

important self-employment scheme. I am given to understand that this move of the Government was basically aimed at curbing bogus societies of handloom weavers. It is not fair to discourage genuine societies just to curb some bogus ones. Such a move is likely to be self-defeating in the future.

I urge upon the hon. Minister for Textiles to take necessary steps to bring back the rebate scheme so as to benefit the lakhs of handloom weavers of Tamil Nadu.

(vi) Need to allow Government of Maharashtra to purchase Wheat directly from Punjab and Haryana

SHRI MADHUKAR SARPOTDAR (Mumbai North-West): Sir, on 18th September, 1996, the Food Corporation of India informed the Government of Maharashtra about the revision of price structure of wheat:

This revision caused injustice to the public and the Government of Maharashtra. The revised price has been enhanced by Rs. 200 approximately.

Previously, the FCI used to supply wheat to its godowns. And from such godowns, the Government of Maharashtra used to collect wheat for public distribution system and for open market at reasonable rates fixed by the State Government.

Since these revised rates are exorbitant, the Government of Maharashtra requested the Central Government to allow them to purchase wheat directly from the godowns of the FCI in Punjab and Haryana at the rate of Rs. 4,900 per metric tonne fixed by the Government of India. The transportation charges introduced by the FCI are exorbitant.

The private traders are allowed to purchase wheat directly from Punjab and Haryana. However, the Government of Maharashtra has been denied this facility. It is, therefore, requested that this matter may be looked into at the earliest and the Government of Maharashtra be allowed to use their own transport for purchase of wheat from the godowns of the FCI in Punjab and Haryana as per the quantity allotted by the Government of India to that State.

(vii) Need to provide sufficient irrigation facilities to Deoria, U.P.

[Translation]

SHRI HARIVANSH SAHAI (Salempur) : Salempur Tehsil in district Deoria of Uttar Pradesh is adjoining the Bihar State. The land of three tehsils of Salempur, Rudrapur and Deoria under the Deoria district falls between two rivers Gandak and Ghaghra and is very fertile. Wheat, rice and sugarcane are the main crops of this area in addition to

cultivation of oil seeds and pulses. But the farmers of this area have to depend upon nature to earn their livelihood. Prosperity of farmers of this area depends on rains but if nature does not favour them, they have to face starvation mainly due to inadequate irrigation facilities there. There is no canal and tube wells are there just for name sake. Population wise Deoria is the largest district of U.P. and in it Tehsil Salempur has the largest population. But so far no irrigation facilities have been provided to the farmers of this area. The land between Gandak and Ghaghra river is plain and very fertile but in want of irrigation facility, the farmers of this area are forced to live in poverty.

If a network of tubewells is provided in this area, the farmers can match the performance of the farmers of Haryana and Punjab in respect of wheat production and solve their own problems beside providing large quantity of foodgrain to the country. The land can be highly beneficial to the farmers if tubewells are provided there in adequate number.

I, therefore, urge upon the Central Government to take necessary action in this regard.

15.32 hrs.

STATUTORY RESOLUTION

Re : Disapproval of the Special Court (Trial of Offences Relating to Transactions in Securities) (Amendment) Ordinance, 1997 and Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill

[English]

MR. CHAIRMAN : Now, the House will take up Statutory Resolution.

Shri Annasahib M.K. Patil	—	not present
Shri Pramod Mahajan	—	not present
Shri Ram Naik	—	not present
Shri Girdhari Lal Bhargava		

Now, the time allotted for this item and consideration and passing of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill, to be moved by Shri P. Chidambaram is one hour. So, kindly be brief.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, it would take only a few minutes.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : I beg to move the following resolution :

"That this house disapproves the Special Court (Trial of Offences Relating to transactions in securities) (Amendment) Bill 1997 (No. 6 of 1997)."

Mr. Chairman, Sir, the ordinance and the Bill would be taken up simultaneously there is nothing new in it. This Bill has all those provisions which are contained in the ordinance.

[English]

Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill

[Translation]

There is a minor amendment in it.

[English]

In sub-Section 2 for the words "a sitting judge"

[Translation]

It reads

[English]

The word one or more sitting judges.

[Translation]

That means that instead of one sitting judge two or more judges can be appointed. The second amendment is:

[English]

In Section 3, for the words "Judges of the Special Court" at both the places where they occur, the word, the "Judge of a Special Court shall be substituted".

[Translation]

After amendment it reads :

[English]

"Where the Special Court consists of two or more judges, the Chief Justice of the High Court within the local limit of whose jurisdiction the Special Court is situated, may from time to time by general or special orders make provisions as to the distribution of cases among the judges and specify the matters which may be dealt with each of the judges".

[Translation]

It provides that where there is any court within the legal jurisdiction of a High Court judge. The High Court judge would decide as to which case would be heard and decided by a particular judge. There is nothing special in it. I welcome this Bill. On 6 June, 1992

[English]

The Special Court Trial of Offences Relating to Transactions in Securities

[Translation]

was formed and after its formation many amendments were made in it. It was formed because it

[English]

provides for the establishment of a Special Court for the Trial of Offences Relating to Transactions in Securities and for matters connected thereto or incidental thereto.

[Translation]

Similarly Section 5 reads :

[English]

"Conferred power upon the Central Government to establish a Special Court consisting of a sitting Judge of the High Court nominated by the Chief Justice of the High Court."

[Translation]

It so happened that there appeared 2910 cases in the special court and were registered. Then the Government felt the need of appointing more judges to settle these cases. It reads :

[English]

"Since establishment of a Special Court in 1992, about 2910 matters have been filed before the Special Court. In addition, the Central Bureau of Investigation have also registered 70 cases relating to irregularities in transactions of securities and in 18, chargesheets have been filed in this Special Court. With a view to expedite disposal of the cases pending in the Special Court, it has become necessary to appoint additional Judges in the Special Court."

[Translation]

This Bill has been brought to appoint additional judges in the Special Court. That is why I am not opposing it. But it has become the habit of this Government.

There was a gap of only one month between the last session and the current session. The Government did not issue even a single ordinance during the last session, whereas during this inter session period of one month they have issued thirteen ordinances. I want to tell this Government that only in case of urgency the President should be requested to promulgate an ordinance. I am opposing this ordinance because during this session of such a short period thirteen ordinances have been promulgated.

That is why I am opposing this ordinance but I welcome this bill introduced with a good intention after the ordinance. Now Mr. Minister may himself tell why the President was made to promulgate thirteen ordinances. Therefore I oppose the ordinance and support the Bill.

SHRI P. CHIDAMBARAM: I beg to move :

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

Mr. Chairman, Sir, the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 was enacted on the 6th day of June, 1992 to provide for the establishment of a Special Court for the trial of offences relating to transactions in securities and for matters connected therewith or incidental thereto. The Act conferred power upon the Central Government to establish a Special Court consisting of a sitting Judge of the High Court. The Government established in June, 1992 at Mumbai a Special Court consisting of a sitting Judge of the Bombay High Court, Mr. Justice S.N. Variava, for dealing with the cases.

Since the establishment of the Special Court in 1992, about 2910 matters have been filed before the Court. In addition, the Central Bureau of Investigation have also registered 70 cases relating to irregularities in transactions in securities and in 18 cases, chargesheets have been filed in the Special Court.

As the main objective of enacting the Act was the speedy trial of offences relating to transactions in securities, the Government considered the question of expeditious disposal of cases pending in the Special Court.

After consulting the Chief Justice it was pretty clear that one learned Judge cannot dispose of so many cases and that it will take many years for these cases to be disposed of. Hence, the position in law was examined whether the law itself allows the appointment of another sitting Judge of the High Court. The advice was that the law did not enable the appointment of another sitting Judge and that it would be better and prudent to amend it to make it clear that one or more Judges can be appointed. Accordingly, after consulting the Chief Justice of the Bombay High Court, Mr. Justice M.S. Rane, a sitting Judge of the Bombay High Court has been appointed as another Judge in this Special Court.

Trials were getting affected, trials were getting delayed. Therefore, it was considered necessary to promulgate an Ordinance, as Parliament was not in Session. Mr. Justice M.S. Rane has also assumed office and as in any other matter, there are more than one judge, who are hearing similar matters. The allocation of work is always left to the Chief Justice of the High Court. So, as between the two judges, the Chief Justice of the High Court will allocate the work. This, I say, will speed up the trials of these cases.

That is why, this amendment is being brought. It is completely a non-controversial amendment. As my learned friend has agreed to, I would urge upon the hon. Members to pass this amendment. There is not really much to discuss on this Ordinance.

MR. CHAIRMAN : Motions moved :

"That this House disapproves of the Special Court (Trial of Offences Relating to Transactions in Securities) (Amendment) Ordinance, 1997 (No. 6 of 1997) promulgated by the President on January 16, 1997."

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

[Translation]

PROF. RASA SINGH RAWAT : I welcome the purpose for which the Government has moved the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill. My predecessor speaker has explained the purpose of the Bill. I welcome this Bill but oppose the tendency of promulgating Ordinances. Securities scam is a blot in the economic history of India. The securities scam came in light after formation of Joint Parliamentary Committee. The securities scam involving an amount of Rs. 8,000 crores is the biggest scandal ever committed in banking sector in which name of many economic offenders such as Harshad Mehta, Jitendra Dalal and many others have figured. Prior to 1997 also the Special Court's had been set up and amendments were moved in this regard in 1992, 1994 and 1995. The Special Courts were established to try economic offenders as special powers were given to these Courts. Now the judges of the status of High Court judges have been appointed in these Courts. Now in place of these judges sitting judges are going to be appointed. It is also being discussed that in case there are two judges or more than two judges, then which case would be heard by which judge. The earlier Government, which used to be termed as the sleeping Government, has gone and now we have a Government which takes decision. So far as the previous and the present Governments are concerned, I think they are birds of the same feather.

MR. CHAIRMAN : Rawatji, what relevancy it has to this Bill ?

PROF. RASA SINGH RAWAT : That is what I am going to tell. The Special Courts were set up to try economic offenders to auction their properties, to prevent such scams and to bring these offenders to book. Through you, we would like to know as to how many cases have been registered by this Court, though, of course, Mr. Minister has stated that 2910 cases have been filed in these Courts. The CBI also registered 76 cases of irregularities in transaction of securities but could file charge sheets in these Special Court only in 18 cases. It is just like a drop in the

[Prof. Rasa Singh Rawat]

ocean. A number of big economic offenders are involved in this big security scam. JPC gave its report on this scam. The then Government also submitted the action taken report thereon. But despite all these exercises, nothing substantial has come out. 2910 cases were filed, out of them only 76 were registered but the accused persons were charged-sheeted only in 18 cases.

I would like to submit that during the last five years inspite of empowering the judiciary to that extent, not a single person could be punished and now the number of judges is going to be increased. I would like to know as to how much amount has been recovered in the Rs. 8000 crore security scam ? Whether their properties have been attached or their accounts have been sealed. I would like to know as to how much amount has been recovered through these seized accounts and attachment of property.

Sir, through you, I would like to know from the hon. Finance Minister that although Government is going to provide more powers to these special courts and judges but in these courts also.

[*English*]

Justice delayed is justice denied.

[*Translation*]

The procedure followed by judiciary is quite cumbersome. Earlier it was stated that cases in courts were delayed due to civil procedure code. At that time these special courts were allowed to lay down their special procedure for the speedy disposal of these cases.

Sir, public memory is very poor. The guilty persons of these bank scams have not been punished even after 4-5 years. as a result, the number of scams have also increased. Recently I have read in newspapers about a scam in the Indian Bank and it is alleged that prominent politicians are involved in it. Several writ petitions have been filed in this regard in the High Court and Supreme Court. In the name of judicial activism, hearing on these petitions is started on the public interest, at earliest. Special courts are set up for it. Parliamentary committee was constituted which lasted for 18 months and submitted its report. Later on Jankiraman Committee was constituted. Several efforts were made to check these economic offences but the number of bank scams did not decline. Today economic offenders are roaming freely. Sir, through you, I would like to know :

[*English*]

What are the reasons of the slow pace of progress of these trials ?

[*Translation*]

What are the reasons for the slow pace of progress and delay in the disposal of these cases. There were two types

of cases in bank security scam — first the Rs. 8000 crore share scam in which share brokers were involved, secondly, the scam involving Rs. 36,000 crore regarding disinvestment in public undertakings. In total it was a Rs. 44,000 or Rs. 45,000 crores scam. Several matters since 1990 were pending about embezzlement of funds in National Housing Banks etc. Later on it was decided that matters raised after a specific date of 1991 will be taken up. I would like to know how much money has been recovered so far in these scams.

[*English*]

At what stage the cases are going on ?

[*Translation*]

I would like to know as to how many cases are still at investigation stage. In how many cases chargesheets have been filed, how many cases have been disposed of and how many persons have been punished so far ? Please tell all these points in details.

Sir, I would like to add one more point which relates to banks and security scam. Sir, through you, I would like to know as to

[*English*]

What steps this new Government has taken to reform the banking system ?

[*Translation*]

More such scams can take place if this new Government kept on following the old procedure. You may go on setting up new courts and filing such cases but the persons like Harshad Mehta may keep on roaming fearlessly. Recently there was a news in newspapers that most of the economic offenders have gone abroad or gone underground and running their business on a fictitious name and agencies. Government has set up SEBI to regulate the share market but it seems that the Government lacks will power, essential to deal with economic offenders and to check such type of Banks scams. Public invest money in shares and now a days banks too are coming out with their issues and it seems that at present control of the Government on banks has been declined. Budget has been presented. I do not like to mention the amount of external debt on Indians but there is no improvement in economic condition, inflation rate, budget deficit and other related problems. This Bill will be passed as we are supporting it. Later on 2 or 3 judges will be appointed for special courts after seeking the consent of the Chief Justice of High Court and Supreme Court. But I would like to draw your attention towards a constitutional question. In 1992, a suggestion was given to bring a comprehensive Bill after discussion for setting up special courts. Till now four amendments have been made therein and I do not know as to how many more times it will be amended. This ordinance has been brought in hurry and

thereafter you will introduce another Bill to remove the 'lacunae. Standing Committee have been set up for every Ministry. Whether the Bill regarding setting up special courts or any such matter should not be referred to committee for discussion ? Only after it, the Bill should be passed after discussion on it in Lok Sabha. This Bill has been brought to replace the ordinance. Mr. Chairman, Sir, I seek your protection and leave this issue to your discretion as to what guidelines should be issued to the Government for paying attention towards it in future.

MR. CHAIRMAN : Rawatji, please wind up your debate.

PROF. RASA SINGH RAWAT : Mr. Chairman, Sir, I will conclude after this point. Civil cases should be disposed of at the earliest, as the concept of justice is being followed in the House. I would also like to know as to what steps are being taken by the Government to check the likely interference and pressure of World Bank and IMF in economic condition of the country. There should be a time bound programme for hearing of cases regarding economic offences for their speedy disposal. People should have a feeling that one would be punished for the crime committed by him. The wrong message will be conveyed among public if big economic offenders are not caught and punished and they will have a feeling that good and efficient lawyers can save them. The Government should pay attention towards it.

Mr. Chairman, Sir, much has been said about the need for improving our banking system. What measures are being taken by the Government to check scams taking place in the name of economic liberalisation, implementation of Jankiraman report and strengthening the financial institutions. The House should be informed about the action proposed to be taken by the Government against the banks defaulters, tax evaders so that misuse of funds can be checked. An intelligence department under C.B.D.T. has been set up to check economic offences. It should be strengthened by giving more powers and cases should be presented in such a way that the judge can decide them at the earliest.

MR. CHAIRMAN : Rawatji, please wind up you have covered so many points and taken the allotted time.

PROF. RASA SINGH RAWAT : Sir, I support the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill, 1997 and hope that judicial process will be expedited to settle these cases at the earliest so that economic offenders can be punished. The public should be told that on the basis of the Action Taken Report on Security Scam how many guilty persons have been punished so far and how much recovery has been made ?

With these words, I thank you for allowing me to speak.

[English]

SHRI AJAY CHAKRABORTY (Basirhat) : Mr. Chairman, Sir, I rise to support this Bill which has been moved by our

hon. Finance Minister. I wholeheartedly support this Bill because this Special Court Amendment Bill deals with serious offences like economic offences and economic offenders, who were holding high and key posts of our country and most of them are very rich and are the richest persons of our society.

This is a very important Bill. This Bill will help to expedite the cases which are pending year after year before the Special Court. It is our experience that not only in the Special Court but in every Court, in every stature of the Court, a large number of cases are long pending. And people are waiting for the judgment on those cases. Before the judgment comes, people are going to pass away from this world. So, I think, this Bill will expedite the disposal of the cases. Those cases which relate to economic offenders and which come within the purview of this Special Court Act should be disposed of as soon as possible after their registration.

I would also like to point out to the hon. Finance Minister and this House that it is our duty to see that the prosecuting agency is cautious and takes care in prosecuting the offender. It is also our experience that due to lacunae of the investigating agency and due to the reluctance of the prosecuting agency, in most of the cases the offenders are being acquitted. This is our experience. After registering a case, the investigating agency is not taking much care to investigate the case properly. After filing the charge-sheet in a final form, there is some lacuna and defect in the prosecution of the case. The prosecutors are duty bound to prosecute the offenders. They are very much reluctant to do their duty; particularly the lawyers, who appear for the prosecution, are not taking much care to prosecute the offender. In this case we should be cautious to see that the prosecuting agency takes care to prosecute the accused person properly.

Sir, this is a proper time to amend this Act. So, I support this Special Court Amendment Bill wholeheartedly.

[Translation]

JUSTICE GUMAN MAL LODHA (Pali) : Mr. Chairman, Sir, the proposed amendment in the Special Court (Trial of Offences Relating to Transactions of Securities) Amendment Ordinance, which is being passed as Bill, is quite simple and technical amendment. It says that more than one judge can be appointed if required for the special courts. I have no objection to this amendment.

16.00 hrs.

Mr. Chairman, Sir, the 86 crore people of this country are being misled in the name of special courts. Sir, you and whole public of this country know about the Security Scam in which Harshad Mehta and his colleagues were arrested.

[Justice Guman Mal Lodha]

Hundreds of cases have been filed against them, which revealed that high bank officials, politicians and some other influential persons were involved in this scam. They embezzled the hard-earned money of poor people, hence they should be imprisoned. This money should be recovered and cases should be filed against them. But it is a bitter reality that so far, Harshad Mehta has not been awarded sentence so far even for a day in any of these cases. It is also a fact that Harshad Mehta is still playing havoc with the stock market and still considered benami stock market king. He is still misleading the public by using score of names and roaming scot-free and causes fluctuation in stock market. Our Finance Minister, officials of stock exchange, the entire prosecution and Intelligence Branch and all the concerned officers have not been able to prevent him from doing that. I would like to know from the hon. Finance Minister as to whether the National Security Act, COFEPOSA Act and other preventive measures are not sufficient to arrest and check the activities of the guilty persons who swallowed the money of poor people and to prevent such activities so that such scams could be checked in future. But why these persons have been given so much freedom? I would like to know as to whether the Finance Minister and the related departments are not aware of this fact or our Intelligence Department is so inefficient or corrupt or are they hand in gloves with the culprits, that is why they have been given freedom to that extent. He is still considered hero of Indian stock market and creates fluctuation in stock market, this all reveals that the public is being misled in the name of special courts. The Government lacks commitment, strong will, burning desire and firm determination in the implementation of its policies. It is just a camouflage and protective cover to give freedom to persons like Harshad Mehta for looting the poor. Therefore, I would like to say that the Government should clarify its views as whether it will keep on misleading the public or will arrest Harshad Mehta. Reliance is a big company. Crores of Indian people have made investment in UTI especially after retirement, people had invested their fund, like P.F., Pension, gratuity with a confidence that it is a Government organisation and the government have so many rights in its Board of Directors and thus there cannot be any scam. But it is a fact that people from Reliance company and higher officials of UTI had woven a conspiracy and artificially created fluctuation in stock exchange to raise the prices of shares of Reliance Company which were later on purchased by UTI. UTI had not purchased shares worth Rs. 10 or 20 lakh but shares worth thousands of crores were purchased. This benefited Reliance Company and other rich people. UTI purchased these shares on artificially created higher prices. It means that UTI committed a breach of trust with poor people who deposited their hard-earned money with UTI. According to an estimate about Rs. 50,000 crore has been earned by Reliance Company and as a result of it UTI totally collapsed.

What will happen to the economy of the country if Reserve Bank of India collapses. Now we came to know that the Governmental or semi-Governmental institution for savings in the country has collapsed due to conspiracy.

Now when people sent the share of UTI like Master Gain and Master Share to encash, they are told to wait due to paucity of funds. What will be the plight of the country if RBI refuses to pay Rs. 100 for paucity of funds? Hon. Minister has been a meek spectator of this scandal. No CBI inquiry has been conducted into the matter at any stage. No case has been filed so far in this regard. When senior Minister and allied Minister of a Government maintain silence on such matters it means that —

[English]

Silence is the half consent.

[Translation]

They agree to it.*

I charge the Finance Minister that Finance Minister, all the officers, enforcement officials, officials of stock exchange, police officers and CBI were involved in this embezzlement of billions of rupees transacted between UTI and Reliance Company. That is the reason why no officials of Reliance company have been arrested and sued so far. Neither the property of any person has been attached nor anything recovered from anyone. I demand that the Chairman or Managing Director of UTI, whosoever is found guilty should be brought behind the bars...*(Interruptions)*

[English]

MR. CHAIRMAN : Justice Guman Mal Lodha, these are very serious charges that you are levelling — A Member's speech in the House is a protected and privileged piece.

JUSTICE GUMAN MAL LODHA : I am levelling them to protect the interests of crores of investors of India.

[Translation]

I demand that hon. Finance Minister should institute an inquiry into this matter. I know that our present Finance Minister is also an eminent jurist and expert of law. I demand that CBI inquiry should be conducted into this scam to find out the guilty. Who is responsible for looting the billions of rupees through this transaction after artificially raising the prices ? The guilty should be put behind the bars.

In this era of Judicial activism guilty persons should not be spared whether he is related to any political party or holding higher post. He should be put behind the bars.

Mr. Chairman, Sir, these Business Magnet and big Business Houses keep on evading the law by greasing the palms of concerned authorities. I, therefore, request to conduct a CBI inquiry into it and those found guilty whether they are officials of UTI or owners of Reliance Company should be sued.

Mr. Chairman, Sir, the hon. Member from Nagpur has written four letters to the Finance Minister that billions of rupees had been embezzled by violation of FERA. The

*Expunged as ordered by the Chair.

House should be informed about the guilty persons. Chidambaramji has admitted that FERA had been violated and billions of rupees have been embezzled but so far the investigation of this forgery case is concerned, CBI inquiry is still going on. Revealing the names of guilty persons cannot be considered appropriate because it will hamper the investigation and create hurdle in prosecution.

Mr. Chairman, Sir, through you I would like to know from the hon. Finance Minister as to why he was worried about it as CBI inquiry is being conducted and for it F.I.R. is lodged which is an official judicial record and anyone can buy a copy of it for two rupees. Why he wanted to conceal this information ? I demand that the correspondence between Purohitji and the Finance Minister and names of the bank officers and other persons involved in this forgery should be made public so that the people of this country should know the truth.

Mr. Chairman, Sir, I support this proposed amendment to the Special Court (Trial of Offences Relating to Transaction of Securities) Amendment Bill. But persons like Harshad Mehta should be put behind the bars under the Preventive Detention Act or COFEPOSA so that they could not loot the hard-earned money of public. Preventive and Punitive action should be taken against the owners of Reliance Company and Chairman or Managing Director of UTI if their involvement in this forgery is proved. In the interest of investors, the guilty persons should be punished deterrently. Mr. Chairman, Sir, I thank you for giving me a chance to speak on this issue.

[English]

SHRI BALAI CHANDRA RAY (Burdwan) : Mr. Chairman, Sir, I rise to support this Bill. However, I want to point out certain features mentioned in the Bill which should have received the attention quite earlier.

This Bill provides for Special Court for trial of offences in respect of transactions in securities committed between 1st April, 1991 and 6th June, 1992. This was the time when the securities scam of about Rs. 5,000 crore had surfaced in the country and it was necessary that the Government came out with some measures to satisfy the people that something is seriously being done to see that in future at least such scams do not take place. But has this Special Court been able to achieve any part of it ? It has not. Surprisingly, one Special Court at Mumbai has taken cognizance of 2,910 cases—3,000 cases. Seventy charge-sheets have been submitted. That is mentioned in the Object of the Bill itself.

What is devised in the Bill is that the High Court judge shall, for the first time, try cases of this nature. That means, first time, the trial initiates at the High Court level. A judge of the High Court is the judge of the special court. There is an ambiguity here. It is an accepted norm now all over the world that trial on facts should take place at two stages. If

the High Court tries or the judge of the High Court tries in any form, either as special court or otherwise, then a second inquiry on facts is to be before the Supreme Court. The amendment itself points out the delay that will take place.

16.16 hrs.

(SHRIMATI GEETA MUKHERJEE *in the Chair*)

It has already been mentioned that the Mumbai High Court is unable to cope up with the number of cases there. One judge cannot deal with it. Therefore, more judges should be appointed and there should be a scheme for transfer of the cases from one judge to another, and that will be by the Chief Justice of the High Court.

The Act had been challenged when it was introduced in 1992. Its values have been challenged before the Mumbai High Court and also before the special court itself. It had succeeded in pointing out that this is a well-classified legislation and then there is no violation of Article 14. But now the Chief Justice of the High Court shall transfer the cases. This provision is made that the Chief Justice has no jurisdiction over the cases which are filed before the special court and when transfer comes, he will transfer the cases and assign from one judge to another. I do not know how far it will survive the scrutiny of another challenge. But, in any event, this is clear that as of today, during the last five years, no effective result has been delivered by any special court created under this Act.

Sir, in the past five years, for a limited period from 1st April, 1991 to 6th June, 1992 — the present Finance Minister is not responsible for the legislation itself — there was a scam which just was an earthquake in the country. It shook everybody, every knowing person, all knowledgeable people. As a result, a legislation was devised and was just handed down to the people that here is the law by which those who are involved in the scam will certainly be tried and punished. In five years, nothing has been done.

There is one question to which immediately, all of us, I think, should closely attend to. We are always thinking of alternative fora for dissolution of disputes and all resulting from such a situation. A peculiar situation is presented in the country all of a sudden and you see either a special court or a Debt Tribunal or a State Special Court — various types of tribunals and courts. An examination of the activities of this tribunal, its capacity to dispense with justice, will only show that the arrears accumulated there are no less than in ordinary courts — in some cases it is much more. Before alternative fora are thought of, the infrastructure to be given to that alternative fora and the procedure that has to be devised for early disposal of cases, have to be found out. They have not been found out. The result is the stagnation. In this country all alternative fora are stagnant except, possibly, the Debt Tribunal. To know the way in which the Debt Tribunal disposes of cases, one has to go before the Tribunal and see for himself.

SHRI SOMNATH CHATTERJEE : Only the green belt is supreme....(Interruptions)

SHRI BALAI CHANDRA RAY : The judge of the Debt Tribunal only asks : 'Have you taken the money or not?'

Whether it is a small amount or a big amount, he will ask, if you have taken the money, pay it back. Then, there is no explanation. After all, we have never conceived that justice should be delivered in that form. This is not the summary trial. In some tribunals, same form of taking evidence and written statement in the name of alternative plaint or petition is followed, which is just like the form followed in High Court. It takes years to dispose of the cases. This special court has yet not been able to dispose of the cases quickly, particularly, the cases of that nature, occurring in the country in a short period. When it will have no impact, what is the significance of this Tribunal ? If this Tribunal or let us say Special Court, after 10 years delivers a judgement, the people will forget by the year 2001 or 2002 what had happened between 1st April, 1991 and June, 1992. The idea was to give the country a decisive verdict that those who are guilty have been punished and their properties have been attached. The apparatus that we have discovered is totally insufficient for that and is incompetent.

Moreover, one thing I want to point out is that the High Court is always in arrears of cases. Large number of cases have accumulated in High Courts and the Law Minister on the other day had made a statement that in the whole country the arrears are of more than three crores in Trial Courts, High Courts and all courts. High Court is in arrears of cases. We take High Court judges to try those cases. After all, offences in securities are not very complicated offences. These are all, more or less, the offences of cheating and fraud. The offence of cheating and fraud are tried by Magistrates or Assistant Sessions Judges quite competently. Then, what is necessary is expeditious disposal. If you put the High Court judge to do all the duties of a Magistrate, then you increase the arrears of the High Court. We do not know how does it help this forum. In any event, what I suggest is that if an alternative forum has to be there, this forum cannot be the forum manned by High Court judges. This could never have been thought of.

High Court is a court of record. Normally, the idea is that it can try all cases including the cases of contempt unless that case is taken away by a procedural law. Now, that High Court judge is asked to try a case of magisterial jurisdiction. Then again, sufficient means have not been provided so that it could dispose of cases within the short period. It was established in 1992. We could very well understand its speed. Sometimes, High Court judges are taken away for inquiry of aircraft crash. That is quite understandable. But if the High Court judges will be meant for trying cases of the jurisdiction of a Magistrate for years together and if they will go on doing this for coming 10 or 15 years, that will not help, according to me, the justice

system in the country nor will it achieve the object that was thought of that it will achieve.

I would suggest one thing that another aspect should have also been thought of when it was conceived. I cannot blame the present Finance Minister who is just bringing an amendment. Now, for cases of fraud and cheating of equal dimension — it is not a question of whether it is violative of Article 14; it is a question of policy regarding dispensation of justice in a civilised country — some people for such offences will go before a first class Magistrate or Assistant Sessions Judge and others will have the umbrella of a High Court judge for the trial of having committed the same type of offence. The only object is to delay the trial and that object has succeeded. By now, nothing has been done and nothing will be done. People have started forgetting the scam of Rs. 5,000 crore. By the time one or two decisions come, people will totally forget it.

It may be Rs. 5,000 crore or Rs. One lakh crore, but the people will forget all about it in 10 or 20 years. Therefore, speedy trial should be done and justice should be rendered quickly. Nothing can be achieved by the scheme that was conceived in 1992 to which we are bringing an amendment now.

Madam, the strength of the High Courts is fixed. It cannot be increased just as a matter of convenience for one kind of trial. You take away three or four or five judges from that court and reduce it into a smaller court to the detriment of the people in general whose cases are pending in the High Court. Therefore, if alternative forums have to be thought of, there should be, I think, a Commission or a Committee to go into the entire question of alternative forums for dissolution of disputes. If there should be such a forum, everything should be examined and then such an amendment should be brought.

This amendment is nothing but for addition of one more judge and about the mechanism of transfer. But that does not raise any question of either objecting or supporting the Bill. It is more or less a neutral situation in which we are there. If the Act remains, the amendment has to be supported certainly and more judges have to be given. But at the same time, this will not achieve the object. Therefore, an attempt should be made to see as to how the alternative forums are working in the country. All sorts of special courts have been devised in this country and a country which is incapable of presenting to the world that we have a uniform system of justice itself defeats the purpose for which it exists and that is what we are going to do by this type of diverse system of justice to diverse cases.

With these words, however, I support the Bill.

SHRI NIRMAL KANTI CHATTERJEE : This proposal boils down to the associated amending Bills, adding to the size of the High Court as well as the Supreme Court. Would he agree that such a thing should be done ?

SHRI BASAVARAJ RAYAREDDI (Koppal) : Madam, this Bill can be passed without any further discussion. I do not think that any further discussion is required for this Bill.

MR. CHAIRMAN : Shri Ram Kirpal Yadav is the last speaker on this Bill.

SHRI NIRMAL KANTI CHATTERJEE : Madam, may I interrupt for a minute ? We have a meeting of the Standing Committee now and I am one of the speakers on the next Bill which is to be taken up after this one. I am just in a dilemma. If I leave for that Committee meeting and that Bill is taken up and deliberated upon, the House may be saved or at least my leader will be saved. So, what can be done? Can it be that it may be taken up tomorrow ? (*Interruptions*)

[Translation]

SHRI RAM KRIPAL YADAV (Patna) : I will finish in two minutes. I am the only person who remains to speak.

[English]

MR. CHAIRMAN : Let Shri Ram Kirpal Yadav finish his speech and in the mean time, you can settle what is to be done.

[Translation]

SHRI RAM KRIPAL YADAV : Madam Chairperson, I rise to support the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill, 1997 introduced by the hon. Minister.

Several hon'ble Members have expressed their views on this Bill. There is no doubt in it that the objectives of this Bill reflect the will of the Government. The Government's intention is to set up special courts by way of this Bill and settle the cases which are pending since long time and only with this objective the Bill has been brought. We all know that due to certain loopholes in our banking system a great security scam, involving thousands of crores of rupees, has taken place. This scam was much talked about not only in the entire country but in the whole world. I hold that it was an unprecedented and unfortunate incident which had created many doubts in our people's minds. They had started thinking whether the people involved in such big economic offence would get punishment or not ? This was a general impression among the people. Our hon. Member has said it correctly that five years have gone since 1992 but so far no concrete results have come before. It seems that people's memory in this respect is vanishing gradually. By setting up such special court, the Government want to dispose of such cases. It has been clearly mentioned in this Bill that a special court will be set up by the Chief Justice, High Court in consultation with the Chief Justice of India which will dispose of the cases related to the security scam expeditiously. Intention of the Government is crystal clear. Our many hon. Members from opposition have said that the Government wants to hush up the issue. But the intention of the

Government is very clear and that is to give rigorous punishment to the economic offenders and to get the cases disposed of expeditiously. With these objectives, the hon. Minister has moved this Bill in the House. I think that all Members should unanimously support this Bill. The hon. Minister should take care that no such scams take place in the future. The Minister should have to take note of this incident so that people involved in such economic offences are discouraged. If it requires any amendment that should be done and the guilty persons should be given the most stringent punishment so that the money of the poor, which has been looted on large scale, is looted no more in the future. A large number of such cases are pending settlement in many courts. They are not being disposed of with as much speed as they should be. I would say that the hon. Minister has taken a good step by bringing in this Bill. In case, the economic offences which have surfaced require any further amendment in the dealing laws, that should be done so that the matters pertaining to economic offences are filed in the Court, people involved in those cases are prosecuted and awarded punishment.

I would also request the hon. Minister to frame the charges against the persons found involved in the cases of security scam more effectively and get them disposed of. I do welcome the amendments moved by you in this regard and request to take such action in the matter so as to prevent the scamsters from indulging in such financial bunglings in future. They should be given the most stringent and rigorous punishment to teach them a lesson so that they dare not indulge in such activities again in future. At the same time, cases are also disposed of in the shortest possible time by the special court.

With these words, I conclude by extending my support to this Bill.

[English]

SHRI P. CHIDAMBARAM : Madam, I am grateful to the hon. Members for the views expressed by them while intervening in the discussion on this Bill. I am grateful that everyone of them has supported the amendment. All that we are doing is enabling the appointment of more than one Judge as a Special Court in order to speed up the trial of cases. I think, the appointment of another Judge of the Mumbai High Court, in addition to Justice Variava, will speed up the trial of cases.

Madam, there is a misconception that Justice Variava's Court has not dealt with these matters expeditiously. I wish to dispel that impression. I think that Justice Variava has done a tremendous job in dealing with thousands of petitions and suits that have been filed before him. I have with me an abstract of matters disposed of until the 28th of August, 1996. Two thousand nine hundred and ten applications, petitions, suits, chamber summons, notices of motion,

[Shri P. Chidambaram]

contempt notices, remand applications, criminal cases and garnishee notices, were filed before the learned Judge. He has disposed of 2,099 of them; each one of them involves questions of facts and law. And I think the Judge has done a tremendous job in dealing with a very complicated set of cases. There are now 811 cases pending, and we think that the appointment of another Judge will speed up the disposal.

There is also a misconception that no action has been taken so far. According to the information that I have, action has been taken against 54 officials of banks. Of these, punishments have been imposed on a number of people — 18 have been dismissed, two have been compulsorily retired, and other punishments have been imposed upon other officers. In 42 cases, sanction for prosecution has been given. There was some comment about one of the accused by name Harshad Mehta. I have with me a list of cases in which Harshad Mehta is shown as an accused. Many of these cases are in an advanced stage. For example, in RC 51 — framing of charges; in RC 2 — arguments on the charge; in RC 50(a) — inspection of documents; in RC 7 (a) — draft charges; in RC 8 (a) — supply of documents; in RC 41 (a) — prosecution's evidence; in RC 41 — arguments on charge; in RC 52 — draft charges, and in RC 9 — arguments on draft charges; these cases are going on. I believe, the said accused was arrested on 4th June, 1992. The Ordinance was promulgated on 6th of June, 1992. He was in custody for several weeks or months and, eventually, he was released on bail. If he is on bail today, it is on the orders of the Court; the Government cannot interfere with an order of the Court.

Some comment was made about the validity of the provisions that I am bringing. As the House knows, the validity of this Act was challenged before the Mumbai High Court. The High Court has upheld the Act. I believe, certain specific sections have been challenged in one petition before the Supreme Court, and in another petition before the Delhi High Court. We are satisfied that the Act is valid. We are also satisfied that the Amendment that we are bringing, namely, allowing one more sitting Judge of the Mumbai High Court to act as a Special Court along with Justice Variava, is correct.

DR. SHAFIQU'R RAHMAN BARQ (Moradabad) : Is it only for Mumbai ?

SHRI P. CHIDAMBARAM : He is the sitting Judge of the High Court.

SHRI SONTOSH MOHAN DEV (Silchar) : Now-a-days, 'Bombay' is referred to as 'Mumbai'.

SHRI P. CHIDAMBARAM : I said 'Mumbai' only. May be, my cold is making 'Mumbai' into 'Bombay'.

I am also bound to disclose to this House that as on 31st July, 1996, 41 persons were notified under the Act.

Also, securities of the value of Rs. 2,674 crore have been attached and are pending. It is not as though these cases are being delayed. They are being tried as expeditiously as possible and I think the addition of one more judge will further expedite the cases.

I request hon. Members to cooperate and pass this law.

JUSTICE GUMAN MAL LODHA : I want to ask one clarification. The hon. Minister has said that many charges have been framed, papers are given and applications have been disposed of. I want to know pointedly whether any of the card-holders of the stock exchange, not to talk of Shri Harshad Mehta, any one, has been convicted by now. This is number one.

Secondly, I want to know whether any one has been sent to jail by substantive imprisonment because after four years if we are at the stage of introduction by way of giving of documents or framing of charges, it means that the trial, by the time it comes to the Supreme Court, would take another 50 years.

So, I want to know what is the situation about the conviction and sentence to jail, whether any one broker or stockholder has been convicted.

SHRI P. CHIDAMBARAM : The hon. Member ought to know better than I do how trials take place. The point is, this Act came in 1992. That was challenged and that was later upheld. Then petitions were filed. Today we have reached the stage, as I have explained, where prosecution evidence has been recorded in one case against one of the principal accused. We have reached that stage. Trials do take place in this country and they do take a lot of time. My information is, subject to correction, no one has perhaps been convicted so far by the Special Court. But from the information that I have furnished, it appears to me that many of the cases are at the advanced stage and we should leave it to the courts to conclude them as quickly as possible.

SHRI NIRMAL KANTI CHATTERJEE : I was in the Scam Committee. The question partly arises from that.

JUSTICE GUMAN MAL LODHA : You were in the scam!

SHRI NIRMAL KANTI CHATTERJEE : How can I be when you are there already ?

JUSTICE GUMAN MAL LODHA : I was not there in the Committee!

SHRI NIRMAL KANTI CHATTERJEE : One line of investigation — it is not strictly related to this Bill — which we are insisting for the last three or four years is that in fact the share transactions value was about Rs. 13 lakh crore. I submitted before the House also that out of that and, in the same way as the Income-tax Department calculates, at least Rs. 1 lakh crore was earned. We wanted in the JPC

report also that the cheques from Shri Harshad Mehta and others should be traced to find out who were the other persons who are involved in the whole game. I am once again raising this issue. I failed with the earlier Government. Let me see whether I will succeed with the United Front Government, whether even any token cheque chasing will be done of the cheque issued by Shri Harshad Mehta and followed up to the farthest end. Can that be done? Can there be an assurance? The House is discussing about the people involved in these frauds etc. So, they should also be caught as parties involved in the fraud. What is your policy in this regard?

SHRI P. CHIDAMBARAM : I am not in a position to give an off the cuff answer. I will look into it.

[Translation]

SHRI GIRDHARI LAL BHARGAVA : Mr. Chairman, Sir, the people who are sitting in the treasury benches today, used to sit earlier in this side.

KUMARI MAMATA BANERJEE (Calcutta South) : Earlier they were in communist.

SHRI GIRDHARI LAL BHARGAVA : You are in the wrong. You are only extending your support and you have got to play only this much role. Now these people are sitting in that side but earlier when they used to be here, they made much hue and cry over this issue and raise the issue of security with much vigour. All these people, including Ram Vilas Paswanji, used to make much hue and cry but today they are in power.

Therefore, it is my request that, in case, if you are setting up special court then try to see that matters are tried expeditiously. If this is possible then this exercise is going to be fruitful, otherwise, introduction of this Bill, setting up of special court, appointment of judges is going to serve us no purpose. Today the situation is, I am sorry to say, that if you call someone leader, it would imply as if he is involved in some scam. Today the definition of the word 'leader' has changed. This has become a very vicious and subtle word. Today who is not scam tainted in the entire country. If I name somebody, it would not be proper. I want to say that, today, nobody is away from some or other scam. Slowly and gradually the secret of everyone is being made public. There are so much so scam related cases today that even the setting up of numerous courts, I doubt, will suffice for their trial.

Sir, 70 scam cases were detected in the county whose number has gone up very high so far. Newspapers and TV channels are daily reporting some or other scam news. Sometime it is reported that Chandraswamiji and his companions have been interrogated and sometime others. Out of 2910 cases made out, irregularities have been found committed in 78 cases and out of these 78 cases only 10 cases have been filed. Action has been taken only in respect of 10 cases. A sum of Rs. Eight thousand crore are involved in the security scam. Everybody demanded to take action

against Harshad Mehta. We are not opposing your this move rather we are supporting you for having brought in this Bill. At least you are making some attempt in this regard which we appreciate whole heartedly. What I want is to expedite the trial otherwise elections and we people also are losing our credibility. People are raising their fingers on everyone among us. Take action against the persons found involved in the scam. It was your sheer luck that you survived your downfall and remained in power. The reason is that the Congress party does not want elections right now for he fears the prospects of BJP coming to power...*(Interruptions)* I want you to divulge the details of the scam cases and disclose the names of the persons who have been found involved in the security scams. This is my request to you.

[English]

SHRI P. CHIDAMBARAM : Shri Girdhari Lal Bhargava, confine to the subject, please...*(Interruptions)* One hour is allotted for this. Already one-and-a-half hours' time is over. It should have taken five minutes.

[Translation]

SHRI GIRDHARI LAL BHARGAVA : Further, I would like you to let us know as to what remedial measures you are going to take for banking improvement. You are a good Finance Minister. You have presented the Budget but what provisions have you made for effecting improvement in the banking system. You are inviting some foreign banks by giving them certain exemptions in your Budget. We are producing many things in India itself and in view of this, we should discourage the use of foreign goods. Otherwise our domestic industry is bound to suffer. These all things should be taken into consideration by you.

My party does not oppose the Bill brought by you rather we are supporting it but the point is that you should nail the corrupt people and debunk their identity before the public. And this should be done expeditiously. I want you to ensure that special court do function expeditiously. So far I have been opposing this Ordinance, which has been promulgated by you in a hurry but now since you have made the things clear enough, I do support this Bill. The Resolution to repeal this Ordinance was moved by me but since you have brought this Bill with good spirit, I do withdraw my Resolution by extending my support to this Bill. I hope and I request that you will take action in this regard as early as possible...*(Interruptions)*

Sir, if the House wants me to withdraw my Resolution, which I have moved to repeal the Ordinance, then I have to let the will of the House prevail.

[English]

MR. CHAIRMAN : Is it the pleasure of the House that the Resolution moved by Shri Girdhari Lal Bhargava be withdrawn?

The Resolution was, by leave, withdrawn.

MR. CHAIRMAN : The question is :

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

The motion was adopted.

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

The question is :

"That Clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

MR. CHAIRMAN : The question is :

"That clause 1, the Enacting Formula and the long title stand part of the Bill."

The motion was adopted.

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

SHRI P. CHIDAMBARAM : I beg to move :

"That the Bill be passed."

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

16.53 hrs.

STATUTORY RESOLUTION

Re : Disapproval of the Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Ordinance and Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Bill

[English]

MR. CHAIRMAN : The House shall now take up Item Nos. 16 and 17 together. Shri Rasa Singh Rawat to speak.

[Translation]

PROF. RASA SINGH RAWAT (Ajmer) : Madam, Chairperson, I beg to move the following Resolution :

"That this House disapproves the Special Court (Trial of Offences Relating to Transactions in Securities) (Amendment) Ordinance, 1997 (No. 6 of 1997) promulgated by the President on 16 January, 1997."

Madam, Chairperson, the Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Bill, 1997 has been brought in the form of an Ordinance. I would like to oppose the tendency to bring in a legislation in the form of an ordinance. This Ordinance given assent to and promulgated by His Excellency the President of India on 24th January, 1997 whereas just two days after that occasion, we were going to celebrate the Republic Day on 26th January. This Republic Day assumes much significance as this year we are celebrating the Golden Jubilee Year of our Independence but the Ordinance was promulgated just two days before the Republic Day. This tendency should meet opposition.

Madam, Chairperson, I through you, would like to remind the people sitting in front of me that when they used to sit in these Chairs earlier, they were in the habit of protesting almost each and every Ordinance. They used to term every Government as a Government which believes only in Ordinances. Several references of several legislation were used to be given by these people. Such sentences were repeated many a time that Ordinances should be promulgated only in an emergency like situation in the country or when possibility of convening the Parliament session seems far away or when the country is likely to suffer any unavoidable loss. Any Ordinance should be promulgated only in such conditions. Otherwise in a normal situation, when Parliament is in session, the Government should introduce a Bill then it should be referred to the Standing Committee of the concerned Ministry where it should be discussed hair breadth. Members of all party should cut across their party line and give their valuable suggestions which should be taken into consideration by the Committee and then only the Government should introduce that Bill in the House for discussion. This is the way to follow the democratic system properly but when these 13 parties, which are having conflicting view points on every thing, do say that they have got full faith in democracy and they respect it, it becomes unbelievable. I, through you, would like to know as to why this Ordinance was promulgated with so much hurry ? So far the Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Bill was in effect and we were, however, managing the things to get on and there should have been no need to bring in this Ordinance in a hurry. I, through you, severely condemn the tendency of promulgating the Ordinances in this way. I also charge this Government for not showing due respect to this House and not taking the Parliament seriously. This is the reason that this Government is resorting to Ordinances time and again and avoiding deliberations on different issues.

Sir, howsoever good or bad a law may be, but it is very necessary to have a good source for reaching your targeted