

- (i) To increase the awareness of people on AIDS through education and mass media;
- (ii) To ensure condom distribution to prostitutes;
- (iii) To ensure the testing of all blood donors and blood sellers;
- (iv) To ensure the screening and testing of blood and blood products;
- (v) To enforce licence for all blood banks;
- (vi) To start special confidential clinics of HIV test.
- (vii) To practise safer sex through scientific education to all and;
- (viii) To ensure special care for AIDS patients.

regarding the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance and the connected Bill.

Shri Rasa Singh Rawat.

[*Translation*]

PROF. RASA SINGH RAWAT
(Ajmer): Mr. Deputy Speaker, Sir, I beg to move—

"That this Hous disapproves the Special Court (Trial of Offences Relating to Transations in Securities) Amendment Ordinance 1994 (No. 3 of 1994) promulgated by the President on 25th January, 1994".

I am moving this statutory resolution in the House. On the eve of Republic Day an Ordinance was got promulgated by this Government, which is considered patron of democracy, though within one month the Parliment was going to be summoned in February. Although the Government have time and again stated that it does not believe in promulgating Ordinances yet whatever is the nature of this ordinance, it's promulgation clearly reflects the disregard of the Parliament and desperation of the Government. Promulgation of the Ordinance on the eve of the Republic Day clearly reflects the intentions of the Government that it does not hold the Parliament in high esteem and also that they do not want the Parliament to discuss it. Even though the law might be quite good and necessary for checking mal-practices in Banks, yet it would have been better if the Government had consulted the parties. The peoplè would have definitely felt relieved. However, in view of the hasty manner in which the Ordinances are being promul-

12.44 hrs.

STATUTORY RESOLUTION RE:
DISAPPROVAL OF THE SPECIAL
COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS
IN SECURITIES) AMENDMENT
ORDINANCE
AND
SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES)
AMENDMENT BILL

[*English*]

MR. DEPUTY SPEAKER: We will now take up Item Nos. 14 and 15 together

[Prof. Rasa Singh Rawat]

gated, I am constrained to say that this Government is in a habit of promulgating Ordinances frequently.

During the discussions on the constitution of India the first speaker of Lok Sabha, Shri Mavlankar had commented that only in emergencies or when it is difficult to summon the Parliament recourse to promulgation of Ordinances should be resorted to. However, no such conditions had developed on 25th January. In December, the Parliament was in session. Had the Government been aware and caring about the fact that hard earned money of the Indian public has been swindled away by a few persons through malpractices indulged into by the banks, then a legislation could have been moved and got approved during the earlier session of the Parliament. However, the Government deliberately did not introduce this legislation then and after prorogation of the Parliament promulgated this Ordinance in January by by-passing the Parliament.

Mr. Deputy Speaker, Sir, through you, I would like to condemn the tendency of the Government to promulgate Ordinances. On this basis, this Ordinance should be disapproved because promulgation of Ordinances by the President has become a routine thing and as a result proper discussion in the House cannot take place.

On the one hand courts are being set up to check mal-practices in banks and misuse of funds of banks, and on the other hand, branches of banks are being closed down by the Government. Notices have been served to close down rural branches of nationalised banks which advance loans to the farmers and with which they deposit their savings. In the

name of liberalisation foreign capital and foreign banks are being invited. Though we also favour liberalisation yet in the name of liberalisation we won't allow absolute freedom being granted to American or other foreign banks. We too are in favour of improving the banking system but the socio-economic objectives of nationalisation should be fulfilled. Once again the Government is moving towards privatisation. As a result of it dedication among employees is dying down and they are becoming lethargic. New Bank of India has been amalgamated with Punjab National Bank. That's why employees of New Bank of India are agitating. The Government should formulate clear cut policy regarding LIC or banks or any other financial institutions.

Tendency of promulgating Ordinances is undemocratic and authoritarian and means showing disregard to the Parliament. That is why it should be condemned. I am moving the motion for the disapproval of this Ordinance.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (DR. ABRAR AHMED): Mr. Deputy Speaker, Sir, I beg to move:

"That the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill 1992 be taken into consideration".

As the august House is aware of the fact that several scams in the security transactions in banks and financial institutions came into light during the year 1992 and a special Act i.e. Special Court (Trial of Offences Relating to Transactions in Securities) Act 1992 was enacted to take action against the accused and to check the misuse of funds by the persons

responsible for these irregularities. There is a provision under this Act to set up a special court in Bombay to look into the crimes regarding security transactions or other relevant matters. Under this Act, there is a provision to attach the property of the persons reported and the special court has been given the powers for the disposal of the attached properties.

While taking into consideration the matters filed before the special court it has been found that it is very difficult to dispose off the civil matters due to lack of adequate powers. There was a need to provide special powers to the court for disposing of the civil matters because this provision was not there in the original Act. The Special Court was to dispose of the matters quickly, keeping this fact in view need of a special provision was felt to be made which could exempt the court from being restricted by the Civil Procedure Code 1908. Rather the court was to follow the principles of natural justice, and was empowered to decide the procedures for that itself. It was also necessary to give adequate powers to punish those who violated the prospective orders of the court so that it could work effectively. It was also necessary to make an alternative arrangement in case the judge was absent or on leave so as to ensure the immediate disposal of cases pending with the court.

Since the Government wanted to penalise the persons involved in irregularities and scams and also to ensure the recovery of the blocked funds of banks and financial institutions, it was necessary to immediately strengthen the rights and powers of special court as mentioned above. Accordingly, an ordinance was promulgated to make amendments in the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 on 25th January 1994.

With these words I request for the substitution of the said Ordinance by the Bill and also for the consideration and passing of the Bill with consensus immediately.

[English]

MR. DEPUTY SPEAKER: Motions moved:

"That this House disapproves of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994 (No. 3 of 1994) promulgated by the President on January 25, 1994."

"That the Bill to amend the Special Court (Trial of Offences Relating to Transactions in Securities) Act 1992, be taken into consideration."

There is an amendment to the Motion for Consideration, Raza Singh Rawat Ji, are you moving your amendment?

PROF. RASA SINGH RAWAT: Since I have moved the Resolution disapproving of the Ordinance, I am not moving the amendment, Sir.

SHRI NIRMAL KANTI CHATTERJEE (Dumdum): Thank you, Sir, for giving me this priority. This Bill, as it stands, does not seem to be objectionable at all. But there are many other things which need to be said in connection with this Bill. Initially, before I go into the other things, I shall draw the attention of the hon. Minister to one or two things in the Bill itself. Since the Finance Minister, the Rajya Sabha M.P. from Assam, is absent, I do not know whether it will be possible for him to accommodate these suggestions.

[Shri Nirmal Kanti Chatterjee]

Sir, you can say that it is just feminism, but it is said at places in the Bill that it should be for he's only. For instance, if you look at page 3 of the Gazette, section 9A(5) (a) says: "Summoning and enforcing the attendance of any person and examining him on oath". Nowadays, we try to say 'him' or 'her' in order to show our awareness about the equal status of men and women in the country. So, we should try to be careful in drafting these things and should put them in that way. This should not be avoided by saying that he includes she also. This is one suggestion that I want to make.

The second point I want to make is about the reference to a particular period. I shall not go into the details on that right now but this Bill refers to a period starting from 1st April, 1991 and ending in June, 1992. As we know, the scam did not originate in 1991. I shall tell you later, in the course of my observations how the public sector banking organisations, like the National Housing Bank, were indulging in certain types of cases even before April, 1991. Therefore, I feel that this restriction on the period itself may kindly be looked into and eliminated. For instance, on page 2, section 9A(1)(b) says:

"arising out of transactions in securities entered into after the 1st day for April, 1991, and on or before the 6th day of June, 1992, in which a person notified under sub-section (2) of section 3 is involved as a party, broker, intermediary or in any other manner."

Sir, I do not know about the events after June, 1992. But certainly during the period 1st April 1991 there are so many persons involved who could be committed to this court.

MR. DEPUTY SPEAKER: Shri Nirmal Kanti Chatterjee may continue his speech after lunch break.

13.00 hrs.

*The Lok Sabha then adjourned for
Lunch till Fourteen of the Clock.*

14.00 hrs.

*The Lok Sabha re-assembled after
Lunch at Eight Minutes past Fourteen
of the Clock.*

[MR. DEPUTY-SPEAKER *in the Chair*]

STATUTORY RESOLUTION *RE*:
DISAPPROVAL OF THE SPECIAL
COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS IN
SECURITIES) AMENDMENT
ORDINANCE
AND
SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES)
AMENDMENT BILL- *Contd.*

[*English*]

MR. DEPUTY-SPEAKER: Shri Nirmal Kanti Chatterjee may continue.

SHRI NIRMAL KANTI CHATTERJEE (Dumdum): The Bill has one or two very important provisions. One such provision is that no court other than the Special Court shall be entitled to exercise any jurisdiction, power or authority in relation to any matter of claim referred to in the sub-section. It also says that the Special Court will not be guided by the Code of Civil Procedure, 1968 but by the principles of natural justice, subject to the

other provisions of this Act and of any rules which this Special Court shall evolve to regulate its own procedure. These are important provisions.

In the Objects and Reasons of the Bill, it is stated that the Ordinance has been issued for speedy trial of offences and to prevent diversion of properties of persons responsible for the irregularities and loss of funds of banks.

If this is the intention of the Government, it has to explain how is it that after all the properties of Shri Harshad Mehta have been attached, he continues to lead a lavish life. Who will explain this? You have also to explain that against a turn-over of some Rs. 17 lakh crores and on the basis of your latest Budget estimate of a return of 8 percent on turn-over, the income during this period and consequent wealth acquired during this period, would be to the tune of Rs. 1 lakh crores, mind you Rs. 1 lakh crores, and from that income itself, you could have collected some Rs. 40,000 crores on the basis of existing rates of taxation and you have provided a Budget where in terms of direct tax receipts, there is a shortfall. Would you please explain how these things are consistent? On the one hand, you say this and, on the other hand, this is the quality of your practice in terms of those who have been mentioned and referred to in the Special Court.

It is not this point only. The Scam we know, is one of the eighth wonders of the world, as it happened, as it developed and, perhaps as it is culminating in India.

If I say that such procedures are very welcome and I support the Ordinance, I would like to ask why is it that you are not able to establish Special Courts for two other kind of people, one the tax evaders and second, the bank

defaulters. You say you have lost control over the economy. That is what your Budget papers tell us and you say that yet you have to provide some Rs. 5,000 crores as capital to the financial sector, to the commercial banks. You have provided for current year and you are providing Rs. 8,000 crores for the next year and we all know that much more than that amount is due to leading defaulters to the banks which have turned so much of debt into bad debts. Capital adequacy could have been met had there been will and a Special Court to deal with this kind of people. You have not yet, despite the provision in law, established the Court on Direct Taxes. You are promising and you are still not hauling up your defaulters in any Special Court. You have been caught napping or the Scam and, therefore, a Special Court had to be there and therefore, you want to show before the people that you are very serious about that Special Court.

These are questions which you have to answer and for which the people want an answer from you.

Apart from the fact that those who are already designated, those who have been identified by JPC and the Janakiraman Committee, there are these groups of people who are being let free by the Government and for valid reasons as I will indicate later. Even in terms of big Ordinance or this Bill as it is before us, why is it that you restricted to a period after 1st April, 1991 and till June, 1992? I have got certain things apart from JPC.

Let me give you a few facts. The National Housing Bank, as you know, is your creation. There are reports in the JPC about National Housing Bank. Let me tell you that even in the National Housing Bank, the buy back deal by Sarvashri Parthasarathy, Hathangadi and Ravi

[Shri Nirmal Kanti Chatterjee]

Kumar, all known people, started on 10th of January, 1991. And not only that, there are other incidents which have started in late 1990. Why is it that you want to restrict it? You have to answer that. You say that all of them are being prosecuted before the Special Court; for them this tightening is wonderful. But even where JPC has mentioned—JPC did not mention many people—the story in the National Housing Bank is that non charge-sheets against these officers have been filed and the Finance Ministry has not given permission of file those charge-sheets. How do you explain this? Even against those who were mentioned—I am referring to a period, that is, even before Shri Pherwani had joined the National Housing Bank—you turned a Nelson's eye. The Finance Ministry refused to give clearance to charge-sheet these officers. I do not want to go into details. I have got a full list on how they have done this. I will separately write to the Rajya Sabha Member from Assam.

So, even those who were listed are not being charge-sheeted. In the JPC Report itself, it was pointed out that the CBI, and the Department of Intelligence of CBDT are lukewarm about these investigations. They are not even proceeding against them. That is what the unanimous part of the JPC Report says. While these measures are being tightened up against all those who, very unfortunately, could not escape, the JPC Report indicates that many more people need to be prosecuted. That is one thing. The second thing is that much more intensive inquiries are called for on the basis of whatever has been know to the JPC and the CBI, and the Department of Intelligence of CBDT have to be hauled up. We want to know, what you have done towards that. It is obvious that nothing is being done.

A demand was raised, the other day, that you have to submit an Action Taken Report on the JPC recommendations. Nobody knows how you are going to respond to that. The Government is failing in terms of not establishing the Special Court for other kinds of frauds in the Indian economy, for punishing those who are devastating the Indian economy, who are devastating the Government and calling into the question the ability of the Finance Minister also, as was indicated in the Finance Minister's Budget speech. Second is, even in terms of JPC Report, you are not proceeding as you should have proceeded with. Third is, what about the other aspects? One aspect relates to those who have committed these economic offences. Only today or yesterday, the name of Shri Chaturvedi cropped up in the Newspapers. Shri Chaturvedi had persuaded Harshad Mehta and others to donate Rs. 50 lakh to some important fund in the country, established in the name of the late Prime Minister.

They organised some functions in Bangalore where senior Cabinet Ministers were present. Mr. Chaturvedi has now admitted that he has been forced by the Special Court to admit that he has played with crores of rupees. This person had several connections in that Bangalore function.

Today's or yesterday's press reports say that it is strange to see that even today information about whatever has been done to Harshad Mehta immediately reaches him or Dalal. That means all his agents either in the political arena or in the banking services remain in tact. But the Government refuses to investigate, refuses to tone up the CBI. There is not a word of stricture about the CBI despite the JPC comment. Harshad Mehta indicated that when he used to visit the Parliament House, he used to say

"*ha*" to some senior Cabinet Ministers. I do not mention their names.

SHRI JASWANT SINGH
(Chittorgah): Why not? Is it in the report?

SHRI NIRMAL KANTI CHATTER-
JEE: I do not know. I have been told by others. Let them deny it.

I have got fresh evidence, apart from JPC report. Let me show this evidence and let the Government answer. At least the JPC agreed almost in a self-critical vein that what we have been able to do is only to discover the tip of what has happened. So much more has to be done in order, may not be to clean up, but to stop such happenings in such proportions in future.

We know that all this information that Harshad Mehta even now is getting could not have been possible without political patronage. We know all this. Therefore in commending these provisions of the Bill, we will like the Minister to answer these questions that I am raising; firstly what are you going to do with other economic offenders, conspirators, who are running the economy; secondly what are you going to do with those people who have been mentioned and yet you are refusing to chargesheet them as in the case of National Housing Bank; thirdly what further follow up measures have you taken to find out the political links which Mr. Chaturvedi represents on the one side and through him many other political persons on the other? The JPC did mention many Ministers. Does it mean that others were not involved? What are you going to do in such cases? That also you must explain before the House.

What we want you to do is to introduce such Special Courts for others

and explain to us and to the people as to how you want to handle all these perpetrators of crime against the country.

[*Translation*]

SHRI GUMAN MAL LODHA (Pali): Mr. Deputy Speaker, Sir, this Amendment Bill, on the whole is commendable. The Special powers being provided to the special court to overcome the delay created by the Civil Procedure Code in taking decisions about the cases of security scams and enabling them for speedy trial on the principles of natural justice should have been given in 1992 at the preliminary stage of making this Act.

Sir, the most important fact in this regard is that though there is a reference in the JPC report but the hon. Minister has not revealed as to how much out of the public money of eight thousand crore rupees deposited in banks have been recovered, and what measures have been taken in this regard by the special court. In the paragraph 17.5 of the Appendix attached to the JPC report, it has been stated that the cases registered so far by the investigating agency includes the case registered on 29.5.92 under which the scam of Rs. 669/- core of state Bank of India by Harshad Mehta came into light. What happened thereafter? On 11.6.92 another scam of Rs. 90 crore by Harshad Mehta in UCO Bank was detected. In this manner, there are 16 cases in all registered during the year 1992. Most of them were registered from May 1992 to August 1992 and a few were registered in 1993. All these cases are of Rs. 5089 crore. I would like to know from the hon. Minister how much of this money has been recovered. What is total value of the property attached, who are the persons whose property has been attached and what property do the custodians have at present? What steps the

[Shri Guman Mal Lodha]

custodians have taken at their own and what measures have been taken by the special court?

Similarly, there is category 2 under which cases involving Rs. 3294 crore have been registered. There were 23 cases in all under this category and the person like Harshad Mehta and other were involved in it. I would not like to waste the time of the august House by mentioning their names. Under category 3, there are 6 cases registered under anti-corruption whereas chargesheets regarding only two cases were said to have been presented till the report was submitted.

Mr. Deputy Speaker, Sir, the entire nation is concerned that such a scam involving crores of rupees took place. Amount of Rs. 8000 crore was misappropriated by banks and share brokers whose names have been mentioned in the report regarding security scam. While an amount of Rs. 36000 crore of Public Undertakings was divested. I would like to know as to how many cases were registered in this regard and the number of cases pending with the special court. Today, it is essential that the nation be apprised through this august House that the security scam involving Rs. 8000 crore and disinvestment of shares involving Rs. 36,000 crores making a total of Rs. 45,000 crore took place. How much of this amount has been secured by means of attachment, and who are the persons against whom action has been taken? I would also like to know how much of the disinvested money is yet to be recovered by the Government and how much has been put as bad debts, The hon. Minister should clarify it and give details in this regard.

Sir, it is also a fact that not even a single culprit has been punished by the

special court so far. But why it is so? If the special court is not able to decide the case even after two years of filing the chargesheet, what are the reasons therefor?

Is it so that as the big people are involved in this scam and delaying tactics are being adopted so that they may be protected. People like Harshad Mehta and his associates will not get any punishment in view of the present slow pace of progress in this case and they will be acquitted as the time passes and people will gradually forget about it and this consciousness will not remain forever. If no verdict is given in two three years and if the purpose of setting up of special court is out of any conspiracy then it will frustrate the very objective of it.

Mr. Deputy Speaker, Sir, with regard to about 100 cases either the accused have been challaned or the matter is still at investigating stage. The entire nation wants to know the action taken or being taken in this regard. I would like the hon. Minister while presenting the Bill in the House to clarify why there was delay in this regard and thus take the House into confidence. It won't do by merely saying that the application of Civil Procedure Code causes delay and it is in order to make an amendment into the principle of Natural Justice, that this Bill has been introduced. It is justified to make this amendment if it helps in giving immediate, proper and universal justice. It is essential, but will immediate justice also be similar to it? .

[*Translation*]

I would like to know whether the Government propose to set up special courts to expose that agency—whether it was Pakistan or I.S.I or any other agency— and take action against those involved in the series of bomb-explosions

that took place in Bombay on 12th claiming hundreds of lives and similar other explosions in Madras or at other places.

Mr. Deputy Speaker, Sir, today the country is facing two challenges—on the one hand we are facing financial crisis while on the other, our enemies all around in our border areas are waiting for an appropriate occasion to attack us. We are in difficulty also due to the activities carried out by ISI and other agencies. Whether the Government propose to set up special courts and take action against those agencies keeping in view these dangers. We are sorry to see that even these special courts fail to decide the matters promptly and the old practice of keeping the cases pending upto 5-10 or 20 years still continues, so much so that ultimately people get fed up of matters talked about for such a long time. The nation is concerned about the prevailing trend to keep on such matters pending for such a long time that people lose the vigour to condemn such scandals and finally the culprits go scot free. I would like the hon. Minister to clearly state in the House that at what stage the cases are being taken up in special courts at present; whether even a single out of those culprits has been punished so far, what is the number of those against whom charge sheet has been submitted as well as the number of persons whose property has been attached and the money recovered through these measures by the Government.

Mr. Deputy Speaker, Sir, we do welcome this Bill, However, the common masses doubt that the Government fulfil just the procedural formalities regarding the setting up of special courts and making an amendment into the law to mislead the public and protect such big bulls like Harshad Mehta or another

similar broker. Therefore, it is the responsibility of the Government to remove their doubts and assure that no culprit even if he has got highest political protection—would be spared or exempted from legal action, only then there would be utility of setting up special courts. Otherwise amendment can be made at any other time. If effective action is not taken through courts, people would get no relief. I would like the hon. Minister to clarify the situation. With these words I support the special court Amendment Bill.

[English]

SHRI SRIBALLAV PANIGRAHI (Deogarh): Mr. Deputy Speaker, Sir, this Bill, Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill, is intended to replace the promulgated on the 25th January 1994.

There is no doubt that this subject, that is securities transaction, is very important; but the Bill that is before the House is very simple. This Bill is very simple and totally non-controversial. There is absolutely no objection to any provision that is there in the Bill.

In the days to come, I think, may be from tomorrow onwards, we are having the discussion on the General Budget. In view of that, this is a very appropriate subject to discuss in general. It provides an opportunity for the hon. Members to speak something in general on the subject of securities transactions, brokerage, brokers' malpractices and all those things, But, that is definitely beyond the scope or the limit of the Bill.

What I mean is this. The securities scam or scandal is, so far, the largest scandal that the country has witnessed or the world has witnessed and it is one of the largest scandals of the world; but, that

[Shri Sriballav Panigrahi]

has happened in our country, a poor country, involving thousands of crores of rupees, in which even the poor men had their stake.

So, I say that it is very very important and a serious matter. That is why, there was a Joint Parliamentary Committee set up which also worked very hard on this and presented its report. Even the Prime Minister, the other day, in the course of his reply to the debate on the Motion of Thanks on the President's Address, had indicated that the Finance Minister would indicate during his reply to the Budget debate, about the action taken or proposed to be taken on the recommendations of the JPC. Therefore, the people and the hon. Members are looking forward to know the action taken on the JPC report.

Reforms and many other measures are required to be taken. Of course, the Government and the Finance Minister have taken action to reform the system; SEBI is coming very hard on the brokers; they are taking steps one after another to regulate the activities of the brokers, to regulate the working and the functioning of the Stock Exchanges, etc. They have started taking action; and it is not that they are sitting tight. Every effort has got to be made to see that nothing of that kind would happen again. Scam is a very very sad thing; that is a dark spot in our national life. It should not be repeated again, It has got to be seen that it is not repeated again.

Coming to this Bill, as I said, it has got three provisions. It should have its own procedure. I simply wonder as to how it was not provided right at the beginning, when the concept of the Special Court was created. This is not the first time that a special court has been set up in our country. As you know, the delay is

inherent in our judicial system. Wherever there is any urgency, wherever there is a demand and the demand is reasonable, a separate court should be set up for speedy trial. That way, it is a welcome step. This is very important and necessary step. There is a purpose underlying to recover the amount involved and to attach the properties of the offenders with a view to prevent diversion of such properties by the persons responsible for these offences. During the course of its functioning, there will be certain practical difficulties. These have to be confronted. Their powers are being challenged. The procedure is being challenged regarding civil plaints, etc. So, there is no objection to pass this Bill thereby enabling the special court to evolve its own procedure to circumvent this problem.

Secondly, it would be vested with powers to punish those who would be trying for contempt of this very court. It may happen that the court has to deal with economic offences. So many types of influential people are to appear before the Committee. They are involved in it. Unless sufficient teeth are provided to this special court arrangement, naturally, there will be apprehension that there will also be attempts to flout and all those things to involve in contempt, etc. When the Presiding Officer is required to go on long leave or there is some sort of absence naturally an alternative arrangement should be there.

I think, there has been some criticism from the first speaker as to why an ordinance has been there. I think, it was good to promulgate an ordinance. It could have been even in the form of a Bill before the Parliament. But unless there is promulgation of an ordinance, or when the House is not in session, it does not get priority to come before the House so far as business, etc., is concerned. That process lingers on.

The CBI has already proceeded against certain people, including Harshad Mehta, his relatives and senior officials. There are so many people. It is not that he is getting patronage from some quarters, say, Government quarters. Sometimes the way we speak here and there, it tries to create an impression that Harshad Mehta is getting some patronage. The court has already restrained the Harshad Mehta Group from transferring *benami* shares. The special court of Justice S.N. Variawa has, by an interim order, restrained 21 respondents of the Harshad Mehta Group not to transfer shares registered in the names of 690 *benamidars* or any other person. Action is being taken and the cases are progressing. But at the same time, what is more important is the recovery of the amounts involved. I think, in the JPC report, there is a mention about it. Wherever the money might have gone, all attempts should be made to get it back. At the same time, there should be an absolute coordination among the different agencies.

So many agencies like the CBI, Directorate of Enforcement and Income Tax Department are involved in this and thus, it is very critical and complicated in nature. As regards delays, trained people are not there in sufficient number. I request the hon. Minister to see that there is perfect coordination maintained between different agencies with proper staff. Investigation should be given proper attention, whatever might be the difficulties. As Justice Lodha has said, there has been no disposal as they have some difficulties but at the same time, it would be better if there is a time frame by which such cases would be completed. At least serious efforts should be made so that these cases are completed within a time limit of about one and a half to two years. All these cases should be completed

within a reasonable time frame. I again say that there are complications and difficulties and investigative agencies have to go to different countries to look into the cases. They are on the job but top priority should be given to this. Coordination is very important and whatever difficulties are there, the Government should make serious effort to sort out the problems so that the purpose is achieved. Exemplary punishment should be given to all those people who tried to play havoc with the national economy and who played with the money of the poor people and see that nothing of this sort will be repeated in future.

[Translation]

SHRI MOHAN SINGH (Deoria): Mr. Deputy Speaker, Sir there are many points in this Bill which do not need to be criticised. So far as the question of filling up the vacant posts of judges in the special courts and appointing a judge in the High Court is concerned, none of the hon. Member would oppose it. The general functioning of the courts should be smooth. Nobody should have any objection with regard to the amendment proposal in Indian Evidence Act 1872, implementation of Special Court Arbitration Act 1940, Code of Civil Procedure 1908 and the right of contempt given to the High Courts in 1971. Like other hon. Members I also welcome it. But the question is that even after taking so many powers if the Government do not have will power, they would not be in a position to give justice to the people. The culprits must be punished. It is ironical that as per the prevailing frame work of our judiciary it was not possible to dispose of the matter regarding the security scam that took place two years ago, quickly. That is why special courts were formed. However, these courts could not accomplish the work entrusted to them speedily.

[Shri Mohan Singh]

Therefore, the Government was compelled to make another amendment within a period of one or one and a half year to give more rights to these courts. Despite this, I am of the firm opinion that the Government would not be inclined to make immediate disposal of the cases. The accused against whom charge sheets have been submitted and were black listed, are still engaged in the same practice in the Stock Exchange with fake names and the Government is not in a position to do anything against them.

The Government has not yet taken any action against the foreign banks which played a major role in this scam. In other words licence of none of those banks has been seized or cancelled by the Finance Ministry. I have not been able to understand this till upto date.

There was a reference to a high official Ferwani, who was the chairman of the Housing Development Bank. He was not declared to be an accused only because he died under mysterious circumstances. He had misappropriated a certain amount of money collected from this scam and transferred it in the names of his family members and heir. What action has been taken by the Government to recover that capital so as to return it to those investors who had suffered loss.

The prosecuting agency of the Government of India is CBI and whenever it takes up any case, suspicion arises. Majority of the cases in the Supreme Court and High Courts are filed by the CBI. It is already four years since when the matter regarding bogus bank accounts was entrusted to this agency. But the CBI has been unable to take any action against the persons involved in the fraud and submit the chargesheet in this regard. The pressures created by the

Government of India and the political interference restrict the prosecuting agency from adopting a right course. This agency is unable to expedite the prosecution.

I do welcome this Bill, but I would also appeal that the Central Government should take concrete measures immediately to take action against the accused involved in this scam and help those who have suffered loss.

With these suggestions, I support the Bill.

[*English*]

SHRI AMAL DATTA (Diamond Harbour): Sir, while discussing this Bill, it is difficult not to say that we support it. Well, we do support it and the previous speaker from my party has also done so but the main objection remains that it does not go far enough. The country is hidden with economic offences. There is no doubt that this has been one of the biggest scams in history but this is not the only type of economic offence in our country. Now, the Government has been very callous, very negligent and very much amiss in bringing into book the economic offenders. Literally, there are not thousands but lakhs of economic offenders in a big or small way but the small ones can thereto commit economic offences because the big ones are allowed to get away. Now the picture is so clear to everybody that the Government does not mean business. In so far as combating economic offences are concerned, the guilty ones should be punished for which, of course, finding out those people is necessary. The Government has been hiding lot of economic offences committed by the Government itself in various sectors. Therefore, while this Bill may go a little way in giving some relief to some people who have been

affected by fraudulent transactions in the course of this scam, it will not go very far.

We know that very well. We know that the Government is doing something and it seeks to give them certain civil powers which they did not have earlier. Earlier, they had criminal powers only. With the civil powers, they may now resolve some of the disputes relating to the properties which have already been attached and thereby become the subject matter of the criminal proceedings which are already before the Special Court. But that is not enough. The Government has to set a trend in this country for combating economic offences to show that it really means business and wants to bring the economic offenders to book. For this purpose, so far as the Stock Exchange and related aspects of the economy are concerned, so far as companies fraudulently evading taxes are concerned and so far as even individuals with high incomes concealing real income and paying less taxes are concerned, the Government must have more rigorous rules. More responsibilities and obligations must also be cast upon those who are in charge of the transactions and activities of the companies and other organisations. But we simply don't have such rigorous rules.

Here I would like to give the example of other countries which have very rigorous laws. We are going in for globalization. But we don't know how rigorous are the laws in those countries which are asking us to go in for globalization. From the newspapers, we can find a description of what is happening recently to the President of the United States. In the Seventies, the President of the United States was supposed to have invested some money in a real property project known as the Whitewater Project. Later by 1987 or so,

one person who was involved in that project and who was also the owner of a private bank, went bankrupt. In that process, the Government of US lost \$50 million. In the year 1974 or 1975, this money was given to this particular person by President Clinton and his wife. Then in 1987, that bank went bankrupt, thereby causing a loss of \$ 50 million to the US exchequer. This exposure also hints that that banker might also have financed the election expenses of the US President. Now, it is said that President Bill Clinton may even go bankrupt because of the legal expenses that he may have to incur. This is what the Indian newspapers are saying, echoing the US papers. It is apprehended that President Clinton's legal bill for fighting this case, will be not less than two billion US dollars, whereas his fortunes, when he was a candidate for Presidential elections, was estimated at only \$ 600 million. So, he and his wife may even go bankrupt in this legal process. This is possible because of the rigorous laws which are in existence in that country. Then, there is the other example of President Nixon who had resigned when he was going to be impeached for his involvement in a scandal. There was a big investigation against him and he could do nothing to prevent it. But, on the contrary, in this country, any businessman who is sought to be arrested or whose premises are sought to be raided for some economic offence, can very easily evade punishment. First of all, the Income Tax Department expresses its helplessness. The officials say that they do not get anything worthwhile by raiding. Whenever they organise a raid, the concerned people come to know of it before they reach there and everything is taken away, not just one or two hours before, but even one or two days before the raid! It takes some time for the Department to organise a raid and the concerned people invariably come to know about it. If by any chance, they do not have prior information come

[Shri Amal Datta]

to know about it. If by any chance, they do not have prior information of the raid, they contact Ministers or other elected representatives and succeed in stalling the raids. They always manage to have connections at various political and other levels and the Ministers and other political persons ring up the Income Tax Department asking them to stop the raids. If this sort of a thing happens in some other country, the politician will also be arrested as an accomplice of that person for whom he is pleading.

15.00 hrs.

This does not happen. If by chance there is some company which has been raided and officers arrested, can you give us an example of such a case where such people have actually been sent to jail or their property has been taken away to compensate for the loss to the exchequer or to other people? There is not a single case of this type.

What do we expect out of these special courts? Given what the Government's record so far is, we do not accept that anything will happen. What is the extent of property that the Government has attached so far? Let the Government give us a statement on that. The Government is not even willing to take into confidence the Members of Parliament as to what action it has taken so far. This action has been continuing from 1992, but what is it that the Government has achieved so far? Two years have gone by, yet there is no statement on it. It was expected that before the Members are to vote on this Bill, the Government should at least inform them as to what it has been able to achieve by virtue of the special courts in regard to attachment by the custodian. This is what we would like the Government to do so far as powers

of civil courts are concerned. Why at all do we require these powers?

If we accept one such case which was mentioned by Panigrahi, in which some injunction orders were issued against some person, was it so serious or so much incumbent to issue order because I thought the property was already attached? If somebody is transferring property which is attached. It means that he is not transferring anything at all because attached property means the property lies with the Government and not with the person who is the ostensible owner. I think infructuous action may have been taken which was not necessary at all. In his opening remarks the Minister should have given a statement that these are the disputes pending with regard to attached property. They need not go into such disputes in a hurry. Anyway, they have done that and I do not want to do any post-mortem. But, the Government itself has to display a responsible behaviour in the future.

We expected that the scam will shake the Government and that it will come up with very rigorous Acts and Rules governing financial transactions to eliminate tax offences. But, nothing like that has happened. Special Courts will act on the basis of already existing Acts which does not make it obligatory that their violation will throw a person into jail or take away his entire property. There is no such rule but such rules are there in all those countries which we are trying to follow, like England, Germany, Japan and U.K. These are the countries which we are trying to follow but can't we see that they have very strong rules in this regard? The Prime Minister in all these countries can be brought to court for examination. Can anybody imagine that the Indian Prime Minister will be called before a court for examination?

15.03 hrs.

[SHRI NITISH KUMAR *in the Chair*]

But, Mrs. Thatcher, the ex-Prime Minister of England and even Mr. Major had to appear before the court for cross-examination. In contrast, here, in our country the Ministers are not even willing to face a Parliamentary Committee. This is a matter of great shame and disgrace for the Parliament as well as the system of which we are a part. Sir, I think the less we talk about it, the better it is. The Government is taking certain powers and we are in support of giving all such powers to the Government but, we have no hope that the Government will really be able to exercise these powers usefully. With these words I conclude.

[*Translation*]

SHRI TEJ NARAYAN SINGH (Buxar): Mr. Chairman, Sir, though I support this Bill but I oppose the intention of the Government hidden behind the Bill. This Bill in itself is quite comprehensive and there are very few weaknesses but the question is that how far this Bill is effective in controlling the crimes. Enactment of any number of laws cannot control the incidences of crime till the intention of the Government is malafide.

Sir, in addition to this law, there are other laws such as IPC, Evidence Act and CPC which are already in force. These laws can effectively control the crimes but the question arises that to what extent the Government has been able to control the incidences of crime on the basis of evidences regarding crimes, collected under IPC. In villages, any person is put under detention for 10-15 days, without any FIR having been lodged and this is done in the name of controlling crime under section 379. In such a case, the

sub-Inspector of Police tells the Superintendent of Police that this has been done to control the crimes. I would like to ask the Government the number of persons who have been detained till now, and whether it is a fact that they were let off without recording any evidence. How can the Government detain a person without any evidence of crime? Therefore, it is necessary that intention of the Government should be bonafide. According to Evidence Act, you should have the evidence of crime against the persons detained by you. We notice such cases in courts. A former Chief Justice is also sitting here. He can tell us about the fate of the cases pleaded by the Government. Nobody is there to watch the proceedings of the court. The witness stands in the witness box and the advocate asks him whether he knows anything about that case. The witness says that he knows nothing and upon this the person sitting on the chair of the Judge becomes bound to release him. I think the Government is bound by the situation.

A Parliamentary Committee was set up, the inquiry was conducted, evidences were recorded and above all, the Chairman of the Committee belonged to your party, even then how many people you have been able to pin point? You have not been able to arrest anybody on the basis of evidences recorded by the Parliamentary Committee, then what else evidence is required? According to the Evidence Act, if any person gives his statement in a criminal case, his statement is always considered valid and on the basis of statement, a Judge of a High Court or Supreme Court can pronounce death sentence and consequently the innocent villager is hanged to death. Nobody can deny this fact. On the one hand, the poor villager is ready to be hanged to death under Evidence Act but on the other hand, the Government is not ready to give

[Shri Tej Narayan Singh]

punishment under this Act. Therefore, I would like to tell the Government that no number of laws can be useful till the Government's intentions are not good.

Mr. Chairman, Sir, we all have supported this Bill but it is to be seen that how quickly such cases are disposed of and the persons like Harshad Mehta etc. are arrested. It has been our experience till now that you are not prepared to arrest anyone, instead you are only misleading the people of this country. You say that there has been a scam and you are ready to do justice and would send the criminal to jail. Hence, this amendment in the law.

You spoke about the amendment in CPC. Under this law, if somebody has embezzled the property of the Government the amount of this property can be recovered from his property by filing a suit. There may be delay in this process but this provision is very much there. Therefore, you can pretend that you have introduced this Bill to dispose of the cases quickly. But you cannot say that no action could have been taken without this amendment. Any person like me or the person having knowledge of the law can easily understand that you are pretending and do not want to implement the law.

If you have brought this Bill to dispose of the cases quickly, we support it. We also insist that the proceedings should take place smoothly and concrete evidences come out. However, it should not happen that the witness standing in the box say that he knows nothing regarding the case. This would, otherwise, be a sort of futile exercise. I have doubts about the intentions of the Government and I think that justice has not been done in the case of Harshad Mehta.

There are branches of Punjab National Bank or Rural Banks in the villages. The innocent villager goes to the bank and puts his signature. The Manager takes out the money himself and says that he has not taken the money. After inquiry, the result is found nil. Such incidences are found in Several States where the poor people could not get money. Therefore, I request that in order to curb the corruption and to punish the criminal you should make your intentions clear. With these words, I conclude and support this Bill.

SHRI RAM NAIK (Bombay North):
Mr. Chairman, Sir, I rise to oppose strongly the Ordinance No.3 introduced in this House regarding the Bill on special courts. However, I broadly support the Bill by expressing my views.

My opposition to the Bill is on the same points which were earlier mentioned by Shri Bansaljee. He is a Member of the Congress party but is not present here at the moment. He said that the Ordinance is promulgated just because a Bill takes a long time to be passed. It is also not certain whether it gets passed or not. Already, there are many Bills pending. Perhaps he might have forgotten to say about the stand taken by the Government in some particular circumstance. But, I cannot forget. The Government should also keep this thing in mind. Promulgating an Ordinance is not a good tradition. Although, there is a provision in the constitution but it is not a viable system. To revoke it in some special circumstances, is a different thing. I have full information about the Bill for which this Ordinance has been promulgated. It was introduced on August 11, 1992 passed by this House on August, 12 and Rajya Sabha put its stamp on this Bill on August, 17, 1992. The President gave his assent to the Bill on August 18, 1992. When the Government comes out with a Bill in right

earnest. Bansaljee should understand the sensitivity of Lok Sabha towards such issues and their importance. He might have come to know about this Bill then what was the need to promulgated this ordinance? This House was sitting till 31 August. Due to inter session period, the House was not sitting. This ordinance was promulgated on January, 25. What was the need to promulgate it on 25th?

There is nothing new in whatever you said and it does not make it clear as to why this ordinance was promulgated when there was no sittings of the House, I don't think there was anything very urgent because of which this ordinance was promulgated. I think the Government has become habitual and bound to bring out the ordinance. As it is a fact that "habits die hard" and thus you promulgated the ordinances. The people got an impression that the Government is doing something. I think it is a matter to be looked into as how serious is the Government to the issue.

Please inform the House as of the benefits of this ordinance since it was promulgated, *i.e.* January 25, to till date. We have passed the Original Bill after debating it for one day. Thereafter, Joint Parliamentary Committee was constituted and it has given its report. We wanted to know that what action you have taken on their recommendations. At the time of debate, you assured us that you will take action within three months and while doing so, the House will be taken into confidence. Kindly tell us as to what action has been taken on the recommendations of the Committee pertaining to setting up of special courts to enquire into Security scam. Shri Guman Malji has informed about many cases, I do not want to go into that. I want to read out two

observations of JPC report. In para 17.11 it was said

[*English*]

17.11 Non-registration of cases

"The Committee have observed instances of inordinate delay in making preliminary inquiries and non-registration of regular cases by CBI in spite of enough evidence to support it. A glaring example is the case relating to Shri R.V. Ratnakar, former CMD of Canara Bank."

[*Translation*]

In the end, in the final chapter, the committee observes:

[*English*]

"The committee cannot but express their dissatisfaction at the said state of affairs. The Committee hope that the three agencies, namely CBI, CBDD and the Enforcement Directorate, would at least now ensure greater coordination and prompt & effective investigation into the scam cases."

[*Translation*]

Kindly tell us what action has been taken in this regard since presentation of this report and after the promulgation of the Ordinance. If you do not present the Action Taken Report, we should construe that you want to hide something. The whole country knows that something is wrong at the bottom.

Secondly, the case is being pursued very slowly. Nearly 1 1/2 year has passed but not a single case has come up. It is not the fault of the judge, but it is the fault

[Shri Ram Naik]

of the Government machinery. Everybody knows that Harshad Mehta or Niranjan Shah are involved. But the public prosecutors are not efficient enough to plead the Government case properly. Eminent Lawyers like Ram Jeethamalani and Bhatt are pleading the cases of the offenders. Your advocates stand nowhere before them. The cases filed by the CBI and CDDT require very capable advocates to establish the charges. The lawyers should be efficient enough to fight their cases. It will not serve any purpose except that we have passed one more amendment Bill to keep the same in the library. You claim that there are some loopholes in it which leave scope for the unscrupulous elements to take undue advantage of it. But how the Government is taking this thing, I want to tell that. There is a rural Bank—Bank of Karad—in our Maharashtra. This bank has been liquidated. Thousands of people have lost their crores of rupees, which they had deposited with this bank. Nearly 2½ thousands of employees have been rendered unemployed. Therefore, JPC and the people of that area have demanded that the Bank of Karad should be amalgamated with the Bank of India so that interests of all the depositors could be protected. This way the unemployed people will get employment. This suggestion has also been made by JPC. The Bank of India has come forward for this. The court has also approved it. But what has happened after that? I feel that the depositors of the Bank of Karad will be benefited by it. The Government has 100% capital in it. You also have the Risk Insurance Corporation. All these points came before the special court. They said that such type of amalgamation will take place and the Bank of Karad had started the process for amalgamation. But the

Government stalled the move. Therefore, I would like to know as to what are your policies in this regard?

Mr. Chariman, Sir, it was mentioned at one place that unscrupulous elements are taking undue advantage. Therefore, I demand that the stay order of the special court against the decision of the amalgamation of Bank of Karad, should be revoked. Only then the development of that area can be done sincerely. In the same way, the process of amalgamation of other metropolitan cooperative banks have not been even started by the Government. The Committee has given its report. So far as cooperative Banks are concerned, you can instruct them to work properly, otherwise their working should be reviewed. If it is not done then this amendment will be fit for keeping in the library only. Therefore, you should give a serious thought to it.

Mr. Chairman, Sir, so far as amending this Bill by adding 2 or 3 sections is concerned, there is not much to oppose. For instance, appointment of judges on leave vacancies is necessary so that the official work does not suffer. For this, they have brought clause 3 and I support that clause. Clause 5, relates to the judiciary. It should be implemented. This is a worth supporting Act because judiciary is an important pillar of our democracy and it is our duty to safeguard it. I think this clause is worth supporting.

Mr. Chairman, Sir, there is a suggestion to amend sub-section 9 A and 9 B of section 3 of Civil Procedure Code. You know that one similar law already exists and under this particular Legislation we are proposing to give them more powers. Therefore, the whole Civil Procedure Code is not to be implemented. But we are giving the right of doing fair

and natural justice to the courts and this is a special thing. The judge of that court has his own individuality and character and his own style of working. That is why he enjoys the confidence of people and I do not think that there should be any objection in giving him more powers. Because we are giving the powers to a particular person, why should he shirk our responsibility? Now the case will be adjudicated upon. It might take 2-3 years. Therefore, I submit that let us do natural justice but we should think as to what type of guidelines we can put forward for these cases, what type of bye-laws can be framed. There is a Rules Committee and we should not leave it aside assuming that it has nothing to do with it. We will pass this Bill here. But what Lok Sabha knows about natural justice? To us, it will appear a natural justice to allow the Bank of Karad, to operate. But the Ministry of Finance does not think so. Until the rules are framed in this regard, let it be the exclusive right of Lok Sabha to decide as to what is a natural right. Till then we are not ready to give this right to anybody but we can adopt them temporarily, so that work runs smoothly.

Before concluding, I will make a last point that due to its inactiveness, the Government has not been able to frame as many cases as were required to be framed. The CBI is not working as it should have. The cases which have been filed should be followed up properly. Cases are not being pleaded effectively in the special court. Keeping all these factors in view, if we take some prompt remedial actions, We can remove some irregularities and help the depositors in getting back some portion of their deposits. The share can be given to the proper shareholders. Keeping these points into consideration, the Government should take necessary steps. Here, I would like to say that it should not be made a conversion to work for natural justice by

overlooking the civil courts. Later on it should not be said that kindly give similar rights for the cases of TADA as well and try to overtake the other laws. This should not be taken as a precedent for future. The Government should keep this in mind and the Hon'ble Minister should tell us about the action taken in regard to security scam. If you don't do so then you cannot earn the confidence of the people. You will just be framing another law. Therefore, do not come with another ordinance. You can pass it immediately. You should change your habit of promulgating ordinances frequently. With these words I support this Bill and conclude my speech.

[English]

SHRI CHITTA BASU (Barasat):
Mr. Chairman, Sir, as a matter of fact there is nothing in general to oppose this Bill. But I want to make certain submission before supporting this Bill.

I think, the Government has, try this time, understood the real implications of the JPC Report. My grouse is that by bringing about this Bill, adequate attention has not been given to the serious implications of the JPC Report.

With your kind permission I only draw the attention of the House to certain remarks of the JPC and I shall not quote in details in order to drive home that the implications of the JPC report has not fully understood by the Government. They had taken a step—which according to me is a very small step—which is not only a small step, but also a very hesitant step and that too without keeping in view the whole perspective of the matter and the important significance and implications of the report.

First of all, please look at paragraph 28 of the report wherein many dimensions of the scam has been brought to light.

[Shri Chitta Basu]

Ultimately, it has been observed or some remarks have been made of which I want to quote only three or four lines. I quote:

"No system can work through the regulations alone, of course, it cannot work if they be flouted but much more that if a system be devoid of the moral quotient, of a commonsense appreciation of right from the wrong, of a sense of public duty particularly when entrusted to the public funds, then it cannot work."

In this case, during the debate on JPC Report, a position was taken by the Government that in these shady affairs no Minister had been personally involved. Therefore, it is not a case of ministerial responsibility. This is a very new thing. As a matter of fact, it is a departure from the well-established norm of parliamentary democracy. It is on record during the debate that Ministers after Ministers stood up and said that it was not the case of ministerial responsibility; it was the deficiency of the system. Mr. Chairman, Sir, you will agree with me that irrespective of this fact whether it is a deficiency of the system or ministerial responsibility, it raises a very grave question of parliamentary democracy. I would not like to discuss this much. I simply want to quote Pandit Jawahar Lal Nehru regarding the event of the resignation of Lal Bhadur Shastri. I think, the quotation will answer what I want that the Government should abide by, Pandit Nehru said—I do not know whether they have got the courage to listen to it—as follows:

"The ultimate responsibility for everything that happens in this country is certainly the responsibility

of the Government of India. We do not wish to shirk that responsibility. It is true that we cannot control the elements and we cannot control many other things, but it is the Government's responsibility, we fully accept that the responsibility for anything that happens on the railways is more particularly the responsibility of the Railway Ministry, though that responsibility as all others is shared jointly, with the other members of the Government of India."

Therefore, it has been very clearly enunciated that for any kind of offence or fraud, not of this scale or proportion—which as somebody has said is the eighth wonder of the world—the Government is collectively responsible for it. In this case, the Government has not taken up the responsibility and has shirked the responsibility.

This Bill is also another example of shirking that responsibility. But I say it is a small step, a hesitant step but it is a step in a peaceful manner and is not commensurate with the responsibility which the Government, as a collective body, should undertake. I also remember the remarks of the Prime Minister which he made when he moved the motion for appointing the JPC. He said, and it is very much there on record, that the JPC should be appointed in order to establish the supremacy of the Parliament. I bring this to your notice because it is the question of not only finding out some weaknesses here and there, some irregularities here and there, but it also involves the very basic question of supremacy of the Parliament and also the basic question of the ministerial responsibility. I want that the Government should take note of this and should take accurate

and immediate steps, commensurate with the recommendations made by the JPC. If that is not done, I think the whole thing will be brought to a naught and it will be a disgrace to the Parliament and to the House. I hope, in the course of his reply, the hon. Minister will say what specific actions, other than this small Bill have been taken or what further steps the Government contemplates to take, in order to implement the recommendations of the JPC. By doing that, he will be showing the sincerity of the Government to uphold the principle of supremacy of the Parliament and also of the ministerial responsibility.

At least four foreign banks were named which were involved in the scam. I want to know what steps have been taken against them. On the contrary, we learn from the Press that these four banks, namely, the City Bank, the Standard Chartered Bank, the Bank of America and the Grindlays Bank have been given permission to open their branches in our country. I want the Minister to kindly inform the House about this also.

DR. KARTIKESWAR PATRA (Balasore): Sir, I rise to support this Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill, 1994. This is a special case and special attention has been paid by the Government to this. There were so many things against the Government in this scandal. The House knows it and the people of India, in almost all parts of the country, have also known what was going on. But the stand of our Government is as clear as crystal. That is why they promulgated this Ordinance and, after the Ordinance, a Bill has been brought before this House.

Sir, you know that in the course of investigations by the Reserve Bank of

India, large scale irregularities and malpractices were noticed in the transactions in both the Government and other securities which were indulged in by some brokers in collusion with the employees of various banks and financial institutions. The main motto of the Government was to detect the culprits and to punish them. That was why the first Special Court Ordinance, 1992, was promulgated by the President of India on 6th June, 1992. And within a month after that, the J.P.C. was constituted and that was the first action by the Government. The Government's stand is very clear. There is no hotchpotch in the stand of the Government. Government do not want to hide anybody; they do not want to hide any culprit under the umbrella of the Government. This is clear. That is why this Bill has been brought to deal with the situation and in particular to ensure the speedy recovery of the huge amounts involved and to punish the guilty and to restore confidence of the people and to maintain the basic integrity and credibility of the banks and financial institutions. That is why the Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance 1992 was promulgated.

Sir, it has been criticised here that there is no need to bring the ordinance and there is no need to bring this amendment. It is clear that the Government will be held responsible and no officer, no particular person or no bank will be held responsible. The people of this country will hold the Government responsible regarding any misappropriation of Government funds. That is why the Ordinance seeks to amend the relevant clauses in the Special Court (Trial of Offences Relating to Transactions in Securities) Act. For speedy trial the ordinance was promulgated. After that the amending Bill was brought. This is only to strengthen the power of the special court

[Dr. Kartikeswar Patra]

to provide relief that was needed for effective functioning of the court in dealing with scam-related cases. But what happened?

MR. CHAIRMAN: What are your suggestions? Do you have any new points?

DR. KARTIKESWAR PATRA: Sir, my suggestion is that this Bill is all right. When Justice S.N. Variava was trying the cases, some points were raised by him. That is why this Bill has been brought. There are some lacunae for appointment of special court.

In 1988 the Prevention of Corruption Act was passed. But that Act could not hold good with these cases.

MR. CHAIRMAN: The Minister will say all these things. Now, have you got any new point?

DR. KARTIKESWAR PATRA: Sir, I only put forth here the Government's stand. The Government's stand is very clearly stated in this Bill and there are many provisions in this Bill to catch hold of the culprits and attach their properties. So, I support this Bill and I congratulate the hon. Finance Minister Shri Manmohan Singh for bringing forward this Bill.

SHRI SOBHANADREESWARA RAO VADDE (Vijayawada): Mr. Chairman, Sir, I do not wish to take more time of the House and I will speak briefly. I rise to support this Bill that has been brought forward to punish the guilty who are found responsible for the irregularities in the securities transactions. I would like to impress upon the Government that it must proceed in all sincerity and with

speed so that consequent upon the submission of the report of the Joint Parliamentary Committee, action can be taken against the guilty people. The report of the Joint Parliamentary Committee has brought out several irregularities relating to the Reserve Bank of India, State Bank of India, other commercial banks including the foreign banks, the National Housing Bank and several public sector undertakings and it has mentioned in details as to how the monies were misused.

The Special Court should not only take necessary steps to attach the properties of the guilty, but it must also take stringent action against the persons in the highest positions who are responsible and who had deliberately ignored the clear guidelines and instructions by allowing things to happen in such a way that thousands of crores of rupees of public money, the middle class investors' money and the employees' money were looted by a few individuals. All such high people, whoever they may be, must be taken to task and confidence should be instilled among the people that this Court has done its job perfectly by bringing to book all the culprits and taken drastic action against them. Then only the confidence can be restored among the investing public..

At present, with the present procedure many of the commercial banks have fallen in red. Till a few months back they were saying that they were not incurring losses. But several banks have been found to be incurring huge losses. That will also shake the confidence of the depositors. Therefore, I request the Government to take necessary steps to see that guilty are punished and the confidence is restored among the people of this country.

[*Translation*]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (DR. ABRAR AHMED): Sir, I am thankful to all those Members who participated in the discussion over this Bill and supported it.

This is very brief and meaningful Bill and as they have themselves admitted all Members are well apprised of the spirit behind this Bill. Especially, the aim behind

15.49 hrs.

(SHRI PETER MARBANIANG *in the Chair*)

promulgating this Ordinance was to remove hindrances being faced during the proceedings of the Special court so that it can take a decision urgently. Very brief provisions were put into it and almost all the hon. Members have spoken about it in order to remove hindrances from the proceedings of special court and instead of applying the Civil Procedure Code 1908, the principle of Natural Justice should be applied. A provision was made in it for this purpose, especially when the Judge deputed for this purpose proceed on leave or is absent then there is a provision for an alternative arrangement and also for the contempt of court. We have only put those brief and meaningful provisions in it which will make it able to take an early decision.

Sir, apart from this Bill the hon. Members made queries about JPC Report. All the hon. Members have shown their keenness about what proceedings are going on and when and in what form an action will be taken after the presentation of the JPC Report. I humbly want to submit that hon. Prime Minister and Minister of Finance have clearly told

in the House that the details of the report are being looked into, the process is on and some committees have been formed for this purpose. A committee is working under the chairmanship of Cabinet Secretary and there are six other secretaries to coordinate the proceedings in other Ministries. Another committee has been formed in the Ministry of Finance, Special Secretary (Banking) is its coordinator which also comprises of Secretary Finance, Secretary Revenue and other members. Every point is being looked into and as per the assurances given by the hon. Prime Minister and Minister of Finance, the proceedings and its recommendations will be tabled in the House as assured by the Hon. Prime Minister and Minister of Finance.

[*English*]

SHRI RAM NAIK: You say, "In a time-bound programme, we are doing it." What is the time-bound programme? You only enlighten us.... (*Interruptions*)....

[*Translation*]

DR. ABRAR AHMED: I have already told you and there is no use repeating those things again and again. You have enquired about the proceedings. As you already know about the contents of the Bill, so I did not touch this aspect but in respect of your other queries I told you that a number of committees are working separately to gear up the process and very soon its result would be presented before the House. Apart from this the Hon. Members also raised some other questions. Like the one, in which Shri Rasa Singhji asked that why this ordinance was promulgated in the reply of which I told that in order to remove the hindrance from the proceedings, an ordinance was promulgated. He also raised a question about the decision

[Dr. Abrar Ahmed]

taken by the Reserve Bank to close down some branches of several Banks. Sir, through you, I would like to submit that there are more than 60 thousand branches of the various Banks but there are only 30 thousand branches of the Nationalized Banks, out of which at least 10 thousand branches of Nationalised Banks are running in loss. *(Interruptions)* Just listen to me....Out of these 10 thousand branches, R.B.I. has recommended to close down 102 branches.

[English]

SHRI OSCAR FERNANDES (Udipi): The objective was totally different. It was to cater to the rural masses and to stop lending by private persons.

DR. ABRAR AHMED: You listen to me first. Your point will be covered.

[Translation]

R.B.I. has decided to close down only 102 branches. While doing so three points were taken care of. One, no rural branch will be closed down, even though it is accumulating losses.

SHRI NITISH KUMAR (Barh): One branch in my constituency and two in Mukul Wasnik's constituency are being closed down. Here you try to avoid this issues by talking in such a manner...*(Interruptions)*

DR. ABRAR AHMED: I have talked with Shri Mukul Wasnik in this regard. I have only talked about one point, there are two other points, just listen to them. If there are two rural branches in a certain area and both are running in loss then after taking the mutual consent of those two branches one of them will be closed

down and there will be no retrenchment. On the basis of these three points a decision has been taken to close down 102 branches. In other branches steps are being taken to maintain capital adequacy to streamline the Management and making recoveries to improve them as per the recommendations made by the Narasimhan Committee.

[English]

SHRI OSCAR FERNANDES: I was on a different point. My point is you started in a big way and brought in Debt Relief Act to relieve people from the burden. Today if we are not able to take a cue from what is happening, we will be pushing our people into this particular situation. That is why, I urge upon our Minister to take a note of this and see that the rural people are not put to this sort of difficulty.

[Translation]

DR. ABRAR AHMED: The point raised by Shri Oscar Fernandes will certainly be taken care of.

With that Shri Rasa Singhji also talked about the role of the Banks in fulfilling the social responsibility. I want to make it clear that the Government is paying its utmost attention towards priority sector funding and 40 per cent has been given to priority sector so that the facilities provided by banks are not restricted for the rich people only and they do invest in priority sectors. Even in case of foreign banks the percentage of priority sector has been raised to 32 per cent, which was 15 per cent earlier. A provision has also been made, under which if foreign banks do not fulfil the requirements of the priority sector then they will

have to pay such amount to "SIDBI" so that the same could be invested in the priority sector. This way, an effort has been made to fulfil the social responsibilities of the banks.

Shri Nirmal Kantji has mentioned about "Him", "Her", "He" and "She" given on the 3rd page of the Bill. I am not a legal expert but a few minutes ago while I was talking with Shri Lodha in this regard, he was also of this opinion that in legal procedure "He" and "She" are used in it. Therefore, "He" and "She" and "Him" and "Her". (*Interruptions*)

16.00 hrs.

[*English*]

SHRI NIRMAL KANTI CHATTERJEE: As far as he is concerned, that is quite normal. But because of the present atmosphere, I wanted that we should now begin to explicitly provide for "Her" also. That is what I suggested.

[*Translation*]

DR. ABRAR AHMED: You have said something else that the time limit fixed for special court was April 1991 then that will happen in respect of those who were there before this time period? I would like to submit to hon. Chatterjeeji that Special Courts have some specific purpose or time period.

If these two things are not there then Special Court do not qualify to be a special court. But if a similar case is noticed and it does not fall in the time limit period even then it is taken care of by the courts. It is very important to fix some time limit or some purpose for a special court. I have already cleared the point of Natural Justice and the hon. Members might be agreed with this. You have also

made a mention about bank defaulters. In the last session, we had passed a Bill that if there are defaulters with Rs. 10 lakh or more, then tribunal would be set up and, it was passed unanimously. Ten Appellate Tribunals are being set up. A process in this regard is already going on and very soon these will start functioning, some Judges are also being appointed, who will very soon resume to their work. Some of the defaulters misappropriate more than 10 lakh rupees but litigation takes 10-15 years and a result of that, that money does not circulate. Therefore, a provision for tribunals has been made for such defaulters. These tribunals will give their decision within six months and if defaulters do not pay back the money they will be arrested. (*Interruptions*)

[*English*]

DR. ASIM BALA (Nabadwip): Can you give any guarantee saying that within six months' period, all the tribunal cases will be completed.

SHRI NIRMAL KANTI CHATTERJEE: How about the CBI charge-sheeting them? Could you tell something about charge-sheeting the NHB?

[*Translation*]

DR. ABRAR AHMED: The queries which you made about J.P.C., I have given common answers in respect of those. Apart from those the question which you have raised about the banks, I am answering it separately. Regarding the case and their proceedings in respect of the report of the J.P.C. I have given a common answer. Shri Guman Malji had asked about the properties attached till date through the special court, I would like to tell him that as per the information received from the custodian properties

[Dr. Abrar Ahmed]

worth Rs. 2115.34 crore has been attached in 41 notified cases till 16.11.93.

[English]

SHRI NIRMAL KANTI CHATTERJEE: How is it that Harshad Mehta's property is attached when there is an Income-tax claim against them?

[Translation]

DR. ABRAR AHMED: You are very experienced in the field. If some one's whole property is attached, he may have his dinner at your place, use Shri Gumanmal's car put on best clothes of Shri Nike. You cannot take any action against him. If one purchases a house in the name of Shri Lodhaji or uses a car which he has purchased in anybody's name.

SHRI GUMANMAL LODHA (Pali): What have you done in respect of Benami transactions.

DR. ABRAR AHMED: What can you do if someone lives in a posh house purchased in your name. The Government wants to do a lot, that is why an ordinance and Bill have been presented in the House. There was no need of bringing these two if the Government did not want to do so. These cases were also dealt like other cases in the Civil court. But the Government wants to take an early decision in these cases that is why an ordinance was promulgated and we have made all related provisions in it.

You also desired to know the number of cases, filed in the Special Court. I would like to tell you that till now 47 cases have been filed and all of them are at different stages of investigation by

the Special Court, none has been decided so far.

Besides, Shri Panigrahi, Shri Mohan Singh, Shri Amal Datta and Shri Tej Narayan Singh asked about JPC and the provisions of the Bill. I have answered their question in the very beginning. Shri Ram Naik wanted to know about the ordinance in reply of which I briefed the reasons behind promulgation of the ordinance. He also enquired that what happened after the promulgation of the ordinance and if this Ordinance had not been promulgated then what would have been the difference between 25th January and today. This is a very important question. Actually one comes to know about the reasons behind promulgating this Ordinance through its reply. I would like to tell Shri Ram Naik that only after this Harshad Mehta provided a detail of Benami Shares worth Rs. 600 crores to the Special Court. He did so only after coming across to this fact that Special Court has been given the procedure right of the civil court. It has helped us to a large extent in fulfilling our aim to make a decision in this regard at the earliest.

The hon. Member wanted to know about Bank of Karad. This case is actively being considered by the Reserve Bank and is also lying pending with the court. As soon as a decision is taken by the court the Reserve Bank will also decide about its merger.

SHRI RAM NAIK: Credit Insurance of Corporation is a subsidy company of the Reserve Bank. It is an official institution. It is delaying the case.

DR. ABRAR AHMED: You might be knowing the extent of autonomy in Banking and Insurance and despite this autonomy everybody has a right to see his

interests and if someone is bearing loss, he may go to a court and after the court gives its verdict on giving due consideration to the interests of both parties, the Reserve Bank will also give its decision.

[*English*]

The Government directors are there on the Board and with its entire 100 per cent capital, it is the subsidiary of the Reserve Bank of India. But, still, you cannot say that...

Government directors are there, other directors are there but they will also watch their own interest.

SHRI RAM NAIK: What is their interest? What about the national interests? This is not what the Government has decided or what the Reserve Bank has done? The Reserve Bank recommended that it should be done. But now you say the interest of the insurance companies and things like that.

[*Translation*]

DR. ABRAR AHMED: If the insurance company has faced any loss or if its rights have been hurt then it has right to knock the doors of the court. The right of the insurance company can not be curtailed merely on this ground.

[*English*]

SHRI SOBHANADREESWARA RAO VADDE: Even for small petty amounts, several bank employees have been either suspended or removed. Some of them committed suicide also; whereas, several top bank executives are still continuing, even though they were responsible for committing frauds worth hundreds of crores of rupees.

So, I want to know from you, whether the Government is going to suspend all those fellows and then conduct this inquiry. Otherwise, they will try to influence and scuttle the proceedings of the Special Court.

[*Translation*]

DR. ABRAR AHMED: Sir, the hon. Member Shri Chitta Basu has mentioned in his speech the names of four foreign banks and the action taken against these. Therefore, I would like to submit that all these four foreign banks were involved in irregularities. These banks are not being issued licences to set up their branches and even if licences have been issued to them their branches have not been opened. Immediately a stay was imposed on the setting up of new branches. As I have already mentioned that several committees are working on the other irregularities. I have tried to satisfy the hon. Members who have asked questions regarding J.P.C., the Bill and the Banking setor by giving them all the informations. My submission is that all the hon. Members should support this Bill.

PROF. RASA SINGH RAWAT (Ajmer): Mr. Chairman Sir, the hon. Minister has just given the reply. Disapproving this ordinance, I had submitted that there was no need of it. At the time of making the provision of ordinance our constitution makers had the opinion that this should be resorted to only when there is an emergency or in any special circumstances only then it should be brought. When J.P.C. had submitted its report unanimously and the hon. Prime Minister had declared in the House that anyone found guilty in this report, will not be spared, however influential he may be. Even after all these things when the hon. Members repeatedly asked about the

[Prof. Rasa Singh Rawat]

persons from whom the recovery has been made or the number of persons whose properties have been attached after promulgation of this ordinance but it seems that a consolidated data have been given. The number of people whose property has been attached and the recoveries made from the date of promulgation of this ordinance till date?

Mr. Chairman, Sir, this August House is the biggest forum in the Parliamentary Democracy. This House will lose its importance, if it is neglected an indifferent attitude is shown towards it and ordinance is brought without taking it into confidence. Democratic view should be given importance; but it will not be possible since this Government has managed majority by manipulation during the last few months. The Government is bringing ordinance by ignoring this House and has become power-blinded. Four to five ordinances have been brought during the last one and half month, that is why I spoke in favour of the disapproval of this ordinance. At the beginning of my speech I had said that the objective of this law is very good. Nothing is wrong in it but everything is wrong when the intentions are not good. I feel that there are no two opinions on the setting up of special courts under the law. Sir, speakers of all the parties have appreciated this feeling. It should be result oriented, since we are handing over the power to the Government by this ordinance and are giving liberty to take any step, even then the Government is unable to do anything and there is no outcome. Under these circumstances, there is no use at all to give power in incapable hands. I would like to know from the Government the need to bring this ordinance on 25th January, just one day before the Republic Day of the greatest democracy of the world. I have

put forth the Motion of Disapproval to oppose the practice of promulgating the ordinance and the dictatorial tendency of the Government.

DR. ABRAR AHMED: Sir, the hon. Member Shri Rasa Singh Rawatji either could not listen or he could not understand the reasons given by me to promulgate the ordinance. I had started my speech from the need to promulgate the ordinance and at the end I had made it clear, while replying to a question of Shri Ram Naikji, and the relevance and the situation of the time of promulgating the ordinance and the present day situation. I had also said that even Harshad Mehta himself had said that these rights are now with the Civil Court. I understand that Rawatji should be satisfied with it and he should take back his resolution.

PROF. RASA SINGH RAWAT: I firmly oppose the practice of promulgating the ordinance.

[English]

MR. CHAIRMAN: The question is:

"That this House disapproves of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994 (No.3 of 1994) promulgated by the President on January 25, 1994."

The motion was negatived.

MR. CHAIRMAN: The question is:

"That the Bill to amend the Special Court (Trial of Offences Relating to Transaction in Securities) Act, 1992, be taken into consideration."

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The motion was adopted.

MR. CHAIRMAN: The House shall now take up clause by clause consideration of the Bill.

The question is:

"That clause 2 to 6 stand part of the Bill"

The motion was adopted.

Clauses 2 to 6 were added to the Bill.

MR. CHAIRMAN: The question is:

"That clause-1, the Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

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

DR. ABRAR AHMED: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

16.19 hrs

STATEMENT BY MINISTER

Import of Sugar

[English]

THE MINISTER OF STATE OF THE MINISTRY OF FOOD (SHRI KALP NATH RAI): Government has been keeping

continued vigil on the Sugar Prices in the open market. The tendency of increase in prices which was noticed during the early part of the current sugar season from October, 1993 onwards, could be contained by February, 1994. The sugar production during the current season is expected to fall from the last season's level of 106 lakh tonnes to about 104 lakh tonnes. To contain the prices of sugar and ensure adequate availability during the remaining part of the current season and the early part of the next season, it has been decided to allow import of sugar under O.G.L. No duty of customs and no additional duty of customs would be levied on this import. It is expected that this measure would help augment domestic supply and keep the open market prices of sugar under check.

16.20 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF COFFEE (AMENDMENT) ORDINANCE AND COFFEE (AMENDMENT) BILL

[English]

MR. CHAIRMAN: The House shall now take up Items No.17 and 18 in today's Agenda Paper together.

SHRI NITISH KUMAR (Barh): I beg to move:

"That this House disapproves of the Coffee (Amendment) Ordinance, 1994 (No. 1 of 1994) promulgated by the President on January 14, 1994."