allowed to arrest. The law of the land always says that any person who is arrested, in most cases, will be produced at the police station or before the Magistrate, if the time is there and all those things. Instead of producing the person at the police station, it may so happen, as per this Act, that the person arresting may keep him for some time. It will create a problem for the Government. There must be a provision that any person who is arrested must be sent to jail and if it is not possible, send him to the police station temporarily. That is how the accountability will be there. Otherwise it may so happen that the money-launderer in his own way, may palm off some money to the authorities concerned and we may not be able to do anything in that matter and he may escape easily.

SHRI M.V.V.S. MURTHI (VISAKHAPATNAM): You know it better.

SHRI ANADI SAHU : That is why from my experience I am telling all these things.

MR. CHAIRMAN : Shri Sahu, please conclude.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): I will take only two minutes. Once you have given the orders, I will sit down.

So, when we are thinking of the Prevention of Money-laundering Bill, we have to think of all these provisions. We could have taken recourse to section 357 of the Cr.P.C. for compensation and taking money from the person who has laundered the money. Why should a special Bill be brought? Yet, if a special Bill has come, let all these things be taken into account before the Prevention of Money-laundering Bill is made into an Act.

SHRI MOINUL HASSAN (MURSHIDABAD): Respected Chairman Sir, again I rise to oppose the two Bills which are now under discussion because I firmly believe that it is my duty towards my nation. While opposing the Bill, I would like to say something.

">Firstly, what is the background of FEMA? I suppose that the hon. Finance Minister has told at the time of introduction of the Bill, and other places also, that the position of the foreign exchange reserves is very sound. We know that there are foreign exchange reserves to the tune of more than 34 billion dollars in our country.

">Mr. Chairman Sir, if we scrutinise the structure of Indian external account, what do we find? I would like to detail the position. There are two aspects of foreign external account, I suppose, one is visible part and the second is invisible part. These are the two aspects in our external account. So far as visible part is concerned, it consists of trade account. Trade account is export and import-related account, that is, export minus import or import minus export. Our hon. Finance Minister very well knows that so far as the position of trade account is concerned, it has been deteriorating throughout the last decade.

">At the time of opposing the introduction of the Bill, I referred to one datum. Perhaps, due to that, the hon. Finance Minister misunderstood me. That datum was that in 1996-97, the deficit in this account was nearly 12.5 billion dollars. That was 3.5 per cent of our GDP in 1996-97. Hon. Finance Minister has told that it is now on a very lower side at 1 per cent or 1.5 per cent. I believe it also. If we see it in absolute terms, what is the position now? In 1996-97, it was 12.5 billion dollars in absolute terms and now also, I believe that it is near that figure. I would like to clarify my point. This account has been under pressure throughout the last decade, but India was saved. How?

">It is due to the glorious improvement, throughout the last decade, in the other aspect of external account, that is, the invisible account. What is this invisible account? Everybody knows about it. It depends upon many headings. The largest component of this account, as you know, is from the net private transfer, dividend given by the industrialists, disinvestment, investment, insurance premium etc. The largest component is that of those who are living abroad, that is, the Non-Resident Indians, who remit the funds in our country. It is the net private transfer which is the largest component in this account. My point is this. One of the major reasons to remit this large amount is that there is a big difference between the currency value of dollar and rupee. I do not want to go into the details on this. But I firmly believe that this remittance is volatile in nature. We cannot depend on this volatile situation; on unreliable account we cannot depend on this. We have seen the fate of the South-East Asian countries; we have seen the fate of the Asian tigers. In this background, I would like to say that India, our nation, is not in a position to shift from regulation to management. Why in a hurry is it to promote the hawala culture in the country or is it to help foreign exchange racketeers? Will our Finance Minister answer a simple question? How much money-laundering is there in this foreign exchange sector?

">Respected Chairman, Sir, two Bills are being presented as complementary to each other. Misuse of foreign exchange is a simple civil offence; diversion or misuse is not a criminal offence at all. What does this mean? I suppose, this is not in favour of our country.

">From the Bill, I came to know that the position of the RBI has not been defined properly. They will not manage or exercise any control. The RBI would keep its eyes closed as the foreign exchange operators need not take any permission from the RBI. There is no control of the RBI, and no permission is required from the RBI.

">Moreover, this National Democratic Alliance Government is taking decisions one by one to open up our economy, ignoring the public protests. They have even ignored a petition containing 15 million signatures. More foreign investors would come with funds, but there will be nobody to control the inflow or outflow of capital. This is main danger before the nation today.

">Respected Chairman, Sir, so far as the Money-laundering Bill is concerned, I would like to confine myself to two or three points. Black money generation is virtually a threat before the Indian economy. There is a need for legal framework to stop this generation. I am sorry to say that there is no adequate provision in this Bill regarding this. The Government is trying to open up our economy to integrate ourselves with the global economy.

">In fact, the Government is globalising money laundering, drug business and gun running etc. The finances are flowing into terrorist activities and smuggling of gold. Now, could this piece of legislation protect our nation from these things? I suppose, no.

">Sir, many people are talking about globalisation. Permit me to say that there is a yearly conversion of 500 million dollars into white money through money laundering activities throughout the world. It is two per cent of global domestic product.

">Sir, we are talking about globalisation. I would like to refer to the statements made by two gentlemen. The Director (Fiscal Affairs) of the IMF and the Advisor of the IMF's Monetary and Exchange Affairs, Mr. Vito Tanzi and Mr. Peter Quirk in the year 1996 placed a report before the IMF and I would like to quote that report. The report says:

">"The globalisation of the world economy and the growing efficiency of capital markets allow individuals and firms to shift vast amount of money relatively freely between domestic financial market of one country to another which makes money laundering easier".

">Sir, what are we doing and in what manner? The most remarkable grey area in the matter of money laundering is the manipulation of balance sheets. They are a part of the liberalisation process. This Bill is proposing to allow known offenders and known criminals to be freed from accusations. The people who are indulging in manipulation of balance sheets and money laundering would also go scot free by way of this piece of legislation. So, this Bill is not competent to save the interest of the country and I would like to oppose this Bill.

SHRI M.V.V.S. MURTHI (VISAKHAPATNAM): Mr. Chairman, Sir, this is an era when we are moving from the regulation regime to the management regime. In several fields harsh terms are being changed to soft words. That is why, instead of regulation, we are having this Prevention of Money Laundering and Foreign Exchange Management Bills. These bills are being brought together.

">Sir, there is no doubt about the fact that we have to change with the changing times. But are we sufficiently geared up to meet this sort of a situation? This is the question that has to be looked into. Ours is one of the developing nations where we are having a lot of corruption. We know many areas where blackmoney is in circulation and we are unable to control the circulation of blackmoney in these areas. These areas include, property dealing real estate and even foreign exchange remittances.

">Sir, we have to move with the moving times. We cannot have both the cake as well as the stick. The hon. Finance Minister is here and I would like to point out to him that more transparency is necessary in the transaction of the banks in these matters, like how the remittances are being arrived at, and how we could be able to arrest them, have to be looked into. Many people have already told about over-invoicing, under-invoicing and smuggling of narcotics etc.

">We have taken certain steps like rationalisation of customs duties. However, in a developing country like ours we should be doubly cautious about these transactions. Otherwise, any amount of laws will not help. Even with a stringent law like FERA we still have foreign exchange irregularities. Since we are going to bring into effect the FEMA, we should see as to how we can ensure that irregularities are stopped. Prevention of money-laundering and management of foreign exchange are interrelated subjects. Therefore, an integrated approach should be adopted while dealing with these subjects. However, in certain clauses they differ with each other in approach.

">I agree that too many regulations will not help our country. We have to fall in line with the rest of the world. We are already in the process of liberalisation in various fields. This is one of the areas where liberalisation was needed. That is why the Finance Minister has come out with these Bills. At the same time too much of liberalisation also would lead a developing country like ours into a difficult situation because people are not geared to accept the liberalisation in certain areas particularly in money dealings.

">Offenders should be treated in a way where there is no place for protracted litigation. It is common experience in our country that once somebody commits an economic offence, the litigation goes on for several years and by the time the verdict is given one forgets as to what had happened in the first instance in that case. There should be a methodology to see that economic offenders are proceeded against in time. In the first instance it is very difficult to get hold of offenders. When one of these offenders is caught, litigation goes on for years together without the case coming to its logical conclusion. A legal framework should be put in place wherein an offender could be tried and the legal process is brought to its conclusion at the earliest. The Finance Minister may think that we have a comfortable amount of foreign exchange reserves. As suggested by a colleague, out of the 34 billion US dollars plus of reserves, a major part is NRI remittances rather than trade surplus. So, how to generate surplus in the country is a very important thing. Otherwise, when there is a run, people will withdraw their money and we will be put in a very difficult situation. Instead of depending solely on depository accounts we should also get real money by way of trading. That part of the reserves is more sound than the present depository accounts.

">I fully agree with the view that we should fall in line with the rest of the world. I, therefore, support these Bills.

SHRI AJAY CHAKRABORTY (BASIRHAT): Mr. Chairman, Sir, the two Bills listed as Items 9 and 10 of the today's List of Business, that is, Prevention of Money Laundering Bill, 1999 and Foreign Exchange Management Bill, 1999 are being taken together for the consideration of the House.

">Sir, the much watered down Foreign Exchange Management Bill is slated to replace the more stringent law, that is, FERA. It has been reported and whispered in the country that the industrial lobby and the big industrial associations of our country are creating constant pressure on the Government to convert FERA into FEMA. And, I think, it will rather help the hawala operators and black-marketers. That is why we are strongly opposing this Bill.

">I do not know whether the hon. Finance Minister will express his anguish to this particular language. But I am rather compelled to say that this Bill is anti-national also. I oppose this Bill.

">This Bill seeks to dilate on the offence under the foreign exchange violation. The offence of foreign exchange violation is not considered as a criminal offence under the new provisions. It is only a civil offence. The penalty is only payment of fine, that too, in a limited way. So, the Bill proposes to give effect retrospectively. In many cases, it will be difficult to counter foreign exchange violation, particularly, hawala crime.

">Sir, under the present law, prior to the full-scale convertibility particularly, capital account convertibility, such a devolution shall make illegal outflow of funds easy, and violation shall be committed with impunity. Illegal transaction of funds are done because of the inadequacy of taxes.

">1733 hours (Dr. Raghuvansh Prasad Singh in the Chair)

">It is primarily done to protect illegal income arising out of the tax evasion and avoidance of law. Decline in value of Indian currency is also a significant factor which encourage stashing away of funds. In the name of liberalisation, effecient measures are considered to

be retrograde steps. Illegal diversification of funds out of the country is an offence against the community and it impinges upon the resource mobilisation to tackle basic human problems. Therefore, it is wrong to consider this as a civil offence. Liberalisation gives rise to criminality. It is sought to be passed as civil offence.

">So, we think, if this House passes this Bill, it will help the black marketers, criminals, black marketeers and hawala operators. So, once again we oppose this Bill.

SHRI PRAKASH MANI TRIPATHI (DEORIA): Thank you, Mr. Chairman. I rise to support the two Bills brought before Parliament for converting the FERA to FEMA, as also the Prevention of Money Laundering Bill which is being considered along with the first Bill.

">What we are discussing today is the method that is required along with moving times to facilitate external trade and payment and for promoting orderly development and maintenance of foreign exchange market in India. This is not a new Bill. This was introduced in the Lok Sabha in August, 1998. It has been referred to the Standing Committee. But unfortunately the Lok Sabha was dissolved. So, it could not be proceeded with. Now the foreign exchange management concept is not a static concept. It is not that this Bill which was enacted in 1973, then called Foreign Exchange Regulation Act, will continue to be relevant for ever. Things are changing. Things will change. The financial scenario of the country is changing. It must change. It must progress and along with this, the rules and regulations must also be amended to meet the changing situation and, therefore, the concept that any change that is being brought about is not a desirable one, is a static concept. It is not a dynamic concept. The dynamic concept is to change with the changing scenario, particularly fiscal and financial scenarios of the country. The previous speaker and all the other speakers who got up always started by saying many things about our country, but one of the things that is most commonly heard is that we are a very corrupt country and it surprises me because if it is said in relation to the change in FERA, then FERA has been in operation since 1973, a period of more than 26 years and, therefore, this corruption can be put in the shelf of FERA despite the fact that it had so-called very harsh provisions for managing it. Therefore, harshness by itself is not a panacea for managing fiscal and financial ills. The remedy is to move with the times, to move and meet the requirement of the financial institutions, to take note of financial developments in the country and thereafter to make amendments to our rules and regulations so that they meet the requirements. Ours is a poor country and every time somebody got caught in a FERA violation, there is a lot of jubilation on the part of the common man and he says "Oh, this man has been caught. Now he will be penalised." Therefore, a concept arose as if every man doing any financial malfeasance or financial irregularity or a contravention of the orders that existed for a highly undesirable man, should be put behind the lock and key and then the whole lawful people would be very happy.

">This appeared to be the concept. If it is a financial irregularity, there are ways of finding and penalizing him but to immediately consider it as a third degree crime would not be in the fairness of things if we want a better management of foreign exchange in our country as well as better correlation between our foreign exchange management and foreign trade. Therefore, concept-wise, this is a change towards a more human outlook towards financial transactions.

">It has been said that this Bill has diluted certain provisions of the old FERA and that it has become very very kind to people who commit various regulation malfeasance and therefore it is anti-national. Anti-national, I find, is becoming a very common word in this august House. All financial liberalization measures are called anti-national. I would like to say that this measure has been brought only to remove the fear. Under FERA, in 1995, 2456 show-cause notices were issued and prosecution was launched in 202 cases; in 1996, the show-cause notices issued were 2291 and prosecution was launched in 101 cases; and in 1997, 2726 show-cause notices were issued while prosecution was launched in 90 cases. What kind of harassment went on in the meanwhile can only be imagined. It is the draconian measures that this Bill proposes to remove. It has become more open but it must not be taken as a cosmetic change. There is a definite radical departure from FERA. For example, sections 8 to 31 of FERA are a labyrinth of regulations which do not promote any growth. They stopped financial dealings. On the other hand, the Foreign Exchange Management Bill is orderly. Admittedly, it is liberal and it will definitely promote financial dealings a great deal.

सभापति महोदय : अब आप कन्कलूड कीजिए।

श्री प्रकाश मणि त्रिपाठी (देवरिया) : सभापति जी, जब आप बोलते हैं तो आपसे कोई कन्कलूड नहीं करवा पाता है, तो फिर आप हमको क्यों बोल रहे हैं। हम तो बहुत धीर-धीरे बोल रहे हैं। आप हमें पांच मिनट और दीजिए।

सभापति महोदय : वहाँ हम विपक्ष में होते हैं और यहाँ निष्पक्ष होते हैं।

श्री प्रकाश मणि त्रिपाठी : चलिए, मेरी भी गलती मान लीजिए।

The change in this Bill should be seen in relation to the Prevention of Money Laundering Bill. It is in the fitness of things that both the Bills are being considered together. It is our habit that we club all offences at the same level.

आप तस्करों को देख लें कि एक आदमी एक बोरी चावल लेकर जा रहा है, कुछ गरीब लोग कपड़े लेकर जा रहे हैं तो उनको भी रोक लेंगे। एक आदमी जो अफीम लेकर जा रहा है, उसको भी रोक लेंगे और एक आदमी जो हथियार लेकर जा रहा है, उसको भी रोक लेंगे। यह मनी-लाँडिंग बिल ज्यादा सख्त है, ज्यादा मनबूत है और ठफेमा'' ज्यादा ह्यूमनिस्टिक है, इस बात को समझने की कोशिश करनी चाहिए।

अगर आप यह कहें कि जो सचमुच गलत है, हथियार, नारकोटिक्स, इन सब पर सख्त ऐक्शन लिया जाए, बाकी चीजों पर इतना दबाव न डाला जाए तो हमारे आधे कर्मचारी खाली हो जाएंगे और जिस चीज़ पर ज़ोर देना चाहिए उस पर ज़ोर आएगा।

कुछ बहुत सी अच्छी बातें इसमें हैं। हम तो यह कहेंगे कि ठफेमा'' स्वयं ही हमको २१वीं सदी में एक दुरुस्त माहौल में ले जाएगा। वर्ल्ड ट्रेड के साथ इसका तालमेल ज्यादा अच्छा होगा, यह बढ़ेगा और जो खौफ है, बाहरी पैसा, अंदरूनी पैसा, कैसे उसको ठीक किया जाए।

The Government which has the maximum number of draconian laws is the most corrupt one.

उसको खत्म करने से हमारे फिस्कल और फाइनेंशियल इंस्टीट्यूशन्स मज़बूत होंगे। इसलिए मैं सदन से अनुरोध करूंगा कि इस बिल का समर्थन करें। मैं इस बिल का समर्थन करता हूँ।

SHRI RAMESH CHENNITHALA (MAVELIKARA): Mr. Chairman, Sir, I rise to support the two Bills introduced by the hon. Finance Minister.

">Really speaking, these two Bills are very necessary in the changed circumstances. We are at the threshold of the new Millennium and we are in an era of liberalization and globalization.

">In this changed situation, I think that stringent laws are very necessary to plug the loopholes and to teach lessons to the offenders. We are all aware that money laundering is the world's third largest business, next to petroleum and foreign exchange. This activity has threatened the sovereignty and integrity of the nations. The money derived from illegal activities is converted into assets and is appeared to have acquired from legitimate sources. Laundering is a secretive business, quantum is a guess work which is threatening the international financial system also.

">According to the UN, the annual turnover from the global trade in illicit drug is 400 billion dollars. The laundering-men can avoid detection in a myriad ways, cash is funnelled in through offshore shell companies by using anonymous accounts and broken into small deposits to dodge rules that require banks to report all large deposits. It is very interesting to note that crores and crores of rupees are involved in this kind of transactions. The big men are involved in these illicit ways and it is now posing as a threat to the unity and integrity of the nations as well as threatening the very basic economics of countries. That money is challenging the State's economy. We can see what happened in Mexico, Thailand and some other countries. These are the examples before the nation.

">It has been reported widely in newspapers that America has waged an economic war against nations which were not ready to enact laws to plug money laundering.

">So, this is a very serious issue which is confronting not only India and other developing countries but also other nations of the world. Interestingly, as Shri Pawan Kumar Bansal has mentioned, there is a very close link between terrorism and moneylaundering. If you examine the terrorist activities throughout the world, you will find that there is a close link between the two, and India is not an exception. There was a mention about the Golden Triangle. Drug trafficking is taking place in the border areas of our country. India is one of the transit points of drug trafficking and it is corrupting our system. It is unfortunate that even the para-military personnel who are posted in the border areas are involved in drug trafficking and other things. It has been widely reported in the newspapers that the ISI is also involved in this kind of drug trafficking. India has become a main transit point for all these drugs. I would request the hon. Minister of Finance to plug the loopholes and take certain stringent measures in this regard. It is because, it involves the security of the nation. As rightly mentioned in the Statement of Objects and Reasons, the UN and other international agencies have asked several countries to come forward and take measures to plug these loopholes in regard to moneylaundering. The UN held certain Conventions also. The UN and other international agencies are time and again asking the member countries to take corrective steps in this regard. It is sure that nobody would oppose the essence of this Bill, but at the same time, certain apprehensions have been raised in certain quarters about this Bill.

">At the outset I would like to mention that I am supporting this Bill. It should be given more teeth. We should plug the loopholes. At the same time the apprehensions expressed in certain quarters, especially by the industrialists should be taken note of. Of course, the country cannot be converted into a Police State. At the same time we should see to it that the problems and issues raised by them are looked into in all fairness. It is because they are also the citizens of this country. They have given some Memoranda to the hon. Minister of Finance. I would request the hon. Minister to look into all these aspects. This Bill should not go against the basic organizations have raised certain issues. They have conducted a seminar which was widely reported in all the newspapers. They have mentioned that the investigating officer has been vested with the barbaric powers to summon, search, seizure and arrest based on his reason to believe.

">Sir, it has been mentioned that under the Money-Laundering Act, the authorities will be empowered, merely on reasons to believe, to investigate and the officer will have the power to summon and extract statement from any person and the same shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code, 1960. On mere suspicion, the investigating officer will have the powers to search, seize and arrest. This aspect has to be viewed and the Finance Minister should think about this very seriously.

">Another very important issue which is to be mentioned is the composition of the Appellate Tribunal. On the other day, when one of our Members, Shri J.S. Brar was complaining that officers are getting more powers, the hon. Finance Minister took offence to that. Now, let us see the composition of the Appellate Tribunal. It says that a person is or has been a judge of the High Court. Unfortunately, Mr. Finance Minister, your officers are misleading you. They want to take undue powers. Some of them want to serve in Appellate Tribunal after the retirement. What is the necessity for that? You are also taking the age limit to 65 years. Is there a dearth of officers? What is the need for that? We have qualified people in this country to serve on the Appellate Tribunal. Unfortunately, this is what is happening in our country. The officers who are sitting at the helm of affairs are influencing the Ministers and the Ministers are, knowingly or unknowingly, accepting whatever they are saying. My request to the hon. Finance Minister is that it should be modified as - a person is or has been or is qualified to be a judge of the High Court so that others also could get an opportunity. I think in all fairness the Minister will accept this proposal.

">Now, I come to special courts. Shri Murthy has rightly pointed out that we are hearing or are witnessing all kinds of judicial proceedings in our country. Undue delay in the proceedings of our cases is affecting the people very much. Even though there is a provision for setting up special court, I am afraid that these proceedings will take more time and justice will not be getting to the people in time.

">I think, the hon. Finance Minister might have gone through the serious observations made by the Reserve Bank of India regarding this Bill. The RBI has expressed the following view:

">"The onus of proof in case of illegal money-laundering should be on the agencies who are trying these cases and not the accused."

">According to the Bill, the accused has to prove it. This is against the jurisprudence. I think that this has to be viewed very seriously. Certainly other issues have also been raised by the RBI. But I do not want to go into them due to time constraint. The main issue which they have pointed out is regarding the onus of proof. I think the hon. Finance Minister will definitely go through these aspects. When we are passing a legislation, it should be foolproof and these lacunae should be plugged.

">श्री वित्त मंत्रालय में राज्य मंत्री (श्री वी. धनंजय कुमार): सभापति महोदय, मेरा निवेदन है कि सदन का समय आधे घण्टे के लिए बढ़ा दिया जाए।

">

">18.00 hrs.

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... (व्यवधान)

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">सभापति महोदय : अगर सदन की सहमति हो तो सदन का समय आधा घंटा बढ़ा दिया जाए।

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">श्री वित्त मंत्रालय में राज्य मंत्री (श्री वी. धनंजय कुमार) : महोदय, सिर्फ दो-तीन लोग बोलने वाले हैं, इसको आज ही पास करा दें।

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">श्री पवन कुमार बंसल (चंडीगढ़) : हम जो बातें कह रहे हैं उनको कंसीडर कीजिए।

">

">We are supporting the Bill, all right. But there are certain points which we have made. You please consider those points.

">SHRI V. DHANANJAYA KUMAR: We will do it.

">SHRI PAWAN KUMAR BANSAL : I am sure, you will consider them.

">यह आपके फायदे में है। आपने जो स्पेशल कोर्ट बनाया है, उसके अलावा तीसरी ओर कुछ ऑफिसिस किसी अन्य कोर्ट के पास जाएंगे, इनको एक कोर्ट के पास रखिए। वह किसी अन्य के पास न जाएं।

">

">There are certain things which you please reflect over.

">इसे जल्दी मत कीजिए, कल पास कर लीजिए।

... (व्यवधान)

समय की कोई बात नहीं है। हम आधा घंटा बैठेंगे लेकिन आज आप कंसीडर कीजिए और कल पास कर लीजिए तो अच्छा रहेगा।">

">

... (व्यवधान)

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">श्री वी. धनंजय कुमार : अभी तो जवाब देंगे।

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">SHRI PAWAN KUMAR BANSAL : We do not mind. We would certainly want you to consider the suggestions which we have made. We are helping you. You have provided for Supreme Court judges. No Supreme Court Judge will come to sit in this Bench.

">उसमें कुछ नहीं है।

... (व्यवधान)

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">श्री वी. धनंजय कुमार : उसे कर देंगे।

... (व्यवधान)

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">श्री पवन कुमार बंसल : फिर दूसरे रहेंगे। उससे आपकी मुश्किलें बढ़ेंगी।

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">श्री किरोट सोमैया (मुम्बई उत्तर-पूर्व) : सभापति महोदय, वास्तव में दोनों बिल दो साल पहले पास हो जाते तो हम जो लिब्रलाइजेशन और एक नये ईरा में प्रवेश कर रहे हैं उनको ज्यादा समर्थन मिलता। जो एक कम्पनी में घटना घटी है, उसे बता कर मैं अपना भाषण प्रारम्भ करना चाहूंगा। हम एक ओर सभी नये कानून बना कर फ्लोक्सबिलिटी रिलोकेशन बढ़ा रहे हैं। मुम्बई की एक कम्पनी है, उसने कुल मिला कर छः कंटेनर का एक्सपोर्ट किया। उसने छः करोड़ ८९ लाख का एक्सपोर्ट किया। जब वह सातवां कंटेनर एक्सपोर्ट करने के लिए मुम्बई के पोर्ट-ट्रस्ट में गए तो कस्टम के अधिकारी ने वह कंटेनर खोला। जब उसे देखा तो वह आश्चर्यचकित हो गए, उसमें थोड़े-बहुत कपड़े थे, जिनका मूल्य नहीं के बराबर था। पहले जो उन्होंने छः कंसाइनमेंट एक्सपोर्ट किए उसमें उस कम्पनी को लगभग ९५ लाख का ड्यूटी ड्राबैक का पैसा मिल चुका है। यह मैंने एक ही उदाहरण दिया है, ऐसे सैकड़ों उदाहरण हैं।

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">महोदय, मैं मंत्री जी से सिर्फ यही प्रार्थना करना चाहूंगा कि हम एक्सपोर्ट बिजनेस को बढ़ावा देना चाहते हैं, ड्यूटी ड्राबैक जैसे कंसेप्ट डेवलप कर रहे हैं, जब हम कम्पीटिटिव मार्केट में प्रवेश कर रहे हैं तब क्या इस विषय पर विचार होगा? हम एक बानू मनी लॉन्ड्रिंग के द्वारा कानून को कड़ा बनाना चाहते हैं और दूसरी तरफ फेरा को फेमा में कंवर्ट करके कानून को और शिथिल करना चाहते हैं। दोनों अपनी-अपनी जगह बराबर हैं। शासन और सरकार की नीति का मैं समर्थन करता हूँ। मैं मंत्री जी से प्रार्थना करना चाहूंगा कि जब शासन एक अच्छी दिशा में प्रगति कर रहा है, साल डेढ़ साल में अच्छी प्रगति हुई है लेकिन प्रशासन और एडमिनिस्ट्रेशन में जिस प्रकार का सुधार आना चाहिए उस पर भी थोड़ा अधिक ध्यान देने की आवश्यकता है। आज नहीं, लेकिन क्या फिर कभी आंकड़े मिल सकेंगे कि काफ़ोसा के अंतर्गत कितने कंसेस हुए और कितने लोगों को शो-काँज़ नोटिस दिए गए। उनमें फिर बाद में एक्रॉस द टैबल सेंटलमेंट कितने कंसेस में किए गए और उसमें से भी कितने लोगों को सजा हुई। मेरे पास थोड़े-बहुत आंकड़े हैं जिन्हें मैं आज नहीं देना चाहता हूँ। शासन बहुत अच्छी दिशा में चल रहा है। मंत्री जी एक नई दिशा में ले जा रहे हैं। मैं यह चाहता हूँ कि जो लोकप्रतिनिधि हैं उनके माध्यम से प्रशासन को अधिक एकाउंटेबल बना कर यहाँ जानकारी देना आवश्यक है, ऐसा मैं मानता हूँ। हमारे देश की क्या स्थिति है? ड्यूटी ड्राबैक, बोगस एक्सपोर्ट, उस प्रकार के इम्पोर्ट के बारे में एक यूएस एक्सपर्ट ने लिखा है-

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">A US expert has given one tip on this. He has quoted a case where on paper exercise bicycle was exported for a ridiculous price of 51 cents a piece against an average global price of around \$100.

">Similarly, truck and bus tyres were imported from USA for over 1000 dollars a piece when actual price was around 150 dollars.

">ऐसी तो अनेक घटनाएँ लगातार जारी हैं और वास्तव में हवाला, स्मगलिंग, इग-ट्रैफिकिंग, मनी-लॉन्ड्रिंग का इसी के साथ संबंध है। मनी-लॉन्ड्रिंग किस-किस माध्यम से होती है, यह इसका उत्तम उदाहरण है। फेमा-फेरा में बोगस व्यापारी बोगस निर्यात करके पैसा प्राप्त करते हैं और दूसरी ओर इग-ट्रैफिकर्स या क्रिमिनल्स इन्हीं के साथ में हवाला के माध्यम से पैसा यहाँ पर मंगाते हैं। मैं एक ओर उदाहरण देना चाहता हूँ।

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">It is estimated that over 100 billion dollars is generated and/or stashed abroad by resident Indians in defiance of FERA. It is still an enigma that many Indians on their return journey to Indian halt out of their way at Zurich ostensibly to change flight. The reason is best known to them only. (We also know as to why they are changing the flight.) We have seen the rising incidence of blank and white shades of money for the last few decades but the green money is surpassing all that."

">मैं सदन का ध्यान इस ओर आकर्षित करना चाहता हूँ कि ये जो मामले बढ़ रहे हैं उनके ऊपर नियंत्रण करना आवश्यक है। मैं एक ओर उदाहरण देना चाहता हूँ कि क्यों मनी लॉन्ड्रिंग बिल लाना आवश्यक है। यूनाइटेड नेशन्स में और बाकी जगह रैजोल्यूशन पास किया गया है। मनी लॉन्ड्रिंग बिल में एक जगह और भी लिखा हुआ है कि प्रत्यापण ट्रीटी का भी उपयोग करना चाहिए और यह जो मनी-लॉन्ड्रिंग का व्यापार है उसको संतुलित कंट्रोल करने के लिए इसका उपयोग होना चाहिए। हमारी दुबई के साथ नयी-नयी प्रत्यापण संधि हुई है। महाराष्ट्र या हिंदुस्तान का सबसे बड़ा डॉन दाउद जो दुबई या पाकिस्तान में बैठकर अंडर-वर्ल्ड का पूरा व्यापार कंट्रोल करता है, क्या प्रत्यापण ट्रीटी का उसको कंट्रोल करने के लिए उपयोग हो सकता है?

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">माफिया डान जो है उनके मुम्बई में बड़े-बड़े एम्पायर हैं, तो मनी-लॉन्ड्रिंग बिल का उनके लिए उपयोग किया जाए, ऐसी मैं प्रार्थना करता हूँ।

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">सभापति महोदय, जो नया सिस्टम बना है, वह पूरी अर्थव्यवस्था के लिए, फाइनेंशियल सिस्टम के लिए जरूर है। उसको कंट्रोल करने की जरूरत है। नहीं तो हमारी हालत भी मैक्सिको तथा दूसरे देशों जैसी हो जायेगी। इसलिए यह नया कानून अति-आवश्यक है। यह रोग हिंदुस्तान तक ही सीमित नहीं है।

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">A report published in 1995 by Australia's financial intelligence unit concluded that between 740 million dollars to 3.3 billion dollars was washed through Australia each year. (The same is the position with Netherland also.) In Netherland, 14 per cent dubious cases went to police and only 0.5 per cent of the original suspects went for prosecution."

">लेकिन हम अपने यहाँ इसके लिए व्यवस्था करके इसको और अधिक सख्त कर सकते हैं। जब हमने १९९२ में लिब्रलाइजेशन के नये युग में प्रवेश किया, तब उस कारण एक प्रकार से करंट एकाउंट को, फॉरेन एक्सचेंज को रिलैक्स किया। करंट एकाउंट को और रिलैक्स तथा पारदर्शी करके आज हम उसी दिशा में आगे जा रहे हैं। लेकिन साथ-साथ मैं यहाँ थोड़ी चिंता यह व्यक्त करना चाहता हूँ कि इसी बिल में कहीं पर सेक्शन ६ में यह मैनशन किया गया है कि करंट एकाउंट ट्रैन्जेक्शन के समर्थन के लिए कैपिटल एकाउंट ट्रैन्जेक्शन को भी छूट देने का प्रयत्न मंत्रालय द्वारा, डिपार्टमेंट द्वारा हो रहा है।

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यह अच्छी बात है। मैं इसके साथ यह भी प्रार्थना करना चाहूंगा कि आप करंट एकाउन्ट रिलेक्स कर रहे हों, इसलिए कैपिटल एकाउन्ट ओपन करने की जल्दबाजी न करें। आज हमने कुछ प्रकार के ट्रान्जेक्शन्स के लिए कैपिटल एकाउन्ट को ओपन किया है। आज हमारी इकोनोमी इतनी मजबूत नहीं है, इतनी मॅच्योर नहीं है कि कैपिटल एकाउन्ट को फ्री कर सकें। मैं जानता हूँ कि हमारी सरकार का इस प्रकार का कोई इरादा भी नहीं है। इस बारे में मंत्री महोदय स्थिति स्पष्ट करें।

मैं अंत में इतना कहना चाहूंगा कि हवाला बिजनेस और क्रिमिनल एक्टिविटीज को कंट्रोल करने के लिए आप जो दोनों बिल लाए गए हैं, वह अपनी दिशा में एक योग्य कदम है। इसलिए मैं इन दोनों बिलों का समर्थन करता हूँ।

SHRI E.M. SUDARSANA NATCHIAPPAN (SVAGANGA): Mr. Chairman, Sir, the Bill before the House is a very important legislation. As we are entering into the 21st Century and a very wide field of having global trade and other things, I feel that we are having a very sincere and famous Finance Minister, but I do not think that this Bill has a clear idea of the path which it wants to take. I think that the Finance Minister could not go through it fully, because it was prepared keeping in mind the UN Resolution alone. So, it is not a comprehensive Bill which will threaten the foreign investors when they come to our country. Even though the Bill will be passed, since we are supporting it, I would request the Finance Minister that he should along with the Home Minister, Law Minister and External Affairs Minister and formulate a better legislation which would also be very simple.

">Then, the number of white collar crimes has increased in our country. So, we have to have a clear, simple and concise Bill to prevent these crimes. If we compare the two Bills which are before the House, there is a lot of repetition. Instead of having two Bills, we can have only one Bill which is very comprehensive and useful. So, I would request the hon. Finance Minister to have a separate focussing on these types of crimes.

">The Indian Penal Code is very clearly defined, unlike this Bill. But the Indian Penal Code is now used only for tackling the law and order problems in the States, because it is a State subject. We have a subject here, under this Bill, which is very wide and which goes beyond the States and beyond the country also. Therefore, we should have a separate enforcement authority, just like the Central Bureau of Investigation, for preventing the white collar crimes. There should be a Central Economic Police Department. Management of foreign exchange is not required. The nomenclature of the Bill itself is a misnomer. There is nothing to manage here; there should only be policing. It is required to catch the culprits, book them, put them behind the bars and confiscate the properties which they have acquired through their illegal activities.

">That cannot be management. It can be policing. There should be separate policing which should be finding out who actually are committing the crime. They should be very watchful and find out that in our territory, there should not be any crime committed in these ways. Therefore, if that type of machinery is created, then, that will be giving more confidence to the law-abiding people so that they can be very clear in their minds that if they were law-abiding, then they are protected. If anything happens beyond the law, then, they will be punished. That type of circumstances have to be created. That environment has to be created in this new era. Therefore, I request the hon. Minister of Finance to concentrate on creating a separate agency which should be policing because we find in the Act that it is having both the executive and the judicial powers in one hand. That should be separated like that in the Directive Principles of State Policy in the Constitution.

">Now, when we are going for a law, that should have clarity to say that a machinery which is looking after the management of the economy can be a prosecutor but cannot be a judge for it. Now, regarding the powers of the Assistant Director or below that rank, it is giving the powers to create a case or to be a prosecutor. At the same time, they are also sitting as judges. That bifurcation should be there. They can be prosecutors but the judge should be somebody else. The court should be there. Special courts, which are created for the purpose of economic offences to cover up these types of laws alone should be created. There should be full-time judges and not judges who are retired or who are retired civil servants or something like that. That should not be there.

">When you are having a verdict in a criminal court, then, it catches the eyes of all the people. But when there is a verdict by the Assistant Director or the Deputy Director, it cannot catch the eyes of the people. It cannot prohibit further occurrence of such offences. Therefore, it should be a separate entity. Judiciary should be separated and full-time judges should be appointed. When there is an appellate side also, full-time judges should be appointed. Unless that type of thing is created, there will not be a fear of law. Inside the administration, just like a Revenue Board, they are also not worried about it. They are getting an order. Then, they are quashing it by way of some other proceedings. Therefore, there should be separation of executive and judiciary. This is a very important legislation and needs particular attention of the Ministry of Finance. Therefore, I will request the Minister of Finance to make that arrangement.

">In the meantime, I would also like to submit that when we go through the law, especially the definition made for money laundering, in section 3, it is not very clear what property he acquires, owns, possesses or transfers any proceeds of the crime. Where is the crime committed? Suppose the crime is committed in a foreign country and property is acquired here or suppose a crime is committed and property is acquired somewhere else and money is laundered, will it attract? When such types of reciprocal things are happening, this particular section will not attract that type of thing?

">In the same way, there are many things which are not directly focussing or pinpointing that these are the offences punishable. That type of specification is not there and throughout the code, only the description of the authority and the powers of the authority and procedures are laid down. If both the Bills are taken up together, then it can be very simple and, at the same time, it will be a comprehensive Bill.

">As one of our hon. Members told, when the Criminal Procedure Code is allowed to be followed, it is very easy to make a law instead of giving procedures. How it has to be searched or how it has to be supervised or surveyed are the things. Every definition is very weak. It is also not very clear when we compare it with search under the Criminal Procedure Code.

">It is not a clear one, if we compare it with search in the Criminal Procedure Code. When we are having a very good law of Criminal Procedure Code. Simply we can add it, just like in one section it is added the Criminal Procedure Code will be followed. In the same way we can make it that way also.

">I would like to sum up my submission by saying that nowadays the cinemas and television are showing blackmarketing and foreign

exchange violations done through the sea route. These activities are now taken up by the unemployed youth, especially the educated youth, to show their heroic approach. Therefore, if the statistics are gone through, we can see such types of offences committed in foreign countries. By doing so, they are amassing wealth and showing their wealth in this country. These types of things have to be looked into. And such cinemas should be prohibited.

">We have to be preventive on the one side and there should be rehabilitation on the other side. Some people are unnecessarily involved and their families are totally razed. Such type of people should be taken care of. They should be rehabilitated. Their families are in the streets and they cannot find out how to bring them out, because they are used as tools in the hands of rich people, who are having a very good network throughout the world. In the Southern part of India, you can easily find, on every airport, people travelling with passports and getting something smuggled from outside, they are caught, and jailed. There is nobody to bother about them. In the same way many people in Singapore, Malaysia and Arabian countries could not be repatriated. They are living there and they are tortured there. In the Arabian

">countries, arms and legs have been removed from the bodies of many people. Even though, they are Indian citizens but they could not get any relief. They could not come back and they are dying like anything.

">Many things are happening throughout the world. Therefore, these poor people, who are going there for the sake of money and to earn their livelihood, get trapped in this. There are so many women employees also. They should also be protected. They are suffering a lot in Singapore, Malaysia and Arabian countries.

">So, in toto, I would like to submit that the hon. Finance Minister should take an overall view, that is, preventive, actual policing and rehabilitation work. So, there is a Bill presented by the hon. Finance Minister, which should be a specimen for the world to be followed.

SHRI BIR SINGH MAHATO (PURULIA): Mr. Chairman Sir, the Money Laundering and FEMA, both the Bills come together and both of them are part of the liberalisation process.

">Sir, it is a fact that Money Laundering is a threat to the financial system and it also destabilizes our society and it also destabilizes the integrity and sovereignty of our country. But through this Bill, I do not feel that black money can be controlled. The generation of black money is also a threat to our financial system. So, some stringent measures should be taken, but those have not been provided in this Bill.

">Besides that, in the FEMA Bill, it is stated in the Statement of Objects and Reasons:

">"... to facilitate the external trade and payment and for providing the orderly development and maintenance of foreign exchange markets in India, etc...."

">But I think, this purpose will not be served.

">The earlier FERA was to some extent stringent and there it was trial under the criminal procedure. Now, it has become trial under the civil procedure. It is a part of liberalization. Too much liberalization, I think, will not help our country. Some stringent action should be taken. So, on behalf of my Party, I oppose this Bill.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Mr. Chairman, Sir, now, the Prevention of Money Laundering Bill has been examined once before. I do not want to go into the details. There were suggestions made by the Standing Committee on the Prevention of Money Laundering Bill. We all know that money laundering is an offence having international dimensions. It is an offshoot of an illicit traffic in narcotic substance and psychotropic substance. The United Nations had to deal with it and the Convention also provides that it should be made punishable and the proceeds should be recovered.

">I do not oppose this Bill. I have to make some suggestions. Now the point is that the punishment that is to be awarded in money laundering should not be compromised. There should be no room for repetition of this offence. We may say that the punishment should be reformatory but in the case of money laundering, the man who is committing this offence, this illicit transaction, may be minting money also. These persons are capable of even challenging the authority of the lawfully established Government. They have such a network throughout the nation and they can influence anybody. That is the position. I do not know whether the Finance Minister will succeed with this legislation. I am not sure about it. This legislation is only a first step. I am not sure whether he will be able to deal with money laundering with this piece of statute. It requires much more detailed provisions.

">Now I would suggest one word that the Central Government had diluted the bail provisions. Why should that be? Now, you see, the small boys and girls are used as agents. Why should you release them on bail all of a sudden? They are the agents of the moneyed people. The real culprit will not come to the stage. They are directing behind the scene. All these transactions take place through the agents employed by the big people, rich people, who are the hoarders. The small boys and girls, innocent boys and girls below the age of 15 years or 16 years are being employed in these illicit transactions. If they are found guilty and they are arrested, why should you leave them so easily? We can send them to the reformatory school. Let them be there. Why should you entrust them to somebody else on bail? The person who is behind the scene will take the responsibility of getting these boys released on bail. Why should you release them? Let them be in the reformatory school. Let the man behind the scene come into the picture. So, the Central Government's action in not accepting our recommendation and diluting the bail provision is not at all good. Why should you make it bailable?

">Suppose a person is sick, we will send him to hospital. Why should the bail provision be made so easy?

">Even if the offender is a sick person and he is arrested, he should not be let off on bail. He may be sent for medical treatment if he is sick. But the bail provision need not be diluted.

">Then take the case of female offenders. Why should you release them on bail so easily? Female persons are not meant for this purpose. They are acting as agents of the person who is behind her, who is directing the offender. So, the conclusion arrived at by the Central Government in diluting the bail provision is opposed. We want stringent provisions and we are for deterrent punishment, deterrent punishment in the sense that the offence should not be repeated. It is a challenge to our economy. It is a challenge to the Government as a whole. That is why, I take this opportunity to impress upon the Government to be stringent in the matter of money laundering.

">I may say one more word. You have fixed the age limit of the Chairperson as 68 years. Why should such an old man be a Chairperson? He is 68 years old. I do not know whether the Government is having anybody in mind to accommodate him. But here it is given that in the case of Chairperson, he can serve up to the age of 68 years. Why should he be allowed to serve up to 68

">years? The age limit of the Member is fixed as 65 years. Then you do this. You give him the age limit of 70 years or 75 years. If things go on like this, there will be no end to the matter. I can understand if the maximum age is 65 years.

">SHRI RAMESH CHENNITHALA (MAVELIKARA): You are 65. That is why, you want that.

SHRI VARKALA RADHAKRISHNAN : No, I can understand the age limit of 65 years. Why should it be 68 years, especially, in a matter in which he will have to take some judicial decisions? The judicial mind will have to act. At the age of 68 years, the judicial mind need not act. For some persons, it may be possible but not in all cases. It is to accommodate the retired people. We need not always accommodate the retired people. So, I would request the hon. Finance Minister to reconsider this. Let us fix it at 65 years only. Even the age limit of the Chief Justice of the Supreme Court is 65 years only. Then why should the age limit of this person be fixed at 68 years? I do not understand the logic behind it. Please tell me the logic behind it. If I go on like this, there are many other Members who may lose their chance. So, due to lack of time, I do not want to go into the details.

">I can understand the point with regard to the headquarters. But what about the sittings? Why do you not have the sittings in the Capital city of each State? Why do you not provide it in the Statute itself? You have mentioned here that somebody else has to be consulted and decision will have to be taken. That is a delaying process. We should make it abundantly clear that there will be regular sittings at least in three or four metropolitan Capitals. We must provide that in the Money Laundering Act. I am sure if things go on like this, the hon. Finance Minister will have to come again before this House with an amendment Bill for this. I am very definite about it. I am concluding my submission on the first Bill.

">Let me come to the second Bill. Unfortunately, we do not get time. We are now replacing an Ordinance which was in force till 1973, till the Foreign Exchange Regulation Act was in force. We had a bitter experience. We know the inadequacies and also the flaws in that Bill.

">Now our economic policy has changed; our outlook has changed and all our basic principles have been thrown to the winds. Now we are thinking of global economy, liberalization and all that. This Bill is brought to suit the changing conditions. I do not know how far he will succeed in his attempt. That is also another matter.

">But when you bring a Bill, it must be conclusive. It must be of some definite purpose. I am sure with this piece of legislation the hon. Minister cannot reach that purpose because the machinery that is brought into existence is quite inadequate to meet the situation.

">SHRI RAMESH CHENNITHALA : Sir, I would like to know whether you are extending the time of House. It is already 6.30 p.m. The time of the House was extended only for half-an-hour. You please tell us whether you are extending the time of the House further or not.

">THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI V. DHANANJAYA KUMAR): He is the last speaker. Then, there will be reply.

">SHRI RAMESH CHENNITHALA : Sir, you should extend the time of the House. That is my point. I have no objection.

">SHRI V. DHANANJAYA KUMAR: That can be done with your concurrence.

">SHRI RAMESH CHENNITHALA : Sir, you have to extend the time of the House.

सभापति महोदय : सभा की सहमति है कि जब तक इस बिल पर चल रही बहस समाप्त न हो तब तक के लिए सदन का समय बढ़ा दिया जाये।

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">SOME HON. MEMBERS: Yes.

">SHRI VARKALA RADHAKRISHNAN : The provisions contained in this Bill need drastic changes in regard to punishment. At present, it provides for punishment given to criminals. Now, under FERA, the offender will be sent to prison which is meant for criminals and the offence will be treated as a criminal offence. That is the basic thing. Now, as per FEMA, criminal element is taken away. (Interruptions). Management is another matter. If he is committing the offence and if he is an offender, then he will be sent to a civil prison which is meant for people other than criminals and which will be costly to the exchequer because the entire expense will have to be met by the State. He will be treated as 'A' class prisoner with all the facilities. The Penal law of India provides for punishment for offences like cheating. But under the FEMA, it will be treated as offence other than a criminal offence. I am sure that the hon. Minister has to come again with amendments for meeting unlawful money transactions. Here, as per the present Act in force, it will be treated as pure and simple criminal offence. Now, when this Act will come into force, criminals will be treated in a civilised manner. They will not be sent to jails.

So, I am saying that the hon. Minister has to come again with this Bill to deal with foreign exchange offences. It is defective in many ways. It cannot deal with the modern money transactions. It will be ineffective in dealing with the foreign exchange offences and it will

be ineffective in dealing with all offences. So, I am suggesting modifications to make the Bill effective.

In one sense, I may bring out the inadequacies. Now, who is the person? The person is not defined in the Act. A person who is not present in India is not defined. There are certain things in the definition. You have not defined the person. We have recommended in the Committee that the person should be defined in the Act. Person is not defined anywhere. I have gone

through both the Acts. You have not defined it. You have to define it. You have defined about the foreign exchange, but not about the person who is committing the offence. You ought to have defined. You have not done it. (Interruptions).

SHRI ANADI SAHU (BERHAMPUR, ORISSA): If the word "person" has not been defined in the Bill, the definition provided in the legal lexicon is to be accepted.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): So, my humble submission is that on going through the Foreign Exchange Management Bill, I find that it is ineffective to deal with modern transactions. So, I oppose that Bill.

With these words, I conclude.

SHRI V.P. SINGH BADNORE (BHILWARA): Sir, I rise to support both the Bills -

">the Foreign Exchange Management Bill which replaces the Foreign Exchange Regulation Act and the Prevention of Money-laundering Bill. One minus the other would not be really complete. So, both the Bills had to be placed here and I congratulate the Finance Minister for that. After 25 years, the Foreign Exchange Regulation Act needed a lot of changes and, therefore, this Foreign Exchange Management Bill has been introduced.

">I remember the time when both Rajmata Gayatri Devi and also the ex-Maharaja of Jaipur were booked under the Foreign Exchange Regulation Act and were put into jail for some crime or the other. If it was Foreign Exchange Management Act, they would not have been put straight into the jail. This Foreign Exchange Management Bill was needed because the times have changed. In 25 years, we have gone a long way towards globalisation and liberalisation. It is because of this that the present Bill has been introduced and I congratulate the Finance Minister for that.

">But there are two or three things that I want to put across to him. One is that it is very difficult to really distinguish white money from black money, and once it is laundered, it is very difficult to say how this money was acquired. In the same light, suppose a person borrows money, how does he know that this money is laundered or this money is bad money or this money is tainted money? Why should he be punished? Suppose somebody borrows money, how does he know whether it is white or black? I am unable to understand why they have put this clause. So, they must really do something about this.

">The other thing is - and I welcome this thought also - that for the first time in the Indian history, the onus of proof is on the accused. In no

">crime the onus of proof is on the accused and I congratulate the Finance Minister to have added teeth to this Bill. He has really opened a lot of new thinking on crime because a lot of countries in Europe and America have a system which is just dichotomy, just different from ours. While right now the accused is innocent till proved guilty, here the whole system has been changed, and I feel that is a good start.

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA): Mr. Chairman, Sir, I am very grateful to the hon. Members of this House for the wide support which has been given to these two pieces of legislation. I am also grateful to them for the suggestions which they have made. There are some issues and there are some points on which, I think, the explanation which I shall offer will be able to clarify the situation.

">Sir, what is the structure? Why are we discussing these two Bills together? We are doing it because while on the question of foreign exchange management we are shifting from a more draconian and difficult piece of legislation to a more liberal piece of legislation, in the case of money-laundering, we are making it very stringent, as I said in my opening remarks.

">So, we are moving from FERA which, if it stands in the centre, we are moving towards liberalism in one direction and we are moving to more stringent measures in regard to others.

">Now, I will take up the Foreign Exchange Management Bill first. I had said that with current account liberalisation, with the recommendation which had been made by various Committees through the amendments which were brought about in 1993, it was almost incumbent on the Government to come up with a Foreign Exchange Management Bill. The FERA, starting in 1947, through 1973 to 1993, went through a number of mutations in terms of the situation prevailing then. FEMA is our response to the situation which prevails today.

">I would like to disabuse the minds of some hon. Members who felt concerned at the fragility of our foreign exchange reserves position. I would like to say that successive Governments in India have proceeded extremely cautiously as far as the foreign exchange front is concerned. The reason why India was not sucked into the East-Asian crisis to which a reference was made here was entirely on account of the fact that we have moved cautiously and that caution is not necessarily confined to strictness to non-liberalisation. That has been proceeded in a manner where the confidence of the people has not been shaken. Why is there a run on foreign exchange reserves? There is a run on foreign exchange reserves when the confidence of the people in the system shakes. Now, we as a nation, have been able to maintain the confidence not only of our nationals but also of the foreign investors.

">I have had occasion to mention in this House that when the Asian crisis was blowing and it was at its peak, even at that time the reserve money which could have been taken away from our country in terms of foreign exchange stayed in our country. It was not taken

away. Take even the foreign institutional investment. The net decline in 1998-99 was only about U.S. 500 million dollars in a total size of about U.S. nine billion dollars. So, that shows the confidence that the people had in the Indian system.

">Now, we have current liberalisation. I would like to assure my friend Shri Kirit Somaiya who talked about capital account liberalisation. This FEMA, by itself, does not propel us to capital account liberalisation. This Government, this country will have to take a conscious decision that we want to move further towards capital account liberalisation. It will not come automatically and I would like to repeat here that caution shall continue to be our watchword. We shall never take risks which will expose this country to unnecessary hardship.

">Therefore, we shall move cautiously. But I would like, as I said, to assure the hon. Members who have expressed doubts in this regard that our reserves are not only large but they are also stable. I see no reason for any particular concern in that regard. It is in that context to bring the Foreign Exchange Regulation Act in line with the situation of today that we have brought the Foreign Exchange Management Bill. It is true that the nature of offence is being shifted from criminal to civil because all offences or most of the offences are civil in nature.

">If somebody, for instance, is evading or avoiding income tax, then we proceed against him under the Income-Tax laws which are of civil nature. The Income-Tax Officers do not have the right to arrest. They can move another court of law if they want somebody arrested. Now, this is the kind of change which is being brought about and therefore, I think, on the Foreign Exchange Management Bill, there should be no cause for concern.

">Now, I come to the Prevention of Money-Laundering Bill. What is the basic structure? The basic structure is that certain types of offences must be committed and there must be a pecuniary gain arising out of those offences and there should be an attempt at laundering those receipts, then this Act will come into force. Now, what are the offences which have been included? All these offences are defined. I would say, for instance, 'murder'. I would like to inform Shri Bansal that murder is there because he mentioned that.

">SHRI PAWAN KUMAR BANSAL (CHANDIGARH): I said that murder is there and there could be other cases also.

">SHRI YASHWANT SINHA: Yes. Now, I am saying that murder has been mentioned. We have taken a number of offences from the various Acts which we thought could be used for extorting money, for receiving illegal proceeds and those are the things which should be covered. For instance, Shri Anadi Sahu raised the issue of seduction in custody. I was also intrigued by this because what is quoted here is section 9 of the Immoral Traffic (Prevention) Act. If you read the whole section 9, you will find that it not only talks of seduction in custody, it talks of seduction in custody for purpose of prostitution. If it is done for prostitution, then obviously, there will be illegal gain and anything acquired out of that has to be dealt with. Similar is the case under the Prevention of Corruption Act. Then, there are drugs. Of course, we have treated drugs separately, both in terms of punishment and in terms of fine.

">The point I am making is that we have picked up certain offences which are heinous, as I said in the beginning, which are of very serious nature. We are bringing this legislation on money-laundering so that receipts from those crimes and properties acquired as a result thereof, are dealt with under this Act. At the present moment, we have no legislation which will deal exclusively with this particular subject. So, we are bringing this Bill.

">Now, the question was raised about the qualifications of members and their appointments in the Appellate Tribunal. I would like to inform Shri Bansal that since it is related to the original crime, we are saying that there must be a charge-sheet before we proceed with it. I mean that the charge-sheet is a given stage in a legal proceeding which is framed when the prosecuting agency comes to the conclusion that there is enough evidence to proceed with the offence or the offender. Therefore, charge is an important point. That will also lead to interim attachment of the property and the final confiscation of the property will come only when he is proved guilty under those laws which we have quoted here.

">Therefore, it is important to relate the provisions of this Bill to the Schedule which we have mentioned. If we delink it from the Schedule, then all and every offence can be brought within its ambit, but that is not the intention of this legislation. The intention is to confine it to certain serious, heinous offences and that is why, we have decided to enumerate the offences under various Acts in this Schedule.

">Now, I come to the question of tribunal and age. It is true that the age of the Chairperson has been fixed at 68 years. But what are we saying in clause 27(1)? We are saying :

">"A person shall not be qualified for appointment as Chairperson unless he is or has been a Judge of the Supreme Court or of a High Court."

">Why are we saying that for the Chairperson and not for the members? We are saying it for the Chairperson because this is a very serious piece of legislation and the offences which will be tried under this piece of legislation are offences of heinous nature. We want the Chairperson

">SHRI PAWAN KUMAR BANSAL : I am sorry to interrupt. The offences will not be tried by the Appellate Tribunal. It is only the question of attachment and then final confiscation of the property. The offences will be tried by the special judge.

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">SHRI YASHWANT SINHA: Yes, Sir.

">SHRI PAWAN KUMAR BANSAL : The offences will be tried by the Special Judge.

">SHRI YASHWANT SINHA: I made that distinction myself. I am saying that whatever action has to be taken under this Bill, that will be taken by this Tribunal. Therefore, we want this Tribunal to be a high-powered body. Now, we are talking only about the Chairperson that he is or has been ... (Interruptions)

">SHRI M.V.V.S. MURTHI (VISAKHAPATNAM): Why do you want to take retired persons?

">SHRI YASHWANT SINHA: We are saying "is or has been"; both the options are open.

">SHRI PAWAN KUMAR BANSAL : Whatever it may be, if his order is appealable before a High Court, no Judge of the Supreme Court will take this assignment.

">SHRI YASHWANT SINHA: Therefore, we are saying, "a Judge of the Supreme Court or a Judge of a High Court"; we are not ruling out the High Court. As far as the members are concerned, there are various categories of members who qualify to be members.

">SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Though I am sorry to interrupt you. It is not really an interruption. The point I made was that in all the laws so far, we have had the qualification that a person who is a Judge or who has been a Judge or who is qualified to be a Judge of the High Court is eligible for it. Such attempt was made once earlier in the case of Central Administrative Tribunals. The House objected to it, and that clause was amended accordingly then because the feeling was that this part should be given to the judicial people. The same attempt is being made now.

">SHRI YASHWANT SINHA: I will read it further. As far as a member is concerned, we are saying (a) is or has been a Judge of the High Court; (b) has been a member of the Indian Legal Service, and has held a post in Grade-I of that service for three years.

">SHRI PAWAN KUMAR BANSAL : We have no objection to the subsequent parts. But in this part, it should be "a person who is or has been or who is qualified to be a Judge of the High Court."

">SHRI YASHWANT SINHA: Shri Bansal might have noticed that in the FEMA, we have such a provision. Here, we have deliberately and thinkingly avoided putting it because we wanted to confine it to a sitting or retired Judge of the High Court or the Supreme Court. That is the reason why it has been done.

">SHRI PAWAN KUMAR BANSAL : That is being uncharitable to these people.

">SHRI YASHWANT SINHA: It is not an inadvertence. There is some thought which has gone into it. Now, I come to another point which Shri Bansal raised, that is, the right of the Government to appeal. We will be very cautious. It is not that we are going to appeal in every case. It is again going to be a thinking action. We will be cautious. In the administrative instructions, we will make sure that it is not treated lightly.

">Now, Sir, as far as the burden of proof is concerned, it is true that in this legislation, as in some other sterner pieces of legislation, the burden of proof has been put on the accused. But we must recall to our mind that the burden of proof is put on the accused even in the case of disproportionate assets in the Prevention of Corruption Act. There are certain provisions in certain Acts where the burden of proof has been put on the accused. He has to prove himself innocent. But a point was made here about unknowingly acquiring a property which has been bought out by money-laundering. We are saying that he must be able to do it "knowingly". If he has done it unknowingly, he is not guilty. When we are saying "knowingly", the burden of proof of proving "knowingly" rests with the prosecution. So, it is not in all cases; we are protecting the citizen against that kind of a difficulty.

">SHRI VIJAYENDRA PAL SINGH (BHILWARA): Suppose, he borrows, how does he know whether it is white money or black money or laundered money?

">SHRI YASHWANT SINHA: That is what I am saying that if he has borrowed money which is covered by this Act, then the prosecution will have to prove that he did it "knowingly". If he knows that the money was tainted and even then he proceeded to borrow it, then he is within the mischief of this Bill. He is not guilty, unless the prosecution is able to prove that he did it "knowingly".

">SHRI PAWAN KUMAR BANSAL : Due to the importance that is being attached to these provisions, you say that only people who have held important positions should be holding the office of the Chairman, Appellate Authority and other positions. At the same time, you say that the proceedings would be judicial in nature, that is what the Act says.

">19.00 hrs.

">But you are debarring the presence of a lawyer before them. It is again the first piece of legislation where you say that a lawyer will not appear and there will only be an authorised representative who may not be aware of the distinction, which my hon. friend from that side was trying to point out. If a case has to be put up before a judge of the Supreme Court and a lawyer is not present there; if the lawyer does not represent the accused....

">SHRI YASHWANT SINHA: We are presuming that the authorised representative will have sufficient knowledge of law to be able to go and represent.

">SHRI PAWAN KUMAR BANSAL : That qualification is not mentioned. Authorised representative means that an accused cannot authorise a lawyer to appear. You say that he can authorise a lawyer to appear as his authorised representative. That would be good enough.

">SHRI YASHWANT SINHA: When he chooses his representative...

">SHRI PAWAN KUMAR BANSAL : He cannot choose. You do not want him to choose. That is why, I was submitting to the Chair that

we should not hurry through these provisions. There is much to be desired. You will subsequently see, that day will come, when various provisions would be challenged, they would be struck down by the courts. You will see that. Simply because the law has been framed you are just pushing it through.

SHRI YASHWANT SINHA: Sir, my only reply to this is that both these Bills were introduced in the last Lok Sabha. It was referred to the Standing Committee. The Standing Committee on Finance considered every clause. The officers of the Ministry appeared before them and explained everything and we have accepted many important suggestions of the Committee.

SHRI PAWAN KUMAR BANSAL : A judge of the Supreme Court would be expect to act like a panch.

SHRI YASHWANT SINHA: For instance, the point which Shri Ramesh Chennithala was raising about falsification of accounts. Now, it was a part of the earlier Bill which I had introduced in the last Lok Sabha. It was on the recommendation of the Committee as a result of representations which were made by various industrial associations and trade associations that we accepted the recommendations of the Committee and decided to delete that. So, falsification of accounts is not a part of the Bill now.

Sir, my submission would be that we have discussed these in detail at various stages and a lot of thoughts also have gone into this. Both the Bills are in order and I would suggest that the Bills should be adopted and passed by this House.

Sir, there is another point about the right of appellant to seek legal assistance under clause 38.

SHRI PAWAN KUMAR BANSAL : This is not about money-laundering.

SHRI YASHWANT SINHA: No, this is not about money laundering.

Sir, finally I would like to submit that we have taken these steps deliberately. The Committee has agreed with us and therefore, we have omitted and have not brought those provisions within this Bill. With these words I suggest that let this House pass these two Bills.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill to prevent money-laundering and to provide for confiscation of property derived from, or involved in money-laundering and for matters connected therewith or incidental thereto, be taken into consideration".

The motion was adopted.

MR. DEPUTY-SPEAKER: The House will now take up clause-by-clause consideration of the Bill.

MR. DEPUTY-SPEAKER: The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

MR. DEPUTY-SPEAKER: Shri Vilas Muttemwar to move his amendment no. 4 and 5 to Clause 4. He is not present in the House.

The question is:

"That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

MR. DEPUTY-SPEAKER: Shri Vilas Muttemwar to move his amendment no. 6 and 7 to Clause 5. He is not present in the House.

The question is:

"That clause 5 stand part of the Bill".

The motion was adopted.

Clause 5 was added to the Bill.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Sir, have my amendments come to you?

MR. DEPUTY-SPEAKER: They may be in the process.

Clause 6

MR. DEPUTY-SPEAKER: Shri Vilas Muttemwar to move his amendment No.8. He is not present in the House. Shri Shrinivas Dadasaheb Patil and Shri Sharad Pawar to move their amendment No.18. They are not present in the House.

The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7

MR. DEPUTY-SPEAKER: Shri Vilas Muttemwar to move his amendment No.9. He is not present in the House.

The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 9

MR. DEPUTY-SPEAKER: Shri Shrinivas Dadasaheb Patil and Shri Sharad Pawar to move their amendment No.19. They are not present.

The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 to 16 were added to the Bill.

Clause 17

MR. DEPUTY-SPEAKER: Shri Vilas Muttemwar to move his amendments No.10 to No.14. He is not present.

The question is:

"That clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Clauses 18 to 26 were added to the Bill.

Clause 27

MR. DEPUTY-SPEAKER: Shri Shrinivas Dadasaheb Patil and Shri Sharad Pawar to move their amendment No.20. They are not present in the House.

The question is:

"That clause 27 stand part of the Bill."

The motion was adopted.

Clause 27 was added to the Bill.

Clause 28

MR. DEPUTY-SPEAKER: Shri Vilas Muttemwar to move his amendments No.15 and 16. He is not present in the House.

The question is:

"That clause 28 stand part of the Bill."

The motion was adopted.

Clause 28 was added to the Bill.

Clauses 29 to 36 were added to the Bill.

Clause 37

MR. DEPUTY-SPEAKER: Shri Vilas Muttemwar to move his amendment No.17. He is not present in the House.

The question is:

"That clause 37 stand part of the Bill."

The motion was adopted.

Clause 37 was added to the Bill.

Clauses 38 to 47 were added to the Bill.

Clause 48

MR. DEPUTY-SPEAKER: Shri Shrinivas Dadasaheb Patil and Shri Sharad Pawar to move their amendment No.21. They are not present in the House.

The question is:

"That clause 48 stand part of the Bill."

The motion was adopted.

Clause 48 was added to the Bill.

Clauses 49 to 72 were added to the Bill.

MR. DEPUTY-SPEAKER: Now, Amendment No. 2 -- Shri Anadi Charan Sahu. Are you moving.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): I am not moving it.

MR. DEPUTY-SPEAKER: Good.

The question is:

"That Clause 73 stand part of the Bill."

The motion was adopted.

Clause 73 was added to the Bill.

Clause 74 was added to the Bill.

MR. DEPUTY-SPEAKER: There is Amendment No.3 to the Schedule. Shri Anadi Charan Sahu, are you moving it?

SHRI ANADI SAHU : No, Sir.

MR. DEPUTY-SPEAKER: The question is:

"That the Schedule stand part of the Bill."

The motion was adopted.

The Schedule was added to the Bill.

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

MR. DEPUTY-SPEAKER: Now, the Minister may move that the Bill be passed.

SHRI YASHWANT SINHA: Sir, I beg to move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill be passed."

... (Interruptions)

SHRI RAMESH CHENNITHALA (MAVELIKARA): Sir, I will not take more than a minute. We have all discussed this Bill. We are welcoming the Bill. In his intervention, my friend Shri Pawan Kumar Bansal was mentioning that in certain clauses there was no clarity. Ambiguity is there. Of course, it had gone to the Standing Committee on Finance earlier and they made their recommendations also.

">Sir, I think that this is a very serious piece of legislation. It needs more consideration, otherwise, again the Government would have to come with further amendments. So, I would request the Government to kindly go into the details. Of course, we had give certain suggestions but unfortunately, the hon. Minister has not accepted any of them. But since, these two legislations have very serious repercussions on our economy as well as on the citizens of this country, the Government should think about them seriously.

">SHRI YASHWANT SINHA: Sir, I have no hesitation in accepting the suggestions of the hon. Members. Take, for instance, the issue about the legal practitioner, raised by Shri Pawan Kumar Bansal. Now, I have the report of the Committee here. What did the Committee say? The Committee considered the whole thing. They said that `apart from the legal practitioner, there could be other representatives like Chartered Accountant, Company Secretary and somebody else."

">Therefore, to give it a much wider coverage, they suggested that it should be an authorised representative because these are all money-related offences and somebody might want to be representative as a Chartered Accountant. We are not blocking a Chartered Accountant. We are not blocking an Income Tax practitioner. So, we are expanding the scope.

">When he suddenly got up and asked this question, I could not reply. But when I looked into my papers, I found that this is the explanation.

">SHRI PAWAN KUMAR BANSAL : Do you mean to say that lawyers can appear?

">SHRI YASHWANT SINHA: Yes.

">MR. DEPUTY-SPEAKER: Representatives include advocates also.

">SHRI YASHWANT SINHA: I am in a position to give you the assurance that by authorised representative, we will include legal practitioners also, as it will include many other categories.

">Sir, now my hon. colleague Shri Radhakrishnan is not here. He had raised the issue that `person" is not defined. Now, I am told that `person" is defined." There are specific provisions in both the Bills where we are defining what a `person" means. We have gone into the total reading of this very carefully.

">Even then, I have taken note of these suggestions and if there is anything, we will certainly take care of that in the rules and regulations.

">MR. DEPUTY-SPEAKER: The question is:

">"That the Bill be passed."

">The motion was adopted.

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">MR. DEPUTY-SPEAKER: Now, we come to the next Bill -- Foreign Exchange Management Bill, 1999.

">The question is:

">"That the Bill to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India, be taken into consideration."

">The motion was adopted.

">MR. DEPUTY-SPEAKER: The House will now take up clause by clause consideration of the Bill.

">The question is :

">"That clauses 2 to 12 stand part of the Bill."

">The motion was adopted.

">Clauses 2 to 12 were added to the Bill.

">MR. DEPUTY-SPEAKER: There are three amendments by Shri Vilas Muttemwar. He is not here.

">The question is :

">"That clause 13 stand part of the Bill."

">The motion was adopted.

">Clause 13 was added to the Bill.

">MR. DEPUTY-SPEAKER: Shri Anadi Sahu, are you moving your amendment Nos. 1, 2 and 3?

">SHRI ANADI SAHU (BERHAMPUR, ORISSA): I am not moving my amendments.

">MR. DEPUTY-SPEAKER: The question is :

">"That clause 14 stand part of the Bill."

">The motion was adopted.

">Clause 14 was added to the Bill.

">Clauses 15 to 18 were added to the Bill.

">MR. DEPUTY-SPEAKER: Shri Anadu Sahu, are you moving your amendment?

">SHRI ANADI SAHU (BERHAMPUR, ORISSA): I am not moving.

">MR. DEPUTY-SPEAKER: The question is :

">"That clause 19 stand part of the Bill."

">The motion was adopted.

">Clause 19 was added to the Bill.

">Clause 20 was added to the Bill.

">MR. DEPUTY-SPEAKER: Shri Anadi Sahu, are you moving your amendment Nos. 5 and 6?

">SHRI ANADI SAHU (BERHAMPUR, ORISSA): I am not moving.

">MR. DEPUTY-SPEAKER: The question is :

">"That clause 21 stand part of the Bill."

">The motion was adopted.

">Clause 21 was added to the Bill.

">MR. DEPUTY-SPEAKER: There are amendment Nos. 12 and 13 of Shri Vilas Muttemwar. He is not here.

">The question is :

">"That clause 22 stand part of the Bill."

">The motion was adopted.

">Clause 22 was added to the Bill.

">Clauses 23 and 24 were added to the Bill.

">MR. DEPUTY-SPEAKER: There is an amendment No. 14 of Shri Vilas Muttemwar. He is not here.

">The question is:

">"That clause 25 stand part of the Bill."

">The motion was adopted.

">Clause 25 was added to the Bill.

">Clauses 26 to 30 were added to the Bill.

">MR. DEPUTY-SPEAKER: There is amendment No.15. Shri Vilas Muttemwar is not here.

">The question is :

">"That clause 31 stand part of the Bill."

">The motion was adopted.

">Clause 31 was added to the Bill.

">Clauses 32 to 34 were added to the Bill.

">MR. DEPUTY-SPEAKER: There is amendment No.16 of Shri Vilas Muttemwar. He is not there.

">The question is :

">"That clause 35 stand part of the Bill."

">The motion was adopted.

">Clause 35 was added to the Bill.

">Clauses 36 to 49 were added to the Bill.

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

">MR. DEPUTY-SPEAKER: The Minister may now move that the Bill be passed.

">THE MINISTER OF FINANCE (SHRI YASHWANT SINHA): Sir, I beg to move:

">"That the Bill be passed."

">MR. DEPUTY-SPEAKER: The question is:

">"That the Bill be passed."

">The motion was adopted.

">1921 hours

">The Lok Sabha then adjourned till Eleven of the Clock on

">Friday, December 3, 1999/Agrahayana 12, 1921 (Saka).

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