

(viii) **Need to provide royalty at increased rates on crude oil to Gujarat**

[Translation]

SHRI NARANBHAI JAMLABHAI RATHVA (Chhota Udaipur) Mr Speaker, Sir, the Government of Gujarat had requested the Central Government to increase the rates of royalty on crude oil and the latter had increased the rates of royalty between 1 4 87 and 31 3 91. The amount which became due was to be paid to the Government of Gujarat and the rates of royalty were to be revised again by 1 4 90. The State Government took up this matter with the Central Government number of times and a Committee was also set up by the Central Government for this purpose. This Committee informed the Government of Gujarat that the Central Government had been apprised of the views of the Committee on 1 11 91. Since then the matter has been repeatedly taken up by the Gujarat Government with the Central Government, but till date the matter has not been reviewed by the Central Government. As a result of this, the Government of Gujarat is suffering huge losses.

Therefore, I would like to request the Central Government to take an early decision in this regard, so that the Government of Gujarat is benefited.

[English]

MR SPEAKER The House stands adjourned to meet again at 2 15 p m

13.07 hrs

The Lok Sabha then adjourned for

Lunch till fifteen minutes past Fourteen of the Clock

The Lok Sabha re assembled after Lunch at twenty two minutes past Fourteen of the Clock

[MR DEPUTY SPEAKER *in the Chair*]

STATUTORY RESOLUTION RE DISAPPROVAL OF THE SECURITIES AND EXCHANGE OF INDIA ORDINANCE

AND

SECURITIES AND EXCHANGE BOARD OF INDIA BILL*

[English]

MR DEPUTY SPEAKER The House will now up items Nos 7 and 8 together Shrimati Geeta Mukherjee

SHRIMATI GEETA MUKERJEE (Pānskura) I beg to move

"That this House disapproves of the Securities and Exchange Board of India Ordinance 1992 (Ordinance No 5 of 1992) promulgated by the President on the 31st January 1992

Honourable Deputy Speaker Sir the Principal reason for my moving this statutory Resolution is that I do not think that an ordinance was necessitated. Whatever the Government wanted to do they can very well do it through a regular Bill. The Statement of Objects and Reasons in justification of the Ordinance, says

*As Parliament was not in session and there was an urgent need to

instil a sense of confidence in the public in the growth and stability of the capital market the President promulgated the Securities and Exchanges Board of India Ordinance, 1992(No.5 of 1992) on the 30th January, 1992 (*Interruptions*)

This is what you have said. I know that you and the Finance did not see eye to eye. I have seen in the newspapers. You may contradict it. I am not saying that. If you had not asked that, I would not have gone into that subjects anyway you are all extremely united very well. So on that basis let me come to whatever has been said.

Now, the question is this was supposed to bring stability. Let us see what stability has this ordinance brought to the capital market and then as a part of it, what stability has it brought to the share prices The Economic Times yesterday reported that:

"In recent months there has been an unprecedented boom on the Indian Stock Market with the bull run turning into a virtual stampede in the post-Budget sessions This week the Bombay Stock Exchange Sensitive Index - a measure of volatility - crossed 3800- a new record"

This is how the ordinance has brought stability - a new record of volatility in the share price Does that, therefore at all justify the promulgation of the ordinance? In my opinion the answer is "No" So, as far as the Ordinance is concerned, this is my Principal question.

Now I come to the Bill itself. This Bill has got nothing new excepting giving statutory power to the Board, which it did not have. What actually does the Government intend to do and in what way for bringing stability to

the share market and for really protecting the investors, particularly the small investors? Earlier the controller of capital issues used to settle the premium at which a share would be sold. But now, as I understand it, the companies themselves will decide at what premium the new shares will be sold. The manipulations of the big companies are quite well known. Sometimes big companies buy their own shares, not directly in their own names, but through some associate companies and push up the prices; when the market becomes bullish and shares are over-subscribed, these very companies suddenly release their shares in the market and bring the prices crashing down. This practise definitely hits most the smaller investor whose sustaining capacity is much less. Over - subscribing is so much in vogue that in the last financial year if I am correct, the profit of the Tatas were more from this kind of financial transactions than from the manufacturing sector. This is a very dangerous thing. It shows that even such established companies have also to depend on this kind of manipulation. I have not understood how this Bill is going to stop this kind of practice.

It is not only the Tatas. Take Kinetic Honda for example. Their shares were floated and they were over-subscribed in a very big way. Instead of returning the money to those intending subscribers, the money was put in the Bank and then six months elapsed. Within three months, the money had to be returned to those who did not get the opportunity of buying the shares. Instead of doing so, the Bank credited it to the Kinetic Honda so much so that the Kinetic Honda Company actually gave dividends to their favoured people, to those who actually cornered the shares, even before starting the production, they could pay dividends; How are you going to protect the small investors? It is not in your Bill.

This Bill seeks to form the Board in the following way. The Board will have a Chair-

man, two Members from among the officials of the Ministers of Central Government dealing with Finance and Law, one Member from amongst the officials of the Reserve Bank of India and two other nominated Members. I have not understood the criterion of selection of these members. Much will depend on the proneness of the Broad Members themselves. Towards whom will they be sympathetic? Will they be sympathetic towards smaller investors? Or will they be sympathetic in their hearts of hearts, towards those manipulators or to the big investors?

At least you cannot rule out the big investors. Therefore, Sir, apart from two nominated numbers you will doubtlessly have a bureaucratic set up. With honourable exceptions apart our bureaucracy is not particularly renowned for their proximity to ordinary people. Therefore how this is going to be guaranteed in a way so that this bill as is given in its objects and reasons, protects the investors interest? These are the principal questions which really need to be spelt out by the minister through a full open documents. Otherwise these things will not be clear to at least people like us.

Day before yesterday a meeting was held by Shri. Manmohan Singh in Bombay where he said many bias things, for example apart from directing the share market to remain open for a longer time it seems that it has stated I read in Economic Times that the stock exchanges were directed to have a uniform and shorter settlement period. As I said in my earlier part of the speech shorter settlement period is very necessary but what is the guarantee that shorter settlement period will be there. How can we have a shorter settlement period that is not spelt out. The exchange were asked to increase surveillance of trading to ensure healthy growth and excess speculation. If this is going on, what else can be called excess

speculations. It is at its height. What is there in this bill which will guarantee that this excess speculation will be stopped? Therefore, Sir as far as this Bill is concerned, it seems to be nearly an exercise of an ordinary nature. It is nothing more than that. I would be happy if the hon. Minister can convince me that it is not so. They should lay all the documents necessary to show what they are going to do to control this kind of speculation which is really absolutely inimical to the interest of the small investors. I hope the Minister will reply to my questions - I do not know whether the reply will be satisfactory or not after that I shall apply my mind to this Bill.

Thanking you, Sir.

Mr. DEPUTY SPEAKER: Motion moved:

"That this House disapproves of the Securities and Exchange Board of India Ordinance, 1992 (Ordinance No. 5 of 1992) promulgated by the President on the 31st January, 1992."

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI
BEMESHWAR THAKUR): I beg to move."

"That the Bill to provide for the establishment of a Board to protect the interest of investors in securities and to promote the development of and to regulate the securities market and for matters connected therewith or incidental there to, be taken into consideration"

Hon. Deputy Speaker and the hon. Members while presenting the Budget for 1987-88 our former Prime Minister the late Shri. Rajiv Gandhi had stated in this august House that Government have decided to set

[Sh Remeshwar Thakur]

up a separate Board for the regulation and orderly functioning of stock Exchanges and the securities industry. He had also stated that for a healthy growth of capital markets investors rights must be fully protected and that malpractices in trading must be prevented. In pursuance of this announcement, the Securities and Exchange Board of India was constituted on 12th April 1988 for, *inter alia* dealing with all matters relating to development and regulation of securities market and investor protection. The Finance Minister in his budget speech of 24th July, 1991 had stated that full statutory powers will be given to the Securities and Exchange Board of India. He had also announced that consideration will also be given to enactment of legislation in regard to the operation of mutual funds.

The Stock Market has been growing at a very rapid pace ever since the present Government assumed office last year on account of the various liberalisations in policies announced by the Government in regard to industry and capital markets. It had therefore become essential to take immediate measures for maintaining the confidence in the stock market. As the Parliament was not in Session, the Securities and Exchange Board of India Ordinance was promulgated on 30th January 1992. I am happy to lay a Bill for replacing that Ordinance before this House.

The main objectives of the Securities and Exchange Board of India (SEBI) are to protect the interests of investors in securities, to promote the development of the securities market and to regulate it. The main powers and functions of the Board relate to regulating the business in stock exchanges and any other securities markets; registering and regulating the working of stock brokers, sub-brokers, share transfer agents, merchant bankers and other

intermediaries in the stock markets, registering and regulating the working of collective investment schemes including mutual funds and prohibiting insider trading in securities.

I am confident that the hon. Members will appreciate the need for giving such powers and functions to the SEBI for ensuring the healthy and orderly growth of the stock market. A well-regulated market is essential for channelising an increasing flow of savings into investments in securities for the further development of the economy. Such a system is also essential for encouraging inflow of foreign exchange through investments made by the non-resident Indians and off-shore Funds.

I hope that this Bill will meet the exacting standards required of us by the honourable members of this august House and would be passed at the earliest to facilitate the development and regulation of the securities market and mutual funds in the country. As stated by the Finance Minister in his Budget speech of 29th February 1992, additional powers will be given to SEBI to strengthen its capability as we gain experience. With these words, I commend the Bill for the consideration of the House.

MR DEPUTY SPEAKER Motion moved

That the Bill to provide for the establishment of Board to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto, be taken into consideration.

MR DEPUTY SPEAKER There is an Amendment given by Shri Girdharilal Bhargava. The total time allotted for these

501 Stat Res re dis-
approval of Securities & Exchange
Board of India Ordinance and
two subjects (items 7 and 8) is two hours
Shri. Girghanlal Bhargava, are you moving?

CHAITRA 10, 1914 (SAKA)

Securities and Exchange Board of India Bill

[Translation]

SHRI GIRDHARI LAL BHARGAVA
(JAIPUR) Mr Deputy Speaker, Sir I beg
to move "that the Bill be circulated for the
purpose of eliciting public opinion thereon" by
15th June, 1992" (1)

[English]

SHRIJASWANT SINGH (Chittorgarh)
Mr Deputy Speaker, Sir, my task is very
simple,

We in the BJP, entirely, supports this
piece of legislation. We support the granting
of statutory authority, powers and status to
the Securities and Exchange Board of India
though I do support my esteemed friend and
colleague Shrimati Geeta Mukherjee in her
procedural point that it would have been
preferable had this not been brought about
through the means of an Ordinance.

Having stated this, let me also state,
why I welcome this measure and support it?
For granting statutory authority to such a
body for monitoring the activities of the Stock
Exchanges, Mutual Funds, Merchant Banks
etc. also for investor protection let me very
briefly state and share the comments with
the hon. Minister of State. He is very
knowledgeable on the subjects. Even before
he came to holding this high office he had
professional experience which amply
qualifies him.

Clause 4 relates to the constitution of the
Board. Now I have a recommendation to
make here for the consideration of the
Government. You said that the Chairman
will be appointed by the Government which
is as it ought to be and two whole time
members to be appointed by the Govern-
ment and then two other members to be

nominated by the Central Government. Now
every one is to be nominated by the Central
Government. I do not know how you are
going to do it. It may be through a process of
learning. I recommend to the Government
that in the Board itself you have at least one
representative of the Stock Market of India.
How you do that it is upto you whether you
can ask the Stock Exchanges themselves
to elect one Member so that he then be-
comes a member of the SEBI alternatively
you could nominate a member. And the
second thing which I would recommend to
the Government is that at least you have one
member in addition to the representative of
the Stock Exchange from the commercial
banking not of the Nationalised Banks rather
merchant banking which is not nationalized
, which is still in the private hand have one
of those particularly with experience in
merchant banking.

Clause 12 relates to registration of stock
brokers. Here I think some very substantial
action is necessary. I hope when he ad-
dresses himself to that he will reply. It is
common knowledge that today to get a
registration certificate for becoming a broker
costs a person around Rs. 1.50 crores on
the Bombay Stock Exchange. You cannot
have that sort of situation prevailing. If you
want to have a registration certificate for
becoming a broker then the Stock ex-
changes themselves set very tightly and
when you have a stock exchange regis-
tration certificate for you to be a stock exchange
broker being traded at Rs. 1.50 crores, then
surely there is something wrong somewhere.
It would be my recommendation to you to
consider SEBI will address itself to it. I
would advise the Government not to bother
itself too much personally.

I am glad that the hon. Finance Minister
found it necessary to go to Bombay and
talked to the Stock Exchange authority, etc.
But I don't think it is necessary for the
Finance Minister to perform this function you

[Sh. Jaswant Singh]

should not really bother about trying to go and dampen the enthusiasm of the Stock Exchange because it is overboiling. It is the SEB which should address itself to it: and this is not part of the function, by my understanding, of the Finance Minister to go and advise the Stock Exchange to cool down when it is overheated. He can do it very well by sitting here in Delhi.

I am going to very briefly cover the point with regard to clauses 16 and 17.

Clause 16 is about issuing directions to the Board and Clause 17 is about superseding the Board. In fact I recognise that the Central Government whenever it legislate on such matters, must have such an enabling provision to issue directions to the Board as also to supersede the Board. But I am sure that the house will share with me the unhappy or unfortunate experience, for the last forty-five and odd years of the functioning of the Governments whether it be at the Central level or the State level, that such powers of the State as the State arrogates to itself are unfortunately used more in a subjective arbitrary fashion than really for the furtherance of the original purpose. You may reflect on it. I am sure you need it, but nevertheless, you may reflect on it.

I will now come to Chapters IV and V and make very brief comments. Clause 11(c) is about "registering and regulating the working of collective investment scheme including mutual funds: Here I think the Union Government as also the SEB must address itself to two or three aspects of the functioning of mutual funds. On this I will give some suggestion when I come to suggestions.

I have already covered Chapter V which is about Registration Certificate.

SHRI. REMESHWARTHAKUR: I would

just like to mention that the Chairman of the SEB and some others had called on Finance Minister in his office some time back. He had not gone to Bombay for this purpose.

SHRI JASWANT SINGH: I am glad that the Hon. Minister of State has clarified I appreciate that it is not the function of the Finance Minister to go there.

Now, in addition to Chapters IV and V clauses 4, 12, 15, 16, and 17 are there. On their ambit I have five or seven suggestions to make briefly and I would have done.

Firstly about mutual funds: Now, ever since you opened these mutual funds earlier mutual funds were the sole preserve of the Unit Trust and you opened it out if I am not mistaken, the LIC came into it, and now all the nationalised banks came into it. Now you will find that anyone can come into it.

Two points come here about the functioning and operations of mutual funds. I think the advertisements that are being issued about the mutual funds are highly misleading and they are mostly issued by the mutual funds of the nationalised banks. They say "Double your money in three years" I am not saying that this is exactly what they say. But the suggestions go on like this.

They say "Put Rs. 100 today and takes Rs one lakh after 10 years later" and so on, things like that. An unvary investor or anyone without knowing what is happening will be very much tempted by such advertisements.

What is the profile of the investor that goes into the mutual funds? The profile of an investor I am sure the SEB has already studied. About it that however in a different capacity in the earlier Parliament, I had an occasion to sit with the Chairman of the SEB. And I was very much impressed, I must say, by the clarity of the thinking and purposeful

ness with which they were addressing themselves to discharging their responsibilities. But if you permit me again this kind of advertisements saying "Invest Rs. 100 now and take back Rs. one lakh after ten years" - this sort of things, because of the profile of the investor in mutual funds is carried out to the level that is largely a pensioner. It is largely a person who is either retired or on the verge of retirement he has neither the ability nor the inclination nor indeed the energy to follow the stock exchange and to go through the whole rigmarole of having stock brokers or whatever or follow the market. So, he goes in for a mutual fund. And the Mutual Fund performs this operation for the investor. But if the Mutual Fund while performing this for the lay investor, is going to make an exaggerated claim, then that is very misleading. Therefore, I would urge the Government to place some kind of restraint on this advertisement which seems to have broken out between Mutual Funds to day. There should be some restraint some kind of - I do not know what word to give it with what adjective to call it - legitimacy to the claim made in the advertisement.

Secondly in respect of Mutual Funds if I might take recourse to an overused cliché, please provide level playing field for the respective Mutual Funds. You have Mutual Funds floated by the nationalised banks. Now you have opened it out to others and others will also enter into. And you have certain recognised securities which are purely of the Government and then there are recognised securities which have come up really on account of entrepreneurial spirit or endeavour of private parties. Please provide them with level paying fee, give them equal opportunity. In one case you have tax deduction at source and in another case you grant them the benefit of having no tax deduction at source. And that sort of a thing is not necessary. I am, the hon. Minister understands what I am saying..

My second suggestion would be about the reform of stock exchanges. I am sure that the SEBI will address itself to this major task. This is not the occasion for me to go into any kind of details or at length about the reform of stock exchanges. By and large the stock exchanges of India have really not moved beyond what they were some time after the Second World War. In functioning in the brokerage houses, largely in the regulations, etc the internal functioning of most of the stock exchanges have remained unaltered since the Second World War. I think the SEBI would be well advised and I am sure that they will do it and address themselves to reform the stock exchanges.

Sir, I would take to two other aspects and then one more substantial point.

One is that there are instances, which are listed. When companies come to the market as it were for raising money from the public, whatever they say in the prospectus must be adhered to and nothing that they state in the prospectus ought to be there, which they do not intend to be doing. I do not wish to give illustration of how the unvarny investor is again misled by the claims being made in the stock exchange. But it would be advisable for the SEBI to address itself to the aspect of claims made in the prospectus and adherence to those.

The second aspect is return of share application money. My eminent colleague and friend, Shrimati Geeta Mukherjee, has said quite correctly about over-subscription. Over-subscription is not an ailment of the stock exchange. Over-subscription is because there is a lot of money. And people want investment opportunities. And there are far too few good opportunities or shares in which they can do so. And so naturally the investing public will over-subscribe. But where I have the difficulty is having over-subscribed three times, 33 times, 40 times and sums like Rs. 300 crores, Rs. 400 crores

[Sh Jaswant Singh]

which are then lying with the companies that are coming up. There are instances where the companies have not returned the excess share application money in time. But they had not only returned not in time but also returned it without paying any interest. Now this kind of playing with the investors' money really be stopped and SEBI must come down with a very heavy hand.

Now, I am making the final point. I am sure SEBI will do it. But, I consider obligatory on my part to mention it. I think you must have very proper regulations and rules for take over bid. All take over bids of companies now particularly have become relevant because the economy is opening out. It is our expectation that money will flow and when money flows people will attempt to corner shares on the market whether NRI money or internal money or foreign money.

Now, we had two instances of earlier of take over bids in the case of DCM and in the case of Escorts. These two incidents became examples of how it ought not to be done. They became examples of how the Government ought not to function in this regard. They became most unsavoury examples of the total functioning of the Indian Corporate Body. You must address yourself to this. There is no prohibition on taking over. But, whoever wishes to take over must make it a public bid and it should be an open bid. If the share is selling at Rs 30/ and if somebody comes forward and makes a public announcement to the investing public, whoever is holding a share of ABC, I am ready to offer Rs 80/. The point I am trying to make is that in take over bids most of the time what happens is that this differential between the quote + market price and the actual take over price is handled in a way between the taken over and the original over. Therefore, for the sake of the investing public you make it mandatory that whoever wishes

to take over must make a public open bid and whether that bid can remain open for two, three or four weeks, depends on whatever SEBI does. But, it must not be a clandestine deal behind the doors, behind the curtain, under the carpet (*Interruptions*)

The second aspect is about take over bid. It is entirely possible. With investment brokers, investment advisors and others, India has a good investment opportunity. Government is already considering opening out of Indian stock exchanges for foreign investment. But, once foreign investment starts coming into the Indian stock exchanges in anticipation of it, of course, the stock exchanges are moving. But, so far as foreign take over bids are concerned, once you permit foreign money to come on to your stock exchanges, you cannot simultaneously take that, you can come on to the stock exchanges but you cannot take over a company. You will have to devise some mechanism some regulation, some system, so that till such time that Indian industry is able to stand upon its own legs, the foreign take over bid is kept at bay.

15.00 hrs.

It is not my job or function, I do not either have time at this moment, to define what I wanted to be done. I think SEBI must address itself to that task.

I have done Sir, I am grateful to you for the consideration and I conclude by saying once again that we in the BJP support the Securities and Exchange Board of India Bill, 1992.

MR DEPUTY SPEAKER, It is necessary that I should bring to your notice the time allotted to each political party so that we can adjust the time while speaking.

BJP	-	Twenty-five minutes
Janata Dal	-	Twelve minutes
CPI (M)	-	Seven minutes
CPI	-	Three minutes
AIADMK	-	Two minutes
Janata Party	-	One minute
Other small parties each	-	One minutes

AN HON MEMBERS: What about TOP Group, Sir?

MR. DEPUTY SPEAKER; O.K., you too will have time.

SHRISARATCHANDRA PATTANYAK (Bolangir): Hon. Deputy Speaker, Sir, I would like to congratulate our Finance Minister for bringing this legislation, which is a major step in de-bureaucratisation for improvement of capital market and safeguarding the interest of small investors. Keeping in tune with the changes of new policy, the proposed legislation will no doubt act as a catalyst for change. However there are certain areas in the proposed legislation, which need specific consideration.

15. 03 hrs.

[SHRI SHARAD DIGHE in the Chair]

Under Chapter II, section 4, sub-section (4), it is mentioned that members of the Board are to be nominated or appointed by the Government. But the constitution of the Board is not evenly provided. There is no representative of interest group like stock exchange and investors. The Board should have at least two members from the recognised stock exchange and at least one

member from the apex consumer group or investors group.

Under Chapter VII, Section 16, Sub-section (1), it is mentioned that the Board will be bound by such directions on question of policy, as the Central Government may give in writing to it from time to time. Though one of the objectives of the Board is to promote orderly and healthy growth of capital market, there may be indirect Government's interference in the operation of capital markets. Rather the Board should be given adequate powers to decide on the directions of the Government.

Under Section 26 (1) it has been provided that with the previous sanction of the Central Government, the Board can file a complaint for any offences under the Act. This will create difficulties for the Board to gain the confidence of investors. The Board's functioning will be unduly influenced by Government's policies. Since the Board is a statutory organisation, its functioning should not be hampered by the Government's interference. Adequate safeguards should be provided in this regard.

In clause 29 of the Bill, the Central Government has been empowered to make rules regarding terms of office and other conditions of service of the Board. I would like to suggest that the terms and condition of the office of the Chairman of the Board should be at par with other Constitutional functionaries.

With this I conclude.

[SHRI SUDHIR GIRI (Contd.) : Mr. Chairman, Sir, I rise to express some of our view-points on the Securities and Exchange Board of India Bill, presented by the hon. Finance Minister Dr. Manmohan Singh.

As proposed the Bill seeks to safeguard the interests of investors in securities and to

[Sh. Sudhir Giri]

promote the development of and to regulate the securities market in India. Though trading in the securities market is not gambling where one depends entirely in luck or chance, it nevertheless involves high risks and elements of disastrous speculations. Continuous harassment of the investing public and rampant malpractices in the trade have become matters of grave concern to all sentient people. The capitalist system of growth in the economy envisages such money market. The socialist system of growth in the economy does not warrant for such market.

However the stock market in India is not new. Since 1877 organised bourses have been working somewhere recognised and somewhere not. It is only in 1956 that the Central Government recognised 15 stock exchanges. By drawing surplus funds from the different sizes of households, the securities market contributes to the mobility and negotiability of the otherwise fixed capital. It plays a very important role in capital formation. For the purpose of investment in various production sectors of the economy, the stock market really renders enormous service to the community by distributing money among industries and firms. In the prevailing situations, in India, the importance of the money market has been of tremendous dimension. The Eighth Plan document stipulates for 21.6 per cent domestic savings for 5.6 per cent G.D.P. growth rate and out of 21.6 per cent domestic savings, household sector is required to contribute 17.6 per cent. So the confidence in and creditability of the stock market tradings should be of utmost requirement at the present juncture in order to motivate the investors to come forward for investment. But the excessive heat generated in the securities market has made the present situation worse confounded. It is well known to all that stock market reactions all over the world forecast the shape of things to come in near future.

Some experienced men in the stock trading fields have commented that going berserk and going bust are not new phenomena in Indian share markets. It happened more than a hundred years ago, that is in 1863-65. It happened again in 1985-87. This year there has been a boom which was unseen before and could not be anticipated. A big bull comments of the present boom in the stock market as unpredictable and bearing the seeds of doom.

The rise in the stock markets began with the last year's July Budget. Bombay Stock Exchange's sensitive index started its upward climb from 1,300 and reached 2,000 points by January. On 29th February this year after the presentation of the Budget, an amount of Rs. 1.6 crores was pumped per minute into the stock market in Bombay in the two-hour trading session. By the end of the two-hour post-Budget session, the index crossed the 3,000 mark. And on 9th March, the index came to rest at 3547 points. Indices all over the country jumped and the figures often doubled and trebled within a span of hours. The markets heated up so much that the Governor of the Reserve Bank of India had to threaten to check the speculation to cool the markets. Even on 26th March, the Bombay Stock Exchange index touched 3802.17 points. We apprehend a very serious crisis taking place as a consequence of such booms which may lead to collapse of payment systems and problems in leading money centres. The overheat has surpassed even the traditional stock markets of London and New York. When the country needs a well disciplined money market to boost up the stipulated growth rate of 5.6 per cent of G.D.P., there looms large the lawlessness to the detriment of the national interest.

Should the Government be a silent spectator? What is the assessment of the Government as regards the causes of the over-

heat in the stock market?

Two eminent foreign securities firms, Kleinwort Benson Securities Ltd., and Asian Capital Partners Ltd, have studied the stock market situation as obtaining at present in India. They have identified excess liquidity as the prime reason behind the boom. Excess liquidity is there as a result of the slow down in the economic growth this year, Commercial banks and traders with surplus funds have turned to the stock market. However, the current bubble has become possible due to the imperfections in the stock exchanges.

It is a fact that the India Economy has been widely expanded. This expansion requires to be compatible with the fulfilment of the aspirations of the increasing population and the accelerated effective demands concomitant to the scientific explorations and changes in the standard of living of a section of the people. For increasing growth in the macro economic front to tackle the unemployment problems and other crisis, the Capital market base requires to be strengthened. Here arises the need of the diversion of the household savings which is larger in volume for investment purposes. To create motivation among the people for investing their capital, small or big whatever it may be, in the production sectors of the country, it is the stock market which provides a forum and a service centre both for buyers and for sellers. The stock exchanges attribute to the capital the merits of easy negotiability, marketability, and convertibility. Honest investors want continuity, liquidity and smoothness. But now in the stock market the presence of forces which manipulate premiums, kerb, trading, sub-brokers, insider trading, equity fluctuations, jobbing brokers and high degree of speculation and the lacking in the mechanisation and computerisation of dealings and settlement of transactions, the event of faults innovativeness of private entrepreneurs, ju-

dicious intervention and regulation by the Government, adequacy of secondary market base, and modernisation of the exchange operations are the main factors which constitute bottleneck in the trade.

MR. CHAIRMAN : Please wind up.

SHRI SUDHIR GIRI : Sir, I want your indulgence for a few minutes more.

MR. CHAIRMAN : You should not read your speech like this. You can make a speech.

SHRI SUDHIR GIRI : I am coming to the conclusion. The budget has provided some measures to help the capital market for development. The act of raising the wealth tax limits is a gain for the corporate sector as more savings would pour into the secondary and primary or new issue markets. This would improve market capitalisation immensely. Further by giving concession in tax on income and gains on overseas issues the Government provides an opportunity to the companies to fund their expansion and foreign exchange requirements for import by placing more bonds in the global market. All these things being taken together it appears that capital market is poised to grow tremendously. In such phenomena, the Government is required to play its due role in bringing confidence of the investing public in the stock markets. Let us deal with the provisions of the Bill in the background of what I have said. The Bill provides for checking lawlessness, harassment, of the investors, manoeuvrings at different stages to cheat the investors, speculation etc. Which have been the order of the day in all the shares markets in India. These corrupt practices have to be checked and controlled. With a view to protecting the interests of the investors, promoting development and regulating the market, section II of the Bill provides for regulating the business. It provides for registering and regulating the

workings of the person connected with the market

But the meagre number of officials appointed for such purposes would not be able to cope with the situation and would not be able to actually scrutinise the fraudulent practices being resorted to in the trade market. The Central Government has changed its industrial policy, fiscal policy, economical policy, trade policy etc. The national economic scenario has therefore undergone drastic changes. Such structural changes call for changes of *modus operandi* to check the malpractices prevalent in the capital market.

Section 17 of that Bill provides for emergency and supersession of the Board. What are the grounds on the basis of which such emergency would be declared and on what basis the supersession of the Board will take place, has not been elaborated in the Bill. That should be elaborated.

Apparently the provisions to regulate the share market are good for the community. But if convinced by the Government's control and intervening powers as apparent from the provisions of the Bill, people belonging to the middle strata come forward with their savings which they have accumulated after mass sacrifice for investment in exchange market and thereafter they are cheated by the manipulation because of the fault in the working of the Government machinery, what will happen? Who will take care of those honest investors?

Sub-section 5 of section 4 of the Bill provides that the Chairman and the other members of the Board shall be persons of ability, integrity and standing who are experienced in the matters connected with the Securities Market. What is the criteria and who are the persons to judge the said

qualifications of the persons? Our faith in the bureaucracy has been of low ebb since the Bofors evil natures which are contrary to the national interest are there and these cases point to the limitations of the Government's wishes. All this apart, the very relaxation in various fields and opening up the door to the multinationals have begun to reflect in the economy, as a whole. Monetised culture at the cost of all morals and sacrifices of our forefathers and the people who still stand by the multitude of the vast people has started to set in. So, the provisions for regulation of the market may not materialise to the fullest extent as desired.

Furthermore, the egoistic behaviour of some of the bureaucrats as we have noticed through strained experiences will spoil the whole matter. May I put a simple question to the hon. Minister? Although the constitution of the Board took place in 1988 on the basis of the resolution adopted in 1956, why was it not given powers to regulate the vicious practices in the securities market? When we hear the complaints of non-receipt of dividend warrants and refund orders and also when we find newspapers reports that a lot of investors have been rendered helpless we actually feel pained but we are helpless to do anything. So, I want to know from the hon. Minister as to whether this Bill would provide security to the honest investors.

Sir, one apprehension strikes me very much. In the securities market, very big guns do fishing along with the small people and it is the big guns who are in the habit of fraudulent activities and they can withstand any kind of onslaught against their malpractices. They maintain a very cordial link with some of the persons who are entrusted with the act of administration of the country. If it happens that the Board goes against such big guns to halt their nefarious games, then the members of the Board may be subjected to removal or the Board to supersession. In such events, who will protect the interests

of the small investors?

Sir, I conclude by saying that the wishes of the Government apparently appear to be very good, but in actuality, we have to see that the provisions of the Bill are implemented in toto and the share market is properly regulated in order to protect the interests of the honest investors.

SHRI BOLLA BULLI RAMAIAH (Eluru): Mr. Chairman, Sir, this Bill of Securities and Exchange Board of India was mainly introduced for the protection of the small share holders in the stock market and though it has been initiated on 12th April, 1988, for three years no action had been taken and anyhow, on 31st January, 1992, the ordinance was passed realising the importance of share holders in the market. It is mainly intended to prevent speculation inside trading and also to have various controls on the operations of the merchant bankers, registrars, brokers, sub-brokers and different bankers.

Unfortunately, enough amount of powers has not been given for SEBI. It needs enough powers to operate effectively. Both the company law board and the Finance Ministry have kept substantial powers for their reference. I do not know whether it serves the purpose for which it has been really initiated. They do not have the powers also to take action and they can only appeal back to the Ministry.

The Board is also not fully representative. It consists of Chairman, two members from the Finance Ministry or Company Law Board and one from the Reserve Bank and two nominated by the Government. I think, this Board requires relevant representation from the federation and also from the shareholders, stock-brokers and from experienced chartered accountants who are able to guide them various aspects in the operation and the delivery of various securities that are

happening and to reduce malpractices at every stage.

The intention of the Government is not to grant total autonomy or independence which is evident from the fact that every regulation made by SEBI requires previous approval of the Central Government. Thus SEBI has not been made an independent Board which is very much needed for investors protection in view of the fact that the office of Control of Capital Issues has been abolished.

Section II of the Ordinance imposes a duty on the SEBI to protect the interests of the investors in securities and to promote the development of capital market by monitoring the activities of various intermediaries such as Registrars to the public issues, Merchant Bankers, Brokers etc. These powers are to be exercised by SEBI only by way of regulations notified by the Government. Thus in effect the powers of SEBI are not autonomous and are controlled by the Central Government.

Further under section 20, any person aggrieved by the regulation made by SEBI can prefer appeal to the Central Government and thus there will be again softening of the stand in regard to various operations and it will have different repercussions on the whole system.

The Ordinance amends Section 10 of the Capital Issues (Control) Act, 1947 where by any powers exercisable under that Act can be delegated to SEBI. However, no such power can be exercised by SEBI under the Companies Act. It is felt that the Companies Act should be suitably amended in order to give SEBI certain powers under the Companies Act specifically in the areas of share transfers, share transmission and other related matters.

In addition to this, this speculation

market should be controlled effectively and unless they are given proper powers, it will not be possible for them to play an effective role. In the case of similar Exchange Board in other countries, adequate powers have been given. SEBI will not be able to deliver the same types of performance for which it has been established. With the liberalisation of economy, the activities of present Stock Exchanges are causing an alarming situation and for the new issues, the way in which specially the brokers and sub-brokers are operating in the primary market is really causing a lot of anxiety. The other operation that are causing inside trading are also another big problem and it requires a lot of attention and regulations by SEBI.

We also need stock exchanges not only in big cities but at different places since various people have also realized the importance of stock exchanges even in Andhra Pradesh, like Vijayawada and other place. Therefore, these stock exchanges should be expanded. The people at other places are also interested in stock exchanges, Therefore, they should expand it.

Another thing is the staff and establishment of personnel for SEBI I am really wondering whether the present staff will be able to handle the amount of work that requires with the expanded activities, with the liberalised attitude of the Government as they would operate more and more stocks. People are coming for the stocks and naturally millions of small investors will feel interested in view of the present conditions, including the people in the rural areas They would like to invest. In all these aspects, I think it requires tremendous amount of stability for SEBI in order to see that it really serves the purpose for which it is intended, for the whole mass of small, investors more than anybody else.

In view of that, I once again request the hon. Minister to see whether he will be able to make proper provisions in order to satisfy the small investors in the stock exchange and help them and satisfy them.

Thank you very much.

[Translation]

SHRIGIRDHARILAL BHARGAVA: Mr. Chairman, Sir, I also rise to support this Bill. I have to make some suggestions and I hope that the hon. Minister would certainly approve those creative suggestions. Brokers have their own specific ways to work and they maintain complete control over stock exchange. The compulsion for their registration with SEBI and its authority to cancel the registration would only encourage corruption. How this will be checked is the matter to be considered. The Government is to frame rules for the working of SEBI and if the Government frames all the rules if and the Central Government interferes in all the matters, then the purpose with which the Bill has been brought could not be served. I will like to prove these things. The Central Government has interference in each and every matter in the sense that the hon. Minister of Finance has announced.

[English]

The office of the Controller of Capital Issues would be abolished.

[Translation]

If it is abolished, my submission is that at an international seminar a suggestion was made to find out a way to mitigate the State Government's interference in the functioning of SEBI but this suggestion cannot be made effective as far as this Bill is there. Our basic intention in it was to mitigate the control of the Central Government. We

copied it from USA and UK, we wanted that ;

[English]

"SEBI will be a separate agency but functioning under the rules made by the Government and regulations which are formulated with the prior approval of the Government. It implies that the Government will have complete control over the constitution."

[Translation]

It means it has no separate identity . The entire SEBI will be under the complete control of the Government of India . The purpose of making it an autonomous institution could not be served.

With regard to its constitution I would like to submit that under Section 4 and 5 regarding Board of Directors it has been stated under section 4 and 5 that it will consist of a Chairman , two members

[English]

"Two members representing the ministries of finance and law and one member from the Reserve Bank of India. Two other members will be appointed by the Central Government

[Translation]

They too will be appointed by the Central Government . I mean to say that it has been stated in every section that the Central Government will have its interference.

[English]

"The term of office and other conditions will be prescribed by the Government . The Central Government

will have a right to terminate the service of the Chairman or a member at any time before the expiry of the period prescribed . The government has the right even to supersede the entire Board and reconstitute it".

[Translation]

It means that the government intends to take complete control with regard to the matters like constitution of the Board, dissolution of the Board and also the expulsion of the members at its sweet will in its hands. This is something objectionable.

[English]

"The central government will frame rules under the provisions of Sections 23 (1) for the registration of all the intermediaries in the securities market. Third, the SEBI will frame regulations only with the prior approval of the central government and these must be consistent with the provisions of the ordinance."

[Translation]

It means that they will frame rules and regulations only after taking prior approval of the Central Government and in this way the Government of India has complete control in every matter .

Similarly , the rules and regulations regarding violation of criminal complaints requires prior approval of the Central Government to institute cases .

Fifth objection in it is that .

[English]

"Fifth , it is significant to note that , under

[Sh. Girdhari Lal Bhargava]

[English]

Section 16 (1), "the Board shall, in exercise of its powers of the performance of its functions under this ordinance, be bound by such directions on questions of policy as the Central Government may give in writing from time to time....."

....." The legislation itself may authorise Governemnt to make rules and approve regulations as and when necessary....."

[Translation]

[Translation]

This should have been there, similarly,

[English]

The Board will have to follow verbal instructions of the Central Government every time . It would not to possible to make SEBI an independent body.

There are many intermediaries whose responsibilities and functions are to be defined....."

[Translation]

[English]

"Sixth , under section 20 (1), " any person aggrieved by an order made under this ordinance or the rules and regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed ."

No one's powers and functions have been defined and none has been entrusted with the responsibility.

[English]

[Translation]

"However, the SEBI has not been given even the powers exercised by the Board of Directors of the Bombay Stock Exchange".

He will make an appeal within the prescribed time. My opinion is that in the wake of all these controls you can't make SEBI an autonomous body. You will make SEBI an ineffective agency and that not be made an independent body .

[Translation]

The Government of India has promised the people to eradicate poverty, to bring down the prices of essential commodities. But it would not be justified if you keep SEBI under your control in this manner. It has also been stated that whenever the SEBI frames rules and regulations, they will be placed before Parliament for approval . Who bothers to place them so easily. We have experienced it in the Legislative Assembly and here too , therefore——

Even the powers exercised by the Directors of the Bombay Stock Exchange will not be enjoyed by the Board of Directors here under all these rules. Therefore, it is necessary for a fair objective that the entire responsibility is entrusted to somebody and the Government of India should not concentrate all the powers in its hands and instead decentralise it and make it an autonomous body. Only then it will be justified , failing which no purpose will be served by such amendments, no matter which Governments moves them. Shri. Jaswant Singh has supported it in his speech. I also support it. But the hon. Minister may kindly incorporate all these suggestions and relax the control maintained by the Central Government at

every step only then SEBI would be able to function properly. This is what I have to submit. I thank you for the time you have given me to speak.

[English]

SHRI A. CHARLES (Trivandrum): Mr. Chairman, Sir, I stand to support the Securities and Exchange Board of India Bill, 1992. From the Objects, it is clear that the Board is proposed to be constituted to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market.

An Ordinance was essential. So, the Ordinance was promulgated. The main opposition levelled by the hon. Members on the other side is that there should not have been an Ordinance. We also agree that in the normal circumstances, an Ordinance should be promulgated only sparingly. But in view of the fluctuating situation in the capital market, unusual boom that has come in the stock exchange because of the liberalisation of the rules and regulations enunciated the New Economic Policy and in the Budget, the Government has a responsibility to protect the interests of the shareholders especially the small investors who seeing the boom in the market will be naturally attracted to get, I may say, even undue profit. It is only to discharge the responsibility of the Government, a Government committed to the people, a Government that functions with a sense of responsibility - we on this side have an additional responsibility - this Ordinance has been promulgated. When the Parliament is in session, naturally under the law, it has to be replaced and the Bill has to be brought forward.

I would, therefore, say that absolutely there is no irregularity in promulgating this Ordinance and to replace it with the introduction of this Bill.

From what is appearing in the press, it is clear that the year 1992 is going to be the most eventful year for the Indian capital market, an year in which the investors, speculators and market intermediaries will have to learn the whole new way of doing business and trading in terms of regulations, institutions and infrastructure. India's share price has soared an all time high, rising by about 80 per cent even in dollar terms. I feel this is a note of confidence in the new changes, the initiatives this Government has very boldly taken, the new thrusts we are now giving. I may say emphatically, without any reversal of the policy that we have been following over the last forty years. We are now trying to build up on that sound foundation. When these changes are brought forward, it is the responsibility of the Government to protect every citizen of this country. I feel that the Bill is very timely. It is true that a resolution was passed in 1988 and the Exchange Board was proposed to be constituted. But under unusual circumstances, the statutory powers were not given to that Board and this has been brought only to rectify that.

Coming to some of the provisions of the Bill I would like to draw the attention of the hon. Minister to Clause 4, sub-clause 1 (b). It says: "Two members from amongst the officials of the Ministry of the Central Government dealing with finance and law." This lacks clarity. I feel the intention of the Government is to draw one each from the Finance Ministry and the Law Ministry. But the Clause, as it stands now, is not clear whether two can be from the Finance Ministry or two can be from the Law Ministry or one each should be from each Ministry. If the intention is that one each should be from each Ministry, the wording should have been:

"One each from amongst the officials of the Ministry of the Central Government dealing with finance and law."

As it stands, I feel that there is a little confusion. I would request the hon. Minister to look into it. If my impression is correct, necessary correction may be made.

Again under Sub-Clause 1 (d), some words have been put that is "to be appointed by the Central Government" and they are not necessary. Sub-Clause 4 of Clause 4 takes care of this. Sub-Clause 1 of Clause 4 deals with the constitution and sub-Clause 4 of Clause 4 deals with the appointment. There, it has been clearly stated that the Chairman and members referred to in clauses a and d of Sub-Section 1 shall be appointed by the Central Government and the members referred to in clauses b and c of that Sub-section shall be nominated by the Central Government and the Reserve Bank of India respectively. It is very clear. I do not know why under Sub-Clause 1 (d), these words have been put that is "to be appointed by the Central Government". It is redundant and it is confusing. I feel that it has to be deleted.

So also, in Sub-Clause 2 of Clause 4 it has been stated that the general superintendence, direction and management of the affairs of the Board shall vest in a Board of members. I would like to know whether there is any difference between the Board and the term Board of members because in Definition Clause, there is no mention of Board of members. Sub-Clause 2 says that the general superintendence, direction and management of the affairs of the Board shall vest in a Board of members which may exercise all powers and do all acts and things which may be exercised or done by the Board. That goes to show that some sort of distinction is sought to be made by this Clause between the Board of members and the Board as such. If that is so, who really constitutes the Board of members? That will have to be explained.

Coming to page 15 - Notes on Clauses, Clause 4 provides for the constitution of the Board of members consisting of a Chairman, two whole-time members to be appointed by the Central Government and two members to be nominated by the Central Government and one member by the Reserve Bank of India. Now that only shows that the whole Board or all members of the Board, are members of the Board of members. Then why should this distinction be there in Sub-Clause 2 of Clause 4? I would request the hon. Minister to look into this and see whether that clause is in order. And to avoid confusion, it may be said that the general superintendence, direction and management of the affairs shall vest in the Board. If that is what is meant, then the term Board of members is not necessary.

Again in Clause 5, Sub-Clause 1 says that the term of office and other conditions of service of the Chairman and the members referred to in clause (d) of Sub-Section (1) of Section 4 shall be such, as may be prescribed. But what about the term of office of the members appointed by the Government from amongst the officials of the Minister and from amongst the officials of the Reserve Bank of India under Clauses b and c of Sub-Clauses (1) of Clause 4? They are Government Servants and their service conditions will be governed by the corresponding service conditions of the department. So, their terms of office should be specified. If not, it will result in some sort of difficulty in future even though there is saving in Sub-Clause 2 for terminating the services of members and that the Government is empowered to take action under Clause also. But those are all general clauses and the period or the term of these members will have to be specified in the legislation so that if they are Government Servants, they shall not continue in the Board indefinitely. If that is the intention, that should be specified. Anyway, I feel that there

529 Stat. Res. re. dis-approval of Securities & Exchange Board of India Ordinance and is some lack of clarity in that section. On Page-7, Clause 15 (2) it is stated:

" The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him..."

Why not annual auditing of accounts is made compulsory? It shall be annual auditing and not as wished by the CAG.

Here again in sub-clauses (2), (3) and (4) there is some sort of contradiction. Sub-Clause (3) of clause 15 says:

" The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts....."

That means the CAG need not arrange for the audit through his office or officials alone. He is competent to appoint any other person. In sub-clause (4) also the same power is given. But in sub-clause (2) " any other person" is not given. I feel if it is the intention of the Government that either the officials of the CAG or any other persons authorised by the CAG are competent to audit the account of the Board, " any other person" shall be included in sub-clause (2) also. That may also be kindly looked into.

On Page-10, in clause 26 there is a provision to go to the court of law I think there is over centralisation in the Government; I do not wish to comment any more on that. It says:

" No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board with the previous sanctions of the Central Govt."

In Clause 12 there is a provision for registra-

tion where persons and institutions can register. If they have got any complaint they will have to apply to the Board; the Board sits together, they consider it and take a decision. In case the Board recommends, that too with the previous approval of the Central Government, the courts will act. I feel that the real justice will be delayed to the shareholders or persons who have registered their genuine complaints and it will take a long time to redress their grievances. So that may also be kindly looked into.

I am thankful that this legislation has come at a time when the capital market is facing a lot of challenges. I am sure the 1988 legislation did not have the necessary teeth. It is an attempt to provide the necessary teeth to take care of the real problems of the investors and shareholders. So I support this Bill.

Thank you.

[Translation]

(SHRINITHISHKUMAR (Barh): Mr. Chairman, Sir, this Bill has been brought forward by the Government now. However, the Security and Exchange Board of India is already functioning since 1988, under a notification of the Government. Now the Government proposes to constitute it through an Act of Parliament. Its real objective should be to ensure proper functioning of the Board. To achieve that end, it should be duly empowered. This Board could have worked more efficiently, but perhaps on a suggestion from the World Bank that there should be an independent authority to regulate the capital market, the Government has come out with this Bill. A thorough scrutiny of the Bill may make one feel that it affects the autonomy of the Board. In fact, it is an eye wash. There will be two officers on the Board - one each from the Ministry of Finance and the Ministry of Law. There was a tussle between the Ministry of Finance and the Ministry of Law over

[Sh. Nitish Kumar]

the issue of powers of these officers. One officer in addition to these officers from the Reserve Bank of India would also be there on the Board. In this way, there will be two officers nominated by the Government along with a nominated Chairman and these could be terminated on three month's notice. It means that the Government wants to treat the Members of Security Exchange Board as a peon or even worse. They have no security. Though the Security Exchange Board of India is meant to take care of the interest of investors and regulate the capital market, but the nominated members of the Board have no security. The Bill also does not specify as to who would be nominated as the Member of this Board. Nobody knows whether experts would be nominated on the Board or somebody else paying frequent visits to Rameshwar Thakur or Kumarmangalam would be nominated as a Member of the Board. In this respect the provisions of the Bill should be specific so as to secure the interests of investors particularly the interest of the small investors.

Secondly, I would like to suggest that unless there is some serious allegation against a Member of the Board, he should not be terminated before the expiry of his term. However, in case of a specific charge involving some financial irregularity in particular against a member, he should be removed from the Board. But if a Member takes strong action against the persons operating in the stock exchange who come from the higher strata of society and have direct contacts with the influential people in the Government. He should have powers to take such action. In the present situation, how can the Board take such an action as it has to seek the prior approval of the Finance Ministry for it. It means that in fact there is no autonomy and this Bill has been brought here just to mislead the people.

In spite of a boom in the capital market, Man Mohan Singh's budget serves the interests of only 3 per cent of the population. It is only with the interests of this particular section of people in view that an ordinance was also promulgated within no time. Otherwise, the Board already functioning there, could have been given adequate powers. But it seems that the World Bank issued instructions and the same has been abided by the Government. In fact, they are not in favour of giving autonomy to the Board and want to keep the total control of it in their hands. They dislike the very idea of the smooth functioning of the Board. As such, this Bill seeks to put various checks and restrictions in this regard

I would like to suggest that if the Government is genuinely interested in making it an independent regulatory authority, it should give adequate powers to the Board. What else can the S.E.B.I. do if it is not capable of taking any action? What other authority does it have? If anyone suspects that some irregularity is there in a particular stock exchange, it should be detected. What will be the role of S.E.B.I. in this situation. For that purpose, it is not well equipped. If it is to be made effective in the real sense, it should be given autonomy and while making selection of its members, it should be ensured that the interests of small investors are duly protected. The position of the members of this Board is worse than that of a peon. In other words, the tenure of the members should not be left to whims and fancies of the Government. Such a situation should not be allowed to permeate. It should be given powers to enable it to act. This is our submission.

Since the turnover from Bombay is the highest, the headquarters of S.E.B.I. has been kept there. Our submission is that Delhi being the capital of India, should also have this kind of an arrangement so that there is direct control of the Government on the SEBI. It is in view of the maximum trading

activities in Bombay that the Government have chosen this city for the head quarters of SEBI. However, there should be a centre or this kind of an arrangement should be made not only in Delhi, but in all the metropolitan cities of the country. With these words, I thank you.

[English]

SHRIPRITHVIRAJD CHAVAN (Karad)
Sir, I rise to support this Bill. This Bill replaces the ordinance which was promulgated in January this year. Since 1985 Government under the Prime Ministership of late Rajiv Gandhi followed certain policies of liberalisation. Industrial growth rate during that period was one of the highest ever recorded. It was sustained during this entire period till 1989 elections when we seemed to have hit the wall. In April 1988 given the healthy development of the capital market, the Government constituted the Securities and Exchange Board of India. It was recognised that such a regulatory and developmental body is required to channelise the savings into the industrial sector. It was sought to be based on the pattern of the Securities and Exchange Commission of the USA and similar bodies those operating in many industrialised Western countries.

During the last three years the Board has gained valuable experience in order to address the needs of three groups of people: the issuers of the securities, the investors and the intermediaries. Today, there are over 15 million investors. Most of them are very small middle income people and pensioners, who are trying to invest their money in public companies. India has one of the largest saving rates among the developing countries. Today, due to the liberalised policies, dynamic policies, growth oriented policies of the Government there is a tremendously active capital market, share issues are being oversubscribed tens of times and hundreds of times. There are, in fact too

many investors trying to chase too few shares. There is a danger that or the small investor might get into the trap of misleading advertisements and might get hurt. Therefore, the time has come now to give more statutory powers to the SEBI. That is exactly what the Government has done.

There was a criticism about the need for issuing an ordinance. One could argue that ordinance could have been delayed. But the pace with which the reforms were taking place had generated such a tremendous confidence of a common investor in the future of this country that people were rushing to invest. It was necessary to signal that Government really intended to give teeth to the SEBI to regulate the capital market and also to give a warning to the unscrupulous intermediaries who might take advantage of the situation. That is why the government did not wait till the beginning of Parliament session and the ordinance was issued. I do not think there is much to be read into it. We all agree that this is a very welcome Bill. We could differ about the powers given to the SEBI. There is definitely a complaint that Central Government still retains a lot of control over the working of SEBI. I humbly submit that an institution of this nature can not be created overnight. In other countries it has taken decades for these institutions to function healthily. We can certainly come back later and try to give it more autonomy than what is being given today.

16 00 hrs.

One thing that is certain is that the Central Government would only retain its supervisory role in watching the growth of this organisation and see whether it is really and functioning properly and meeting the objectives which have been stated. It has to regulate and develop a healthy capital market. After sometime, Government will certainly grant it more freedom, independence and autonomy. More powers will come as

[Sh. Prithviraj D. Chavan]

the institution matures. It will be worthwhile nothing that there are already complaints from the stock brokers that this Bill goes too far, and that too much powers are already given to the SEBI by this Bill and that they have already been controlled quite substantially and what needs to be controlled are the other institutional intermediaries and not the stock brokers.

The Bill needs to clarify the position of the Controller of Capital Issue. Government has said that the CCI or the Government will not play any role in deciding the premium. The companies are free to charge any amount of premium as they want. It is a very welcome step. But Section 32 provides that the existing legislation would continue. It needs to be clarified the separation of powers between SEBI and the Company Law Board and CCI.

I will conclude by giving some suggestions. The financial position of the company has got to be clearly indicated. The present mechanism of half-yearly and audit report, etc. needs to be looked into. There is a need to strengthen this mechanism so that there is full transparency in the finances of a company, in order to make the picture clear to the public. It should be made mandatory and that information such as paid-up capital and the subscribed capital alongwith the names of the Executive Directors should be indicated in all the communications coming out to the public from the company and not only the prospectus, but all advertisements, and even in the letter heads. This minimum information should be there in whatever communication coming out to the public. This practice is followed in many European countries

Another suggestion though not directly related to the Bill but is important to be mentioned. There is a tremendously overheated capital market and many companies

are coming out with premium issues. The Central Government should impose tax on the premium amount. Something like 10 percent tax should be imposed on all the premium and this tax should be credited to the National Renewal Fund. We have the National Renewal Fund but we are not clear from where the money is to come. We require a huge amount of money and I think premium tax would be a very good source. Companies which are profitable and will reach huge benefits from premium issues, should be taxed to the rate of 10 per cent.

A fair and efficient Securities market is an important requirement to channelise the flow of savings. It is necessary in order to build a healthy industrial society. SEBI must eventually evolve into a very powerful organisation what the RBI is to banks, SEBI should be to the capital market. I request the House to support the Bill.

[Translation]

SHRI SHANKER SINH VAGHELA
(Godhra): Mr. Chairman, Sir, the hon. Minister has introduced, the S.E.B.I. Bill, 1992 in the House. I welcome it. He had to bring it in a hurry as the common man is taking participation in share market. Earlier there were eight stock exchanges in the country. With the passage of time there has been an increase in their number. Their number has come to eighteen now. In the past, a common man was not investing in it. But, these days he is investing in it. Earlier, big houses and big families were making investment. Now small people too, are making investment in it.

Mr. Chairman, Sir, we must take care of these small people. The S.E.B.I. Bill should take care of these people and educate them. It should train them as to which company and which share is better for transaction for the purpose of better return. The Government should make an arrangement to educate the

share holders and common investor so that their interests may be safeguarded. It is my humble request.

16.05 hrs.

[SHRI RAM NAIK in the chair]

If the small share holders lose the confidence, the mad race in share market will come to an end. Today, the share market is at its height. Generally, the man who used his excess amount in purchasing gold or urban land, is investing it in share market today. If he loses his confidence, the whole share market will come down. The Government will not be able to control the mad race in share market. Therefore, the Government should pay attention to it, first of all.

Mr Chairman, Sir there is a speculation and mad race in the share market at present. The company which spends maximum money on advertisements is succeeding in selling its issues at the earliest. The Government should fix the norms regarding advertisement budget for all companies. There should be a limit on advertisement budget. Keeping in view what Shri Jaswant Singh and other colleagues have said the Government should curb the expenditure on advertisements. Apart from the rate of shares sponsored by Stock Exchange every day, more information should be given to investors regarding the issues of the company which is either under liquidation or is in liquidation. People invest their money in companies which are in liquidation, without thinking. If the company is in liquidation, it should be mentioned in the list issued by the Stock Exchange. With the words 'with liquidation' in brackets. These companies should be banned. The Government should declare it publicly that these are unprofitable companies.

Mr. Chairman, Sir, the rates of shares

are going up many times than its original value. Margin money should be increased in case there is a hike of more than 20% in a year in a share of any company. If the rates increase continuously, then the margin money may be increased from 20% to 100%. If we increase the margin money upto 100%, we would be able to control the shares. A common investor may be nominated as Director in the Board of Directors. He should be knowledgeable person as regards the concept of share market. If unknowledgeable persons are made Directors, the interests of common investor could not be safeguarded. A qualified and knowledgeable person should be appointed to the post. After his appointment, corruption takes place at the time of issuing cards. People offer Rs. 3 lakhs for obtaining a card. The corruption is generated by those people who are appointed from here and who have made it a political profession.

I will conclude my speech after saying one thing. Mr Chairman, Sir some companies make offers to others to attract them in a bad manner. I am an M.P. They offered me the post of Chairman to the Board of Directors of the Company. I was Governor earlier. But now I am not. In this way they make an offer to an ex-Governor or ex-Minister and nominate him as Chairman temporarily. After few months, when the issues are closed he is removed from his post. The officials of a Company came to me. The name of the Company is (J.S.I.S.A., Indo-Japan Photo Films Company Limited, 40 Community Centre, Narayana New Delhi). I asked the name of the Chairman of the Company. They answered General Malhotra. I said if General Malhotra was the Chairman of this Company, you could do any business with him. Today, General Malhotra is not there. This Company is a big fraud. It collects crores of rupees from general public by way of fraud. Reputed people are nominated till the closure of issues and then they are removed after the issues are closed.

[Sh. Shanker Singh Vaghela]

Through you, I would like to say that those who are appointed as Chairman or Directors in the Boards of Directors should remain there at least for 5 years. It would be their responsibility for 5 years to ensure the smooth functioning of the Company. Whatever the status of the Company may be, distinguished people should be given a chance to come forward. It should be ensured that people are not removed after the closure of issues. If the people of some status remain in the Company, they will use their status in the interest of investors and in the interest of the company and not in the interest of some mischievous persons of the company. I would like that such type of system should be set up. It should be inquired into and good people nominated to it.

I would like to submit one thing more. If a company gets the excess amount than the issued shares, it should be made compulsory for the company to deposit the excess amount in Banks. This amount should not be left with the owner of the Company or with people issuing the shares. The amount for which the shares are issued should remain with the company and the excess amount should be deposited in Bank. The Bank and the company, should return the amount with interest to the concerned investors whose name have not been shown in the allotment list of shares. Such type of system must be introduced. Otherwise, it has been observed that the people of the Company does not return the excess amount for months together. Who will check the interest earned by the Company over Rs. 200-300 crore as excess amount for 2-3 months. It forms a large sum. Bank institution should come in the picture and it should remain the custodian of the excess amount. Only the capital equivalent to issues should be given to the Company. The Bank should give interest on the excess amount for the period it keeps the

money with it and should return the same to the concerned investors.

In the end, I would like to say that when the common man came forward, the S.E.B.I. had to assume greater role. You should take care to educate the common man. Now-a-days, many bogus companies are coming up in the market. It will be known from the advertisements appearing in newspapers daily that bogus companies are coming up in large number. It must be ensured that this responsibility should lie on the Board of Directors of each company. The Board of Directors of each company should function at least for 5 years. The excess amount should be deposited in Bank. There should be some arrangement to punish those who are indulging in any bungling. All these factors should be taken into account and in real sense the S.E.B.I. should be made a body for the welfare of common investors. It is my submission.

SHRI KAMLA MISHRA MADHUKAR
(Molihan): Mr. Chairman, Sir, outwardly the Bill appears to be very good but we doubt hon. Minister's real intention because it has been said in the statement of Objects and Reasons of this Bill that it has been introduced in the House to protect the interest of the investors and to regulate the market. None can have any objection if the Government really intends to do so. But it does not seem to be so. The fact is that the World Bank is dictating its terms to our Government. This Bill has been introduced to follow the policies of the World Bank. One can understand if the hon. Minister talks of protecting the interests of native investors but he is inviting the foreign investors alongwith it. I know that we need it, but we have to keep it in mind that we should protect the interest of the native investors and should not encourage the foreign investors because they are already equipped with all facilities and resources. Keeping in view the fact that there is corruption in this work, I hope that the hon.

approval of Securities & Exchange
Board of India Ordinance and

Exchange Board of India Bill

Minister would make his intention clear during the course of his reply to the discussion whether he wants to follow the dictates of the World Bank or he wants to protect the interests of India. We want a clear-cut reply.

Under the provision of the Board, which you have constituted, only the officials of the Central Government, Ministry of Law or the Ministry of Finance would be its members. I am unable to understand as to how investors' interest can be protected through them. I wish that you should make it clear whether investors have any role to play in the Board. It has not been said clearly whether they may become members of the Board or not. I request that these investors should also be made members of the Board so as to enable them to protect their interests in real sense. Another point to which you should pay attention is stability in the capital market as has been stated in the statement of objects and Reasons of the Bill. Sir, how can we achieve this stability through this Bill? This is no time for stability in the capital market which is vibrating in real sense. We do not think that the present situation in the country or for that matter that present Government will continue because this situation will change when the Communist parties start their agitation against the ill effects of the Government's policies. Prices are rising and so do the poverty due to the Government's policies. An agitation is brewing against it. So you should keep it in mind that the strides which the capital market is making are not lasting ones. Alongwith it there should be provision to protect the investors interests. You have said that there is a right to appeal and that its accounts are open for inspection through other medium. But I would like to say that this provision should be removed so that right of verification could be reserved exclusively for Comptroller and Auditor General of India. Doubts have been raised several times on this point in Parliament. These questions were raised when you were not in power. Moreover, is there any guarantee of proper

checking through other medium? How can you protect the interests of the native investors against the interests of foreign investors and invasion of foreign capital when your policy favours the latter? This point should also be incorporated in the Bill so that the zeal to invest the money could be maintained, capital invested by the native investors could grow and national policy on investment could be developed. The objective of the Bill is good but Government's intention appears to be bad. Having said this, I conclude my speech.

[English]

SHRI K. P. RADDIAH (Machilipatnam):
Mr. Chaitra, Sir, I rise to support the Securities and Exchange Board of India Bill, 1992 brought by the hon. Finance Minister and the Law Minister. The main object of bringing this Bill is to safeguard the interests of the small investors. Without going into the details of all other aspects which were discussed and narrated by the other party Leaders, I will speak only on one issue and that is the composition of the Board Members.

Sir, this has been done as if we were in 1947. When such legislations were framed earlier, the towering personalities like Pandit Jawaharlal Nehru, Rajendra Babu and Vallabh Bhai Patel were there. Now, the time has changed and the moral values have been changed. Therefore, in the present context, if the Government is really coming forward to safeguard the interests of the small investors, it should have a broad based Board and not with all the Government officers. For example, there will be a Chairman, two Members from the Finance and Law Ministries, one Member from the Reserve Bank of India and two Members will be appointed or nominated by the Government. All are nominated only by the Government. Where is the opportunity to hear the view points of others? Therefore, I request the

[Sh. K.P. Raddaiah]

hon. Finance Minister and the Law Minister to make the Board broad-based by duly appointing one person from any federation, one person from the Stock Exchange and one eminent person like Mr. Nani A Palkhivala or some other person who has got experience and whose credentials are not in doubt. Therefore, I request the hon. Finance Minister not to experiment in futility; if anything is to be done, it should be done in such a way so that it will create full confidence in the mind of the public. Therefore, the composition of the Board Members should be changed with provisions to nominate from these three sections of the society.

Suppose any corruption is going on, any fraudulent thing is going on, it starts from the very beginning; it starts from the broker or the licencee. While giving a registration certificate at various centres, you must give a thought, before taking action after something has happened, that only persons with integrity, with commitment and honesty shall be selected as brokers and agents. Therefore, in the first instance itself, we have to give a thought to select persons with integrity and honesty.

Clause 25(2) says that the Government, at any time, without notice, can remove the Chairman and the Members. After the Notional Front Government, we are expecting every two years, one year, that there may be a change in the Government. So, as soon as a new Government comes, definitely they will give a notice to terminate the Chairman and the Members; that should not be the case. Before any Government nominates a Member or the Chairman, they should give a thought about the integrity and honesty of a person. And when a Government has changed, they should not give a notice to terminate the Chairman and the Members of the Board.

I must thank the Government for bringing this new Bill whereby the real check on the blackmoney, the illegal money earned by the people of this country, who used to invest in the real estate, will be there. Now the trend has been changed. They are putting their money in the share market. It is a good thing because it will give boom to the industry. But there should be some mechanism to detect this blackmoney which is being pumped into the share market. Therefore, the Government should give a thought to have a separate mechanism how the shares are being purchased, from whom they are being purchased; and a register should be maintained of the real shareholders who should come there and sign; all sorts of checks should be there so that we can catch hold of the blackmoney people.

With these words, I thank you for giving me an opportunity to speak.

SHRI SYED SHAHABUDDIN
(Kishanganj): I thank you for giving me an opportunity to intervene in this debate. I welcome this Bill. It is, in fact, a measure which will go a long way to protect the interests of the small investors many of whom are inexperienced and are entering the capital market for the first time.

I want to make only two points. I would like to mention that in Section 4 the qualifications of two members have been left undefined. I feel it is an important lacuna in the Bill and some indication should have been given in the act itself about the requisite qualifications and experience of the persons who are to be appointed as members, apart from those who are to be nominated from the Ministry of Finance and the Reserve Bank of India.

I suggest that while framing the regulations the Government shall take care of that. I am not trying to suggest any names but I

suggest that both the industry and the public life of India should be represented in this very important institution.

Secondly, I would like to suggest to the hon. Minister for consideration that the Board should be directed to have a special cell or a special office for advising and counseling about the procedure of investment to the small investors. I think it is a very important step, there is an information gap and the full facilities of the expanding market cannot be democratically available to a larger section of the people unless such a counseling service is provided by the Board.

My last point is about Sections 11 and 12 read together. I find that the basic purpose of the Board is to regulate the activity of the stock brokers etc. and it also says that it has to monitor the activities of the stock exchanges. It may be due to my ignorance but I would like the hon. Minister to clarify whether this Board shall have the power either to de-establish the existing stock exchanges, if they do not work properly, or to establish stock exchanges in new places where new investment activity has arisen and where it is possible and desirable to bring in a large number of small investors and to provide a stock exchange within an easy distance.

Therefore, I would like the hon. Minister to explain whether under Sections 11 and 12 the powers that are there will not be limited merely to the monitoring of the activities of the stock brokers as individual firms or monitoring stock exchanges and in fact recognising and derecognising establishing and de-establishing the stock exchanges themselves.

With these words I support the Bill.

SHRI RAMESHWAR THAKUR: Sir, I am grateful to the hon. Members for the valuable contribution made by them. A number of useful suggestions and constructive

suggestions as one hon. Member mentioned, were given to us.

At the outset, I would like to mention that while framing the regulations we shall certainly keep in mind these valuable suggestions. We will try to ensure that the working of the Board is strengthened to fulfil the objectives for which the Board had been established.

Many hon. Members have just mentioned about —particularly in the opening remarks of Shrimati Geeta Mukherjee— the boom the stock market, particularly the recent boom. In this connection, I would like to mention that the stock exchange has a long history in our country. It has more than one hundred years history. The first stock exchange was established in Bombay in 1875. And thereafter, various other stock exchanges were also established. The first time when the stock exchanges were brought under regulation was under the Securities and Contracts Regulation Act of 1956, which came into force from 20th February 1957. At that time there were five stock exchanges in the country. As we are all aware, at the moment, we have 22 regular stock exchanges and we have a large number of investors. The number of investors has gone - as one hon. Member has mentioned - up to 15 million and the number is increasing day by day.

Mrs. Geeta Mudhrjee has mentioned that there has been a spurt in market, a boom, and it touched the new figure of 3, 800; whether it will be able to sustain and whether the Board will be able to regulate the activities of the stock exchange. I would like to mention that this boom in the market, particularly after the Budget, indicates the confidence of the investing people in the future of our economy and the policies that the new Government have adopted in the field of industrial growth, in the field of trade and fiscal policies. And combined with that,

[Sh. Rameshwar Thakur]

the bold and pragmatic Budget brought out by the Finance Minister has given a new boost to the stock exchange. And we find really the stock exchange has surpassed all other stock exchanges, the peak level of altogether including London stock exchange, Tokyo stock exchange. This is also a sign of the faith of the investing public in the economy of the country and the activities of the stock market.

I think, our regulations, our laws, and our institutions, are so well organised and the policy frame under which they are working is well developed and regulated; there should not be undue apprehension in the mind of the investors that there would be any kind of so-called crash in the stock market. Normal conditions at the moment are such that - as one hon. Member has said, and this is the study by many experts in the country and abroad - there is likely to be a long run bullish market in India. This is the reading at the moment and this depends on many factors in future.

Shrimati Geeta Mukherjee wanted to know as to what are the arrangements if there is over-subscription. We have a regular arrangement. It is actually not guided by this Board but it is under the Companies Act. First they are required to keep money in separate accounts and refund within the time stipulated with interest, where the money is kept overdue. and therefore, there is no such fear and certainly the Board will also take into consider this aspect.

The suggestions made by Shri Jaswant Singh include particularly regarding advertisements. On that he has expressed his concern. And it is a fact that Mutual Funds have given advertisements recently and in the past also. In this connection I would like to mention that recently the Government of India have issued guidelines to the Mutual

Fund and to the SEBI in regard to advertisements.

This portion is given in guideline no. 14.5:

"SEBI shall lay down a common advertising code for all mutual funds to comply with".

The other one is given in guideline no. 14.6:

"All mutual funds will be expected to submit to SEBI the texts of the marketing literature and advertisements issued to the investors".

And the third one is given in guideline no. 14.7:

"The marketing and publicity brochures for each scheme shall properly disclose the investment objectives, the method and periodicity of valuation of investments, the exact method and periodicity of sales and purchases and other details considered by SEBI to be essential for investors."

These guidelines have been issued only last month and we hope that these guidelines will be followed by all the mutual funds and others who advertise in this behalf.

SHRIMATI GEETA MUKHERJEE: You said that this is being monitored, i.e. over subscription as well as the return of the money to those who did not have the opportunity to buy the share is being monitored by the Company Affairs Department. Are you satisfied with our monitoring?

SHRI RAMESHWAR THAKUR: If there is any deficiency in over subscription, and if there are complaints, necessary action is being taken. But, now, it is not like the past one. There are now effective steps being

taken particularly in the case of over subscription. There are many issues where we have over subscription and under the provisions of the Companies Act, this is being regulated and the companies are answerable for over subscription and the refund of the money interest also if there is an over delay in refunding the amount, that is there.

In regard to the level playing field mentioned by Shri Jaswant Singhji, as we are all aware, it has been done and in the budget Speech of the hon. Finance Minister, this aspect has been dealt with. So far as the reform of the stock exchange is concerned, now SEBI has been charged with the responsibility that it has to equally deal with and make all the necessary reforms that are necessary. We are all aware that after this enactment when the regulations are made in detail, various other aspects which have come to our notice or where suggestions have been made by the hon. Members will be taken into consideration in providing them in the regulation to be framed for the SEBI.

About the return of allotment application money, I have just mentioned and it was a point mentioned earlier also. This is very important point.

SEBI has been asked to draft take over and merger regulations because for future, we want that there must be a regular if not on individual basis, but there must be regular proposition which should be drafted by the SEBI. In fact, the draft papers have already been circulated and we have sought for the suggestions and when the suggestions are received, these will be finalised. (Interruptions).

A mention has also been made in regard to the constitution of the Board. Many Members have mentioned about this thing. We have a composition of team in which there will be three representatives of the Government and two persons will be nominated to

it. It would be ensured after taking your valuable suggestion into consideration. Persons with proven merit, ability, maturity and experience will only be nominated so that they can look after the interests of the people.

The suggestion whether there could be a representative of the stock exchanges, needs careful consideration because SEBI is to regulate the affairs of the stock exchange. If we take the person from the stock exchange itself, whether he will be completely independent or not, but he must have the experience of dealing with the stock exchange. So, that aspect will be taken into consideration.

Shri Bhargava and other friends have also made suggestions with regard to the direction to be given by the SEBI. SEBI will exercise its authority. In any law, we have the residual power given to the Government. So, in circumstances where it becomes absolutely necessary to give direction, such direction will be given.

With regard to two Directors, those Directors shall not only be experts but will be whole time also and they will look after the interests of the various people. SEBI will take into consideration not only regulating the stock exchanges but will also take into consideration the formation of the stock exchanges. We have twenty-two stock exchanges. There is already a Report of the Pnerwani Committee which has suggested the establishment of additional stock exchanges, which is under consideration of the Government now. But whenever any permission is granted, it will take into consideration all the possible aspects. So, there is a desirable growth of stock exchanges. When there is necessity and if all other conditions are fulfilled, after careful examination they will be allowed.

As regards the other suggestions made by the hon. Members, the basic goal is to

[Sh. Rameshwar Thakur]

protect the interests of the investors and to regulate the affairs in such a way that there is no difficulty. All those aspects will be taken care of by the SEBI and by this Act and the regulations created thereunder. Therefore, I am hopeful that some of the provisions which the hon Members have got, will be taken into consideration and we will have a healthy growth, as is indicative of the present stock exchange position. In future also we will have a healthy growth of stock exchanges which is indicative of the strength of the economy and the future of the economy.

With these words, I commend the Bill to be passed unanimously.

MR. CHAIRMAN: Since Shrimati Geeta Mukherjee is not present in the House, I am putting the Statutory Resolution to the vote of the House. The question is:

"That this House disapproves of the Securities and Exchange Board of India Ordinance, 1992 (Ordinance No. 5 of 1992) promulgated by the President on the 31st January, 1992."

The motion was negatived

MR. CHAIRMAN: The House will now take up the Motion for Consideration. There is an amendment to the Motion for consideration by Shri Girdhari Lal Bhargava

[Translation]

SHRI GIRDHARI LAL BHARGAVA: Sir, I seek leave of the House to withdraw my amendment.

[English]

MR. CHAIRMAN: Has the hon. Member

leave of the House to withdraw his amendment?

SOME HON. MEMBERS: Yes.

Amendment No. 1 was, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That the Bill to provide for the establishment of a Board to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

MR. CHAIRMAN: There are no amendments to clauses 2 and 3. The question is:

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

The motion was adopted.

Clauses 2 and 3 were added to the Bill

MR. CHAIRMAN (Shri Ram Naik): There is an amendment by Shri Hari Kishore Singh. He is not here. I shall put Clause 4 to vote of the House.

The question is:

"That Clause 4 stand part of the Bill"

The motion was adopted.

Clause 4 was added to the Bill.

MR. CHAIRMAN: There are no amendments to clause 5 to 35.

553 Stat. Res. re. dis-approval of Cess and other Taxes on Minerals (Validation) Ordinance
CHAITRA 10, 1914 (SAKA) and Cess and other Taxes on Minerals (Validation) Bill

The question is:

"That Clauses 5 to 35 and the schedule stand part of the Bill"

The motion was adopted

Clause 5 to 35 and the Schedule were added to the Bill.

MR. CHAIRMAN: The question is:

"That clause; 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

SHRI RAMESHWAR THAKUR: I beg to move:

"That the Bill be passed".

MR. CHAIRMAN: The question is:

"That the Bill be passed".

The motion was adopted.

16.47 hrs.

STATUTORY RESOLUTION
RE-DISAPPROVAL OF THE CESS AND
OTHER TAXES ON MINERALS
(VALIDATION) ORDINANCE
AND
CESS AND OTHER TAXES ON
MINERALS (VALIDATION) BILL.

SHRI GIRDHARI LAL
BHARGAVA (Jaipur): Mr. Chairman, Sir, I
beg to move:

"That this House disapproves of the

Cess and other Taxes on Minerals (Validation) Ordinance, 1992 (Ordinance No.7 of 1992) promulgated by the President on the 15th February, 1992"

Certain States have been imposing cess and other taxes on miners. This had been struck down by Courts including the Supreme Court of India in different cases. As a result of the judgement in these cases, the State Governments became liable to refund cess and other taxes collected by them.

[Translation]

The Supreme Court and several High Courts of India have given judgements to refund cess and other taxes collected by the State Governments. This ordinance has been promulgated to stop the act of refunding the money because the State Government have spent the amount on their developmental activities.

Madhya Pradesh has to refund Rs.91 crore and Orissa Rs.112 crore. How will they be able to refund it? The taxpayers are lakhs in number. Who will receive it? This is a problem before the Central Government.

This is a fact that Central Government is not going to be benefited by imposing the cess. The State Government have spent it and several State Government have appealed to the Central Government to pass a law so that they may not have to refund the money.

My submission is that there were two cases, one of them was that of Messers Ferro Alloys Corporation Orissa Udyog and second was Orissa cement Vs. Orissa State - A.I.R. 1991 - S C 818-55 and the second was Orissa Cement Vs. State of Orissa - A.I.R. 1991 S C 1671-1771. I do not mean to say that the Government does not want to get the refund but the State Governments have requested you to do so. It is essential