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SHRI J. S. RAJU (Tamil Nadu); Sir, I associate myself.

SHRI N. E. BALARAM (Kerala); Sir, I too am associating myself. I think it is a very serious allegation if it is true. What is happening in our country. I do not know Government has to see to it.

THE VICE-CHAIRMAN (SHRI SATYA PRAKASH MALAVIYA); Special mentions are over. Now we take up the Statutory Resolution and the Special Court (Trial of Offences relating to Transactions in Securities) Bill, 1992. They are to be discussed together.

STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE SPECIAL COURT (TRAIL OF OFFENCES RELA-TING TO TRANSACTIONS IN SECU-RITIES) ORDINANCE, 1992 AND

THE SPECIAL COURT (TRIBAL OF OFFENCES RELATING TO TANSACTIONS IN SECURITIES) BILL, 1992

SHRI JAGDISH PRASAD MATHUR (Uttar Pradesh); Sir, I beg to move;

"That this House diaspproves of the Special Court (Trial of Offences relating *to* Transactions in Securities) Ordinance 1992 (No. 10 of 1992) promulgated by the President on the 6th June, 1992."

श्रीमन, जिस उद्देश्य से यह बिल लाया गया है उस उद्देश्य से किसी की मतभिग्नता नहीं हो सकती लेकिन जिस
प्रकार से ये बनाया गया है ऐसा लगता है या तो अध्ये मन से बनाया गया है । इसमें
बहुत जिल्दी में बनाया गया है । इसमें
बहुत सी कमियां हैं । जब से यह बैक
का बोकाना कियां रिटीज की गड़नहीं समाने
अध्ये तबको साना के चिका है कि सिन्ह
तबको साना के स्वित्त है कि सिन्ह
स्वाह विकास साना के सिन्ह से साना से साना

बिल लाया गया है इसके साथ-साथ इसके नियम भी ग्राने चाहिए ये क्योंकि जब तक रूप्स नहीं बनेंगे तब तक किसी बिल को लागू करना ग्रसंभव है। तो मैं माननीय मंती जी से जानना चाहूंगा कि क्या इसके ग्रंतर्गत बनने वाले हल्स ग्राप इस बिल के पास होने के बाद सामने लाएंगे ग्रथवा नहीं? मेरा ग्राग्रह है कि हल्स जल्दी से जल्दी बनाए जाने चाहिए लेकिन इसमें एकाध किमयों हैं। महोदय, पेज 2 पर जो सैक्शन 3(2) है उसमें कहा गया है कि—

"The Custodian may, on being satisfied oil information received that any person has been involved in any offence relating to transactions in securities after the 1st day of April, 1991 and on or before the 6th June, 1992, notify the, name of such person in the Offical Gazette."

मैं पूछना चाहता है कि यहसीमा आपने बांधी क्यों है ? यदि 6 जुन 1992 के बाद कोई धपला, कोई गड़गड़ या जुर्म सामने स्राता है तो उसको क्यों वरी कर रहे हैं यह विडंबना है कि आपने यह पीरियड बांध दिया है कि इस पीरियड के भीतर जो सामने ग्रांएगे उसको सकेगा । इसरे मैं कस्टोडियन तय कर कोई वकील नहीं हूं लेकिन छोटी मोटी इसमें भ्रटैचमेंट की जानकारी मुझे है । यहां पर व्यवस्था की गई है। लेकिन सब जानते हैं कि अटैचमेंट सिविल प्रोसिजर कोर्ट से गवर्न होता है । **ग्रटैचमें**ट करने के वाद कोई सिविल प्रोसिजर कोर्ट में चला गया तो मामला वर्षों तक लटका रहेंगा। तो मामला जो भी हो वह जल्दी मुलझे यही सरकार की मंशा है । सरकार की मंशा जल्दी सुलझाने की है वह इस बात से प्रकट होती है कि उन्होंने सुप्रीम कोर्ट को अपेलेट ग्रंथीरिटी बनाया है, हाई कोर्ट को छोड़कर सुत्रीम कोर्ट को बनाया है । जो भी जुर्म में प्राड्डा गया उसके अटैचमेंट को लेकर सारे मार्मले लटके रहेंगे तो इस विषय की ग्रांध किस प्रकार से सुलझाएंगे यह भी बताने की कैया करें।

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Court and the Special Court Bill, 1992

[Shri Jagdish Prasad Matihur] श्रीमन, इसमैं कई चीजें ऐसी हैं जो हवेग जैसे सेक्शन 4 में दिया गया है—

"Provided that no contract or agreement shall be cancelled except after giving to the parties to the contract or agreement a reasonable opportunity Of being heard."

कोई सीमा बाँघ दी जाए, यह जो रीजनेबल पीरियड कहा है इसमें वह बाहेंगे तो किसी को कुछ समय देंगे, किसी को कुछ समय देंगे। तो रीजनेबल की व्याख्या की अभी चाहिए अन्यया इत्स के ग्रंदर उसकी स्पष्ट क्यास्या की जानी चाहिए।

दूसरी एक चीज इसमें ब्रटपटी मालूम होती है। इसमें कहा गया है—

"The Special Court shall consist of a sitting Judge of the High Court nominated B]y the Chief Justice of the High Court."

लेकिन आगे पावर्स में कहा गया है---

"... and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and shall have .all the powers of a Court of Session."

यह भी विडंबना है कि हाई कोर्ट का जज बैठेगा लेकिन उसके पास ग्रधिकार सेशन कोर्ट के होंगे। आपने हाई कोर्ट को अपेलेट न बताकर सुप्रीम कोर्ट में अपील की बात कही है। दूसरी इसमें और भी एक विडंबना है कि—

"While dealing with any other matter brought before it, the Special Court may adopt such procedures as it may deem fit consistent with the principles of natural justice."

तो इसका पोसिजर क्या होगा ? क्या इस की केवल उनको समारिटी दी नहीं है या ध्रस्स में प्रोवाइड करेंने या क्या करेंते, यह बताने की क्या करें। इसी प्रकार से इस में कही नहीं दिया
गया है कि कोई मुजिरेम पाया जाए तो
उसको सजा क्या दी जाएगी । मैं समझता
हूं कि सैक्यूरिटी ऐक्सबेंज कंट्रोल बोर्ड
ग्राफ इंडिया का जो विल पास किया है
गायद उसी के अनुसार उनको सचा
दी जाएगी । यह मैं स्पष्टीकरण चाहुगा
कि सजा जो दी जाएगी वह सेवी के
ग्रंबर ही दी जाएगी या जो जिमिनल प्रोसीजर
कोड 1973 है उसके ग्रंबर दी चाएगी।
इसमें कोई सफाई नहीं की गई है कि
सजा कितनी होगी । इसमें ग्रंगर देखें
तो ग्रंगर सजा सेवी को जो ऐक्ट हो गया
है उसके सेक्शन 24 में कहा गया है—

"The violation of any rule or provision made thereunder shall be punishable with an Imprisonment which may extend up to one year or a fine or both."

तो इतनी कम सजा दी जाएगी इतने बड़े घोटाले के लिए, क्या यह उचित है? मुझे दिखाई देता है कि इसका स्पष्टीकरण होना चाहिए और इसकी कोई न कोई सफाई दी जानी चाहिए । अंतिम बात कहकर मैं समाप्त करूगा । जहां पर साइविसिटीज को पूरा करने का सवाल है:

"The following liabilities sha]i be paid or discharged in full, as far as may be, in the order as under."

पहले दिया है रेबेन्यू टेक्सेज सरकार के हैं। दूसरा दिया है—

'All amounts due from the parson. so notified by the Custodian to any bank or financial institution or mutual fund."

ग्राखिर में दिया है---

"Any other liability as may be specified by the Speaial Csort from time to tune."

नत्त्व का है ? इसमें किसी बानुकी आदमी का पैता तथा हुया है । वैसे संबी कुछ केत बांक क्षाके इस्टेरेस्ट की हैंब कही फिला करा। में पूक्ता पाईका कि उनका जो इन्ट रेस्ट है, उनका जो हित है उनकी रक्षा करने का ब्रापके पास क्या है ? सरकार ने अपना पैसा तो ले लिया लेकिन जो गरीब का पैसा कहीं लगा हुमा है, मामूली ब्रादमी का पैसा ल्का हुमा है और उसमें घपला मिलता है तो भ्रम्बल तो उसका घटेचमेंट करना चाहिए, पैसा मिलेगा कितना मिलेगा. परमात्मा जाने, लेकिन जो भी मिलेगा मामुली भादमी के हित की रक्षा के लिए कुछ न कुछ किया जाना चाहिए।

अंत में मैं फिर साग्रह करूंगा कि इसको बोड़ा संशोधित करके और जो कमियां हैं उनको दूर करके, रुल्स बनाकर उनको जल्दी से जल्दी लागु किया जाना चाहिए । मैं चाहुंगा मंत्रीं महोदय यह अश्वासन दें कि इसको रूल्स कम से कम इस सदन के उठने से पूर्व ही हमारे सामने आ जायेंगे तो इस उद्देश्य की पूर्ति में यह बिल सहायक हो सकता है।

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI DAL-BIR SINGH): Sir, I beg to move:

> "That the Bill 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, as passed by the Lok Sabha, be taken into consideration."

The Government received the first interim report of the Janakiraman Committee on the irregularities in the securities transactions of banks and financial institution on 2nd June, 1992. The Government acted promptly in the matter. The President promulgated the Special Court (Trial of Offences relating to Transactions 'in Securities) Ordinance, 1992 on the 6th of June, 1992. The Ordinance provided for the establishment of a Special Court for the trial of offences relating to transactions in securities and

incidental thereto. Some rules also franed and notified by the

ment on the 6th of June itself. The Government appointed Shri A. K. Menon, Additional Deputy Comptroller and Auditor General as Custodian under Section 3 of the Ordinance on the 6th of June, 1992 itself. Justice S. N. Variava, a sitting Judge of the High Court at Bombay was nominated to head the Special Court, in consultation with the the Chief Justice of the High Court and the Chief Justice of India on 10th June. 1992. Both the Custodian and the Special Court have started functioning. The Custodian has notified the names of forty persons and institutions under the provisions of the Ordinance in order to prevent the diversion of the property of the offenders.

The Central Bureau of Investigation has so far registered ten regular cases against various individuals and institutions who were found to be involved in offences relating to securities transactions. The investigations of the CBI are continuing. As started by the Finance Minister on the floor of Parliament, all possible action is being taken on priority basis for appropriate penal action against the guilty.

constitutional validity of the Special Court Ordinance was challenged in the High Court at Bombay. On 24th July, 1992, after hearing the parties, the High Court dismissed the writ petition. The Stock Exchanges had also field peri' tions before the Special Court in Bombay. After appearance of the Attorney General before the Special Court on 27th July, 1992, the Special Court have issued ruling regarding the effect of the notification issued by the Custodian. The Government have taken into consideration these developments as well as the suggestions received for beneficial improvements in the Ordinance while converting it into an Act. The matter conalso discussed in the Cabinet and certain amendments of clarificatory nature have been proposed. The Finance Minister also had informal discussion of this matter with some of the Oppolition leaders on 7th August, f992. The Govern311 Statutory Resolution seeking [RAJYA SABHA] (Trial of Offences relating 312 disapproval of the Special of transactions in Securities)

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[Shri Dalbir Singh.]

ment share the concern expressed in the House regarding the irregularities in securities transactions and is committed to take prompt action against the offenders and to prevent the recurrence of such irregularities.

This Bill has already been passed by Lok Sabha. I submit that this Bill may be taken into consideration and passed unanimously and expeditiously.

The questions were proposed 3.00 P.M.

SHRI DINESHBHAI TRIVEDI (Guja rat): Sir, the previous Bill which were discussing just now and the presentone show-it is just a matter of coincidence and it goes to prove the pointthat we are getting far too liberal fas as Ordinances are concerned this is the danger point. I am not very sure whether we would like to follow the example of the Government of Bihar in the matter of promulgation of Ordinances-they have hundreds and hundreds of them and it has become a way of life with them and we have strictures from the Supreme Court also-or we want to set an example, not only to Bihar, also to the rest of the country that we mean business. And. Sir, as far as Ordinances are concerned, we have got to be very very careful and we cannot make it a rule. I have serious objections to taking our privilege, the privilege of the House, away by way of Ordi-In this connection, I seek your nances. permission to cite a Supreme Court case which again deals with the Government of Bihar and it is the famous case Mr. Wadhwa versus the Government of Bihar. With your permission. I would like to quote that. It says:

"The power conferred on the Governor. ..". here the Governor is mentioned; but, in the case under discussion, it is the president—"is well within his right. But the power to issue an Ordinance is in the nature of an emergency power."

Sir, they are talking of emergency powers, It-should be noted. Again, it says

"The power to promulgate an Ordinance is essentially a power to meet extraordinary situations."

Now, Sir, there are two things which come out of this and this is the observation made by the Supreme Court. One is that the situation has to be extraordinary and the other is-that there has to be an emergency. So, the very fact that you have come up with an Ordinance shows that you are conceding the fact that the financial situation or whatever occurred was a state of emergency. It was extraordinary, and you could not have waited for the House to meet and to present the Bill which would in turn become an Act. Now, having confessed that it was an emergency, the next question is who was responsible or who is responsible for this state of emergency.

Again, I would like to quote from the famous Supreme Court judgement in the case of Kuruvilla in 1961 wherein the Reserve Bank of India, has been given tremendous powers. Sir, I do not want to take the time of the House by quoting all this. But I would like to come to the question as' to who was or who is responsible for this situation which is extraordinary, this state of affairs which is termed or implied as an emergency. Who is responsible?

Sir, the honourable Finance Minister has gone on record, has utilized all the platforms, saying that it was a case of system failure. But I would like to draw his attention through you, Sir, to the fact that we have an Act, the Banking Companies Act of 1949, which very clearly defines this policy, the banking policy, The Reserve Bank is supposed to be the watchdog agency and it defines the policy. I do not think there is any ambiguity in it. It says:

"This policy means.."—I am quoting from the Act—"any policy which. is specified from, time to time by the Reserve Bank in. the interest of the banking system,

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in the interest of monetary stability or socio-economic growth having regard to the interests of the depositors, the volume of deposits, other resources, etc. etc."

Sir. the moot point here is the stability of the financial, economic dealings of the country. And who is the watch-dog? Which is the agency? And I must say here. Sir, we are very very proud of that agency, the Reserve Bank . of India. Today, we have seen that the Reserve Bank of India itself is found wanting. And again, the Supreme Court judgment I referred to says further to the effect that if the Reserve Bank of India is found wanting, then the only other agency which can intervene is the Central Government through Ministry the Finance.

So. Sir, my question is: Who is responsible? Who is reponsible for Sir, here 1 am on the subject of promulgation of this Ordinance which we are discussing as a Bill. Now, who is responsible for this extra-ordinary situation? There has to be one thief, one person or a set of persons or organisations or associations which are termed as a party to the loot, who have conducted this loot on the nation. which is. an .anti-national activity. Sir,, there has to be always two parties., Which ,is the other party? Who was responsible to keep, a watch? Who was responsible to see that the gates of security are closed and properly locked, and there is somebody watching over? So, there has to be two parties. In the case of the financial systems of the country, enormous powers --- I again say at the cost of being repetitive—are conferred on the Reserve Bank of India by -Acts of Parliament, The Reservs Bank of India was really the watch-dog agency There could the two Situations, Sir One they were a party to the loss or they were totaly negligent in barying out their constitutional duties and obligations for

which they are there by an Act of Parliament. Sir, in both the cases, I repeat, in both the cases, they are a party. In the first case, they are a party because they have connived with the looters. In the second case, they have not done their part of the obligation and duty. May I ask, Sir: What is the provision here? I do not find any provision in this particular Bill which says about not only those who have looted but also those who are responsible for bringing the looters to the door and, perhaps, helping to a certain extent. Now, so many names of people in responsible positions, be it politicans, be it bureaucrats, be it managers or executive, have found their way. Sir, I do not find any kind of provision by which this particular Bill will pinpoint responsibility and accountability.

Sir. sow I come to the technical point—which I would want the hon. Minister to respond—as to what was the emergency. - We all know as to what has happened. Perhaps, we sitting here would know more. What was the emergency and how are you going to treat both the looters and those people who are responsible for letting in the looters?

Sir. the technical part of the Bill, sub-•laase (2) of Clause 2 says: 'The Custodian may, on being satisfied on information received that any person has been involved in any offence..." Sir; here, I am referring to the word 'offence'. The word offence' not been clearly has defined. What kind of offence; what Offence under which Act, are you talking of I "feel that it should have been made more clearer—this is quite ambiguous that an offence means so and so under such and such Act which also includes such and such. So, there is no scope for any kind of ambiguity which is there at the moment.

Coming back to the point of loot and who was responsible" for Keeping the , doors. ..open, I think, we are getting into a situation where tter accused is going to clear his own case and on that parti-

[Shri Dineshbhai Trivedil cular case, the rest of the world is going to be debating about. I am coming to the Janakiraman Report itself because we are all deliberating, whether it is the C.3.I.. whether it is the Special Court, whether it is the Members of Parliament in both the Houses, or perhaps the JPC itself, and they are going to depend totally on the Janakiraman Report itself. My objection here is as to why we include an agency which itself is a suspect in the public eye. I am coming to the Public Debt Office which was a part and parcel of the scam. The sequence which has taken place, to the best of my knowledge is like this. Because the account comes under the Public Debt Office wnich is a part of the Reserve Bank of India's office, the sequence of evchts which I have here is that when the statement, that is, the SGL, was received by the Fund Management Department from Bombay's main branch on 6-4-92, there were some discrepancies and over-writings on it. The SGL coining from the Reserve Bank of India's Public Debt) Office and it goes to the Fund Management Department, or the Here. Sir. I have to be a little technical to- prove my point. An officer from the FMD was sent to the Public Debt Office, It is in a reverse order. An officer from the FMD was sent to the Public Debt Office of the RBI reconcile the statement of that branch with the Public Debt Office, and that is where they found that there was kind of a correction in RBPs PDO. was found that in case of 11.5 per cent, the figure of 2010 was shown and the figure of Rs. 1670.95 crore was altered cleverly by someone before sending the statement to FMD. The point I am trying to make is that the Public Debt Office was very much a part and parcel aggravated. The of this scam getting scam would never have reached this proportion had the Public Debt Office been vigilant, and the hon. Finance Minister himself-not really referring to PDO has gone on record saying that the RBI should have definitely been more vigi-Now this term 'more vigilant' is a relative term. What *I* am trying say is that there is no provision in this

THE VICE-CHAIRMAN (SHRI SATYA PRAKASH MALAVIYA):
Your time is already over. Therefore please conclude in one or two minutes

SHRI DINESHBHAI TRIVEDI: will conclude in two minutes. In con elusion, I would like to say that the Ac has no scope to deal with these matters I am sure, I have no doubt, and always pay compliments to the hon Finance Minister that he has got such a good track record as far as his honest) While a lot of is concerned. things are getting unearthed, I do not know whether he has seme other political compulsions because of which the agencies are not allowed to function freely. I do not know if there are any political constraints. It has always happened with hones people that they may want to go ten steps forward but because of political compulsions, instead of taking a step forward, they go a step beebward. We hold the Reserve Bank of India in very high esteem and in order to enhance its prestige, there is no reason why we should try and protect individuals. The inquiry is still going on, the CBI is still at its work, but I don't know how the hon. Finance Minister has given a clean chit to the Governor of the RBI. I really don't know why. Is it not true that by giving such clean chits you are sending a message—in this country political mesare there—intentionally or otherwise, not to touch the Governor or the RBI at all because they are above board? What is the basis? It means the hon. Finance Minister would know much more than the CBI and if he does, then we would like to know what the further details are.

Lastly, Sir, the scam—because of the scam we have the special courts and that's why I am referring to it—could never have had such proportions had the bureaocrats, politicians, people in public service, people who are supposed to he the custodians of the faith—4 am not talking only in terms of money but the faith—the people of this country had put in them, have not only neglected their duty, but at places there has been

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Bill, 1992
SHRI N. E. BALARAM (Kerala):

We have the case of connivance also. a Padma Vibhushan, Mr. Krishnamurthy. Can you imagine it? This is the first time that a man with a Padma Vibhushan is in jail — and what are charges? The charges are anti-national activities-that he was trying to destabilize the economy itself. The point I am trying to prove is, there is no provision by Which you are going to set an example so that in future these things do not occur. So I would humbly plea with the hon. Finance Minister whether he would like to incorporate some such clause by which two things may happen: (1) You still give a chance to an independent body, besides the Janakiraman Committee, to investigate further. There is nothing, wrong. At times we consultation from two doctors, three doctors, so that, may be, there is a cross-Would he consider check of the system. including that? Would he also consider some kind of a clause in this Whereby you pinpoint responsibility ...

श्री चतुरानन मिश्र : पदस विभूषण का क्या हुन्ना । वे वापस करेंगे ?

श्री दिनेश भाई विजेदी: वही हम पूछ रहे हैं कि अब यह पदम विभूषण जो दिया गया है....

भी पतुरानम मिश्राः वह देने काही कातून में कि वापसा भी लेने का ?

भी विभेश भाई तिबेदी : वही हम पूछना बाहुल है कि यह हमने दिया

That is a black spot. When you talk of it, it is unfair on other recipients of Padma Vibhushan. It is just a very, very rare case, and I have no doubt that As othes who are there well deserve it. But it is a black spot. So I would like to ask the Government what they are going to do about it. is there any provision? I know that the has not yet been on that, but is there any provision by which you can recall this? . . (Interruptions) .. I drink, shows that we have to be Very, Very careful in giving these decorative awards

SHRI N. E. BALARAM (Kerala): Let us stop it at least for 25 years.

SHRI DINESHBHAI TRIVEDI: Like the Games, is it? Like Barcelona we had discussed, that we don't send people for Games? Like that we will stop this also. ... (Interruptions)...

Sir, the rate at which people are getting bought over—and it has an approval also-I think it has come to a very dangerous proportion. Sir, I am very sad today that the reputation of the entire country is samething which it doesn't deserve because I am still confident that the majority of the people of this country, specially the poor, are very honest, very humble and very law-abiding. just because of a very small fraction of the people of this society, namely, the people who are sitting at Gangotri. And we are the people—the politicians, the bureaucrats-who are sitting on top from where the Ganga is flowing, and we are the people who are part and parcel, in some way or the other. May be that percentage is small, but that small percentage is good enough to create a big virus and really take the health of this So, I would plea with nation for a ride. the Government not to give an impression — you know Madhavan has resigned and all that — that you would like to cover up more which may not be your intention, but I must tell you that is the signal going that you would to segregate those whom you want to punish from those whom you do not want to punish. There is the question of Fairgrowth and the question of Chaturvedrs and all those people involved in it.

In conclusion, 1 would plead: please let this he totally transparent. Please ask the public. Hear everybody. Don't close your mind. And least of all, don't start giving clean chits to "anybody.

I support tile Bill, all right.

Thank you, Sir.

SHRI MADAN BHATIA (Nominased): Mr. Vice-Chairman, Sir, I rise to support the Bill, and I wish to *congra-*

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Court and the Special Court Bill, 1992

Madan [Shri Bhatia] Government for rulate the having brought before this hon. House this particular Bill in furtherence of its repeatedly declared determination that any person who has been involved in this gigantic fraud, by which some people dealing with public money, public securities, enriched themselves and at the same time created tremendous misery for a large number of common men, must be brought to book speedily and must be punished with exemplary punishments. This particular point has been missed by the hon. Member who has preceded me.

The hon. Member has not correctly appreciated the scope of this Bill. The scope of this Bill is a very limited scope. It has two facets: One is that a machinery should be established for speedy and expeditious trial of such offenders as are found to have committed or as are found to have been a party to this gigantic fraud which has been played on the country. This is one facet.

The second facet of this Bill is that the properties of such persons must be immediately attached during the course of the trial because you cannot seize the properties and dispose of the properties unless they are convicted. What can you do? You can attach the properties so that it should be safeguarded and should be made available if those persons are. convicted.

For what purpose? The purpose is given in clause 11. It says that the following liabilities shall be paid:

"(a) all revenues, taxes, cesses and rates due from the persons notified by the Custodian under sub-section (2) of section 3....

It means persons who are involved in these offences.

" to the Central Government or any State Government or any local authority;"

If those persons are convicted,, their properties, whether moveable or immoveable, must ..be made available for pay-

ment of ali the taxes which may be due from such persons to the Central Government, any State Government or any local authority.

Secondly, it says;

"(b) ail amounts due from the person so notified by the Custodian to any bank or financial institution or mutual fund;"

If they have committed a fraud, as a result of which "a bank has been deprived of its moneys, their properties, moveable or immoveable, shall become available, on their conviction for payment of the moneys due to the bank

Thirdly, it says:

"(c) any other liability as may be specified by thee Special Court from time to time."

This is a very general and a very wide power which has been conferred upon the Special Court. It may be that a person has committed a , big fraud and has been convicted and nothing may' be due from him to the Central Government by way of taxes, nothing may be due from him to the banks but still that money has gone into his pocket as a result of that fraud which he has committed in relation to the transactions concerning the securities and he has been convicted by the specie then, the special . court will have . the power to see that he is dispossessed of that money and the liability which he bwes to any other person is also met. These are the limited objectives, of this particular Bill.

The hon. Member has said a lot that there are so many persons Who are responsible and this Bill makes no mention of that. I submit, Sir. that it is not open to him to forestall the proceedings or the report of the Joint Parliamentary Committee. If the Joint Parliamentary Committee has been established, it has it has . been established inter the pleclsely . for this purpose to find out as to who responsible for this fraud Parliascam. The Joint mentary Committee has been established

under the fiat given by the Parliament. We are all party to the constitution of the Joint Parliamentary Committee. It is for the Joint Parliamentary Committee to decide and to find out as to who is responsible, any bank official, any bureaucrat, any politician, and citizen of this country, whether he is residing within the country or outside the country. I have full faith in all the Members of the Joint Parliamentary Committee. I have no doubt that the Joint Parliamentary Committee will expose to the hilt any person who is responsible for having committed this fraud. Therefore. I will appeal to the hon. Member to desist from forestalling the report of the hon. Joint Parliamentary Committee and levelling allegation with regard to the responsibilities of the various individuals in a very vague, general and in such Wild language.

SHRI DINESHBHAI TRIVEDI: For the clarification of the Member, I think it is very unfair to overread or have his own interpretation to what I had said. We are restricting it to the Bill The JPC has been formed or for that matter the CBI was investigating into the matter because of the Opposition's demand. I know very well that the Opposition had not demanded this vociferously, things would not have happened in this way.

SHRI MADAN BHATIA; Sir, if you read the opening part of the speech of the hon. Member, that speech is nothing but throwing around vague, wild and general allegations of responsibility on Humpty, Dumpty and all and sundry. I respectifully submit that this honourable House had heard the speech of the hon. Member. I have heard his speech with rapt attention. I stand by what I have said that it was not open to the hon. Member to forestall the report of the Joint Parliamentary Committee which will go into the very question of the responsibility of the various individuals.

Secondly, Sir, the hon. Member has said that this Bill deals only with the offenders,. This Bill makes no mention about the punishment of the persons who 517 R.S.—11.

may have not committed any offence but who are responsible. This is a remarkable elucidation or exposition of criminal jurisprudence. Neither under the Constitutional law not under the criminal jurisprudence one can create an offence with retorspective effect. Even the Parliament does not have this power. Either a person has committed an offence which already exists on the statute-book or he has not. Parliament cannot sit down and say that... What he did in 1991, we declare that it shall be thus treated as an offence. This power, the Parliament'does not have. If any person has not committed an offence, then, he has not committed an offence. If he happens to be a member of the bureaucracy, he can be proceeded against according to the rules of service. If he happens to be a politician, he will have to pay the price at the bar of the people. But if he has been a party to the commission of a fraud by another individual, then, he will be equally guilty of an offence under section 120 (B) of the Indian Penal Code as a co-conspirator. But if you cannot bring him under section 120 (B) of the Indian Penal Code, then, you cannot say, you cannot even make a law to say, that he was responsible, although he had not committed an offence. Therefore, he must still be punished and for that an offence may be created by another Bill to be brought before the Parliament. So this Bill possibily could not contain any provision dealing with persons who have not committed any offence but who may just be responsible. For that the remedy is elsewhere with the Government so far as the bureaucracy is concerned, with the people of India and the Parliament for political indictment so far as any politician is concerned.

Now, Sir, I submit that the third point which has been made by one hon. Member on this side is that the Special Court will follow a procedure which is not clear. Clause 9 of this Bill makes it absolutely clear that the procedure which is to be followed by the Special Court will be the procedure as prescribed

[Shri Madan Bhatia]

by the' Criminal Procedure Code. This invariable has been the provision in the varilus statutes which created special courts for trial of various offences. I will just give one example. In 1978 the Special Court Bill was brought forth for trial of offences committed by persons holding high political authority by special courts and this was exactly the provision which was contained in that cial Court Bill. The procedure has be prescribed and the procedure which has been prescribed is the procedure as drafted in the Criminal Procedure Code and that was the procedure which was prescribed in the Special Bill Court which was brought before the Parliament by the then Janata Party Government for trial If persons holding high political authority the object of which was . .(Interruptions)...I am saying Janata Dal. I am saying the then Janata Party. This was exactly the procedure prescribed in that Bill. The then Janata Party Government included, at that time, those who today are memhers of the Bharatiya Janata Party and Member belonging to the hon. that party has stood up to criticise the procedure prescribed in this Bill. Sir, these are the points which have been made by the hon. Members on this side and to the best of my ability, I have to meet them.

1 would now like to say that this Bill has been brought under a big handicap. We know that a big fraud has been committed. Some of the names have also stood exposed. But we do not know really as to what is exactly the nature of offences which have been committed. We are not very clear. This will become clear after the report of the Joint Parliamentary Committee... or after the investigations are completed by the CBI. The shadow of this handicap can be seen in the manner in which sub-claus 2 of clause 3 has been drafted. It says:

"The Custodian may on being satisfied on information received that any person has been involved in any offence relating to transactions in Securities..."

It may be said that the expression "any offence relating to any transaction" is very wide. The Supreme Court says that when you constitute a special court, the types of offences and the types of offenders should be categorised; otherwise, it may suffer from the infirmity of vagueness. At the moment, it was possible for the Government to specify the types of offences which would be covered by this particular statute. The Government was left with no choice but to use the general expression "any offence relating to transactions in securities". 1 am saying so because this Bill may come under a constitutional challenge and may be said that the nature of offences has not been categorised and therefore, The it suffers from vagueness. answer that T can think of on particular Bill which behalf of this has been brought forth by the Government is that at this particular stage, is not possible to categorise the offences except to say that the information that has come is that within a particular period a lot of offences had been committed in relation to securities and the securities have been defined. This is only answer that could possibly be given and that may go home in the minds the judicial authorities.

Secondly, Sir, sub-c!aue 2 of clause 3 further says.

"...after the 1st day of April. 1991' and on and before the 6th June, 1992. notify the name of such person in the Official Gazette."

We know why the particular date, 6th June, 1992, has been chosen because that was the deadline when the whole thing was brought to a stop by The immediate intervention of the Government after the revelation of this big fraud. But the question that arises is, what is the basis for having chosen the particular date, 1st day of April, 1992? Why have they limited these offences to the 1st day of. April, 1991? (Interruptions),

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SHRI CHATURANAN' MISHRA; Because that is the fools' day.

SHRI MADAN BHATIA; I hope you are not referring: to me.

Or, it may be said conversely, why have you picked up 1st April, 1991, why have you gone so far as 1st April, 1991? I am raising this point because this point arose on the Special Courts Bill, before the Supreme Court when the President referred that particular Bill for opinion to the Supreme Court as to its constitutional validity. That Bill provided I hat any offence which was committed by a person holding a high political office or a high political authority from 25th February up to the end of emergency would be covered by that particular Bill. The Supreme Court said, "There is not rationale behind the choice of 25th of February 1975. The emergency was declared on 26th of June 1975." The Supreme Court said that the Special Courts Bill was not valid in so far as it provided for trial of offences from 25th February to 26th of June 1975 because they were pre-emergency offences. They connected with were not emerwhole objective begency and the hind this particular Bill was to try persons holding high political authority for offences which were committed during the emergency The allegation was they misused the powers conferred the emergency. So that part of the Special Courts Bill was struck down-25th Frbruary to 26th of June 1975.

This Bill also not contain the aims and objects and I am at a loss to understand this I have been told that this date has been selected because there is a reference to this date in Janakiraman's report. But what is the logic behind the cheice if this particular date? T would request the hon. Minister to enlighten this House, this is one point.

Thirldly, Sir, there is one other infinnity from which this particular Bill, to my mind, *suffers* According to the judg-

ment or according to the opinion which was given by the Supreme Court in regard to the Special Courts Bill in 1978, there is no provision in this Bill for transfer of a case from one special court to another special court. Supposing, the presiding judge of a particular special court becomes biased and the accusd finds that he is not going to get justice from this particular judge presiding over this particular special court, then he must have the right for transfer of that case to another special court. This is what the Supreme Court said. I would like to read this particular paragraph before the hon. Members. This is from the opinion of the Supreme Court reported in AIR 1979 Supreme Court. The judgement is a very long judgement. I am reading from page 517 Supreme Court says;

> Though this is so the provisions of the Bill appear to us unfair and unjust in three important respects. In the first place, there is no provision in the Bill for the transfer of cases from one special court to another. The manner in which a judge conducts himself may disclose a bias in which case the interest of justice would require that the trial of the case ought to be withdrawn from him. There are other cases in which a judge may not, in fact, be biased and yet the accused may, entertain a reasonable apprehension on account of attendant circumstances that will not a fair trial. he It of the utmost important is that justice must not only done but must seem to be done. To compel an accused to submit to the jurisdiction of a court which, in fact, is biased or, is reasonably apprehended to be biased, is a violation of the fundamental principles of natural justice and a denial of fair play. There are yet other cases in which expediency or convenience may quire the transfer of a case if no bias is involved. The absence of provisions for transfer of trial in appropriate cases may undermine

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the very confidence of the people in special courts, as an institution, set up for dispensing justice..."

Then the Lordship gave this opinion; "These, in our opinion, are the three procedural infirmities." The other two procedural infirmities J need not dwell upon because they have been taken "care of in this particular Bill, but I am Speaking on this particular infirmity.

• "These, in our opinion, are the procedural infirmities from which the Bill suffers and which are violative of article 21 of the Constitution in the sense that they made the procedure prescribed by the 'Bill unjust and unfair to the accused."

Sir, a very famous American Judge once observed and his observation has been adopted By the Supreme Court in some judgments-and that is, "The history of liberty is a history of strict observance of procedural safeguards." The whole nation may he very much agitated and rightly so, about this gigantic fraud which has been unearthed, but the procedural safeguards have been provided by the founding fathers of the Constitution in article 21 of the Constitution. And it is by relying upon these procedural safeguards, contained in. article 21, that the Supreme Court held that by the absence of a provision for transfer of a case from one special court to another special court the Bill suffers from a constitutional infirmity. So this point may arise if this Bill' comes up for a challenge before the hon. Supreme Court.

THE VICE-CHAIRMAN (SHRI SATYA PRAKASH MALAVIYA): Do you mean to say that section 526 of the Cr. PC may not apply for transferring a case from one court to another?... (Interruptions)...

SHRI MADAN BHATIA: There is only one special court and there is no provision for giving a right to an accused to make an application for transfer of a case from one special court to another special court. So I am only Seeking to alert this hon. House, lest this Bill should get entangled in constitutional and legal wrangles before the court which will de-

feat the very purpose of this particular Bill.

श्री चतुरानन निश्व : इसमे "दन कोर्ट" की जगह "मोर कोर्ट" कर दिया जाए तो

will it suffice?

SHRI MADAN *BHATIA*: No; there has to be aspecific provision for conferring the right upon the accused to make an application to a particular authority for transfer of the case...

SHRI DAYANAND SAHAY (Bihar); The number of judges *can be* increased.

SHRI CHATURANAN MISHRA; No, no; that will not serve the purpose. It* the court is one, the number is one, that will not serve the purpose. What you are saying is a very valid point. If you establish more than on? court then can it be done?

SHRI MADAN BHATIA; No, then it cannot be done. Suppose, there is a case pending in the Punjab High Court, a criminal case, that has to be transferred. Then there is a provision contained in the Code of Criminal Procedure, giving power to the accused to move to the Supreme Court for transfer of the case. There has to be a forum before which the accused can go. He cannot move the application before the same court and say, "Transfer my case.

SHRI CHATURANAN MISHRA; No, no; the Supreme Court is always there. That is why I am saying...

SHRI MADAN BHATIA; But there is no provision saying that the Supreme Court shall have the power to transfer... (Interruptions) ...

SHRI CHATURANAN MISHRA; Supreme Court has the supreme power.... (Interruptions)...

SHRI MADAN BHATIA; This is a specific point. It can't be treated as an inherent power. If that were so, even this Special Court Bill provided for an appeal to the Supreme Court...

SHRI CHATURANAN MISHRA: The fact was that another court was not there.

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SHRI MADAN BHATIA: It is not just that there is no other court. Even if there is another court, there has to be a procedure for transfer of the case. There is no proceduire prescribed for traof the case. There is forum prescribed before which that procedure is to be followed by the accused for transfer of the case. Both things have to be there. There has to be more than one special court and there has to be a procedure for transfer of the case. This is my submission. With regard to this particular Bill, I submit that the objective of this Bill is laudatory and I whole-heartedly support this Bill, notwithstanding some misgiyings to which I have given my expression. Notwithstanding the misgivings it is my duty, as a lawyer, to point out what difficulties may arise.

THE VICECHAIRMAN (SHRI SATYA PRAKASH MALAVIYA): You are not only a lawyer but also a Member of this House.

SHRI MADAN BHATIA; I am too humble a Member to have a prerogative of enlightening the hon. Members of this august House. I would like to say at the end, and I had said earlier also, that we have a Joint Parliamentary Committee which is goiny in detail into all these matters and one of the terms of reference 'has specifically provided to fix the respensibility of persons who are involved in this scam. So, they have to find out the offences and, the responsibility. The terms are wide enough to cover, the discovery of offences and the discovery of offenders. Difficulty may arise there. I said so on 9th August and I want to repeat now because special courts are being established and the object of the special court is to .hasten the trials, if FIRs have been lodged and after that a challan is fifed in a special court, much more serious questions will arise. The person against whom the challan is filed before the special court becomes not only a potential accused as in the case of an FIR but a full-fledged accused. Then he has all the rights open to him to defend himself as provided under the Constitution. One of the lights is to silent.. This question may remain assume importance if

sons against whom a challan is filed in the court is summoned by the Joint Parliamentary Committee for interrogation. And he refuses to depose, what will be the stand of the Joint Parliamentary Committee? The only action that the Joint Parliamentary Committee can take is that you have committed a breach of privilege and proceed against him for commission of a breach of privilege. And what can the accused say? On this also I will share my views with

the hon. Members. The Supreme Court in 1965 Reference Case held that where the Constitution says that the Parliament shall be the sole authority to control its own procedure and proceedings, that provision in the Constitution does not override the fundamental rights of a citizen. The Supreme Court went to the length of holding that if an illegal warrant is issued by the Legislature against any person which violates his fundamental rights, he has a right to come to the court and say that his fundamental rights have been infringed and this warrant which has been issued is illegal. There¹ was one case in 1950's which arose from Bombay legislature. On the warrant issued by the Speaker of the State Legislature for breach of privilege He was arrested; but he was not produced before' the Magistrate within a period of 24 hours as prescribed by the Constitution; He challenged the validity of his warrant and his continued detention. The matter went to the Supreme Court. The Supreme Court held that because he was not produced within a period of 24 hours before the Magistrate, this violated his constitutional rights and his .continued detention was illegal and he was set free. So, these question will arise. These question may arise even at the stage of FIR because the Supreme Court says that when an MR is lodged against an individual he cannot be an accused but he is a potential accused. He is entitled to the presence of a counsel at the time o this interrogation under Articles 30 and .21 of the Constitution. At the same time he may refuse to answer those questions which will directly mcriminate ,him. He can pick and choose. This is the Satpthi case of 1978. Subposing a person is summoned by the Joint

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Parliamentary Committee against whom FIR has been lodged and heeis sought to be interrogated and he Insists, would like my counsel to be present". What would be the position then? Supposing he says, I will not answer this particular question because answer to this question 'Is going to be incriminatory. What will be the stand of the Joint Parliamentary Committee? These are very important Constitutional questions. (Interruptions). I am coming to that. That is my separate point. Sir, apart from this, supposing a trial starts before the Special Court and at the same time investigation against him starts before Joint Parliamentary Committee. Supposing he comes forward and savs. cannot be a victim of a double jeopardy, there cannot be a dluble investigation or a double trial against me. It should be either before the Special Court or before the Joint Parliamentary Committee, not before both". What would be the position? As the hon. Member has said, he may say, "My trial is likely to be prejudged before the Special Court by your simultaneous investigation and inquiry against me." Then he may say that Artcle 21 of the Constitution says, "No person shall be deprived of liberty except in accordance with the procedure established by law." Supposing he comes forward and says that this Joint Parliamentary Committee has been established not by any law but by merely a resolution of Parliament. Resolution is not a law Even an inquiry and an Investigation is part of the procedure which must be established bv law because this is what the Supreme Court says. The procedure which ultimately may lead to the deprivation liberty has to be established by law and the Joint Parliamentary Committee is not He may established by law. the very jurisdiction or authority of the Parliamentary Committee hold to ■this inquiry. I am just posing these questions before the hon. Members. I am giving no answer. I am posing these questions before the hon. Members in the hope that the hon. will ponder over them. Not that we can do anything, but it is our duty that

we should know what may come ahead of us. We should be ready for argument. That is all, Sir. I thank you and once again congratulate the Government and support this Bill.

श्री मोहम्मद सलीम (परिचमी बंगाल): उपसभाध्यक्ष जी, हमारे दूसरे साथियों से ही शब्द उधार लेकर में कह संकता है कि जाइजेंटिक फोड़ है उसके बारे में यह विधेयक लाया गया है स्पेशल कोर्ट के लिए । यह कोर्ट, इसका विचार और दोषों को देडित राज्ये के लिए दुसरें मक्सद से बनाये गये है। वह हम तब कर रहे हैं जब हमारा एरेन्जमेंट जो था, जो सिस्टम था आर०वी०आई० के तहत वह सही ढंग से ऐसे घोटाले को रोकने में नाकामयाब हम्रा श्रीर जब उसकी गंध मिली एक साल के बाट कि म्रार०बी० माई० के जो डिपार्टमेंट वर्गरह हैं। उनको जिन चीजी को करना चाहिए था--- दह 4.00 p.m. फेल हुआ, विफल रहा या नहीं, में इस पर नहीं जाऊंगा क्योंकि इस विधेयक का जो मकसद है यह उसके तहत नहीं है । इसके बारे में जे०पी०सी० बनाई गई है। यहां सदन में भी कई बार उम वारे में बात हो चुकी है लेकिन मंत्री की स्वीकारते नहीं हैं ग्रार०बी० ग्राई० जिम्मेदारी, जबकि सदस्यों का यह कहना है कि ग्रार० बी० ग्राई० जिम्मेदार है । इस विश्वेयक के मकसद में कहा गया है कि ग्रार० बी० ग्राई० को घोटाले का जब पता चले, इसके तहत यह स्पेशल कोर्ट काम करेगा जब कि उनकी जो जिम्मेदारी है, ग्रार०वीं श्राई० की, उसके विचार के लिये, उसमें जो दीषी हैं उनके बारे में इसके उद्देश्यों में बात नहीं कही गयी है। लेकिन में समझता हूं कि जैसे एक के बाद एक तथ्य हमारे सामने उजागर हो चुके हैं, पहले मामूली कुछ कर्म-चारियों और कुछ दलालों का व्यापार थाँ, इस तरह से कहकर इसको टालने की कोशिश की गयी । लेकिन अब वह बात, नहीं रही । यह जाइजेंटिक फांड है, जिसमें एक से एक आला अफसर और बैंक के एक्ज़ीक्युटि और उनके साथ साथ जो पोलिटिकल हाई अप्स हैं, राजनीति करने वाले लोग भीर व्यरोक्ट्स, एक दम Court and the Special Court

र्द्धन जगहीं पर जो। बैठे हए लोग हैं. वे भड़े किया न किता बरह से इपके सम्बं जड़े हुए हैं ऋदेर मह सहमात हता उन के सामने का गना है। जो नह कहा का रहा था कि यह सिस्टम फेस्बोर है. वह ही नहीं दक्ति सिस्टम के पीछे जो लीग है यह उनका छेल्योर रहा है. ्सलिवे स्वे**गल** कोर्ट के तहत हम **इसके** ्तिस्टारे की मांग कर रहे हैं। वेकित हमारा यह सवाल है, जो प्रधानमंत्री जी कहते हैं कि कोई भी, जो इस घोटाले ने जुड़ा हुआ है, उनको कहीं भी छट ंडी आयेगी, तो यह **ग्रानेस्टी का** सदाल है, ईमानदारी का सवाल है । हम यह चाहते हैं कि स्पेशल कोर्ट, अध्यादेश के द्वारा बना है, वहां जब विचार किया जा रहा है तो एफ अप्राई० **आर० में जिनका नाम है, ऐसे व्यक्तियों** के विरोध में जो केस धानहीं किया गया है, या उनकी जो सम्पत्ति है उसको कुकं अरने के लिये, जिस उद्देश्य के लिये यह स्पेशल कोर्ट बना है, वह नहीं किया गया । जिनका नाम एफ०ग्राई ०ग्रार० में दर्ज है, उनको गिरक्तार नहीं किया गया जिनका नाम एफ०ग्राई०ग्रार० में दर्ज नहीं है उनकी बात ग्रगर छोड़ भी दें, ऐसे बहुत से लोग हैं, लेकिन जिनका नाम एफ म्राई० क्रार० में क्या रहा है, तो हमें यह चाहये कि जिनका नाम एफ० ब्राई० ब्रार० में दर्जहो तो ग्रगर हम वसूल करना चाहें ग्रीर शीध वसूल करना चाहें तो हमें उनको यह मौका नहीं देना चाहिये कि उनकी प्रापर्टी जो है वह डाइवर्ट हो जाय। हमें जल्दी से जल्दी उनके विरोध में कार्यवाही करनी चाहिये वरना हम जो पुन: विश्वास स्थापित करने जा रहे हैं, बैंकिंग सिस्टम श्रौर वित्तीय संस्थाओं के ऊप*्*, वह नहीं रहेगा, हमें पिछले दिनों का यह ऋनुभव है। मंदडा केस के बारे में मैं मंत्री महोदय से यह पूछना चाहता हं कि हम कितनी प्रापर्टी ग्रटेच कर पाये हैं ग्रीर कितनी कर पार्थेंगे ? जो हजारों करोड़ों रूपये का घोटाला हुआ है उसके अंदर विक्री स्पये हम कर्क की गयी जगरी के उनिये वापस

ल पायेंगे ? श्रभी हमारे दूसरे वरिष्ठ मायी कह रहे थे कि सिर्फ कुर्की कर देने मे ही वह पैसः दापस ग्राने वाला नहीं है क्योंकि इसको **कानुनी रुख देक**र कोर्ट में काउंटर लिटिगेशन करके इसको फंसाने की कोशिश की जायेगी । तो इसने निपटने के लिये ग्राप क्या गाई रख रहे हैं ताकि यह कोर्ट के चक्कर में न कंस जाब । साथ ही जो इनवेस्टर थे, जो **डिप/जिटर्स** हैं, जिनको जेबरमार्केट का स्वालच दिखाकर जिनसे रुपया खींचकर लाया गया, उनका पैसा वायन करने के लिए ग्राप क्या प्रवंध करेंगे ?

दुसरा मवाल यह है कि जो लोग इसमें हैं उनकी कितनी प्रापर्टी ग्रर्टेच की गयी है ग्रौर उनकी रकम क्या है जो पैसा नहीं दिया गयाहै उसको शीध निपटाने के लिये, कोर्ट बनने के भ्रध्यादेश बनने के बाद ग्रीर जब यह विधेयक पास करेंगे तो हम इसको कितना जल्दी कर पार्थमें क्योंकि हम यह देख रहे हैं कि हमारे यहां हर्षद वगैरह, मैं नाम नहीं लेना चाहता, खिलाफ कुछ कार्यवाही की गयी कार्यवाही की गयी ठीक है श्रीर करनी चाहिये । लेकिन एसे बहुत लोग हैं जिनको पक्षडा नहीं गया । एफ०आई० ब्रार० में नाम भी है फिर भी छोड़ दिया गया । उनके बिरुद्ध केस शुरु नहीं गया । यह लोग बाहर रह कर दस्तावेजों को ग्रौर कागजात को नष्ट कर रहे हैं। जो घ्रोपर्टीज, एसेट्स ग्रीर पैसा है उसको फिर से डाइवर्ट कर रहे हैं। ऐसे लोगों को विदेश जाने का मौका भी मिला है। ऐसे लोग देश में रह कर ऋब भी उस पैसे को रीचेनालाइज कर देते हैं उस को छिपा रहे हैं, दूसरी जगह हटा रहे हैं । इसके बारे में ग्राप कौन गार्ड लेने का प्रबन्ध कर रहे इसको रोका जा सके ? इसके इलावा सच्चाई की यहां पर सरकार म्राता है । ईमानदारी का भी सवाल कि वसूली हमने उद्देश्य में यह कहा है भी घ्र सुनिध्चित कर लेंगे लेकिन हम यह देखते हैं कि जब हमारे सामने एफ॰एफ॰ एस ० एल ० या पी ० एफ ० सी ० का सवाल आता है और जब ग्राम सीवबीवग्राईव के द्वारा [श्री मोहम्द सलीम]

जाच करवा रहे हैं कुछ नीयत का सवाल उसमें द्वा जाता है, सी०बी०ब्राई० के अफसर के उस विवाद को मैं यहां नहीं छेड़ना चाहता हूं। लेकिन सरकार इसको स्पष्ट करे कि ऐसा कोई विवाद उत्पन्न न होने दे तो बेहतर होगा । हमने बोफोर्स के सवाल पर देखा है कि किस तरह से सच्चाई को कवर-श्रप करने के लिए कोशिश की गई। उसी तरहसेयहां भी डर उत्पन्न होता है । हालांकि जे०पी०सी० भी है वह ग्रपना काम कर रही है लेकिन श्रव तक जो कार्यवाही की गई है उसमें ऐसे कुछ सवाल पैदा हुए हैं जिसमें सरकार की नीयत के बारे जनता के अन्दर कुछ प्रश्न चिन्ह लगा है मैं यह कहना चाहुंगा कि सरकार इसे स्पष्ट करे और वाकई इसके पीछे जो राजनीतिज्ञ या ब्युरोक्नेट्स के नाम भ्राए हैं, अब भी बहुत से लोगों का नाम आ रहा है इसलिए सरकार को चाहिए कि वह सिलेक्टेंब एप्रोच ग्रस्तियार न करे बर्टिक सच्चाई के साथ जिनका भी नाम **ग्राए** उसको स्पष्ट **किया जाए । जैसे** २ह कहते हैं, करके भी दिखाएं। जो भी इसके साथ जुड़े हुए हैं, उन सबके खिलाफ कार्यवाही होनी चाहिये स्पेशल कोर्ट के जज ने खुद कोर्ट में यह कहा है कि यहां पर कुछ ऐसा किया जा रहा है जिससे लगता है कि जो लोग जुड़े हुए हैं सब के विरुद्ध कार्यवाही शुरु करने के बजाए कुछ स्केपगोट खोजा जा रहा है, बलि का बकरा खोजाजा रहा है, उसको सामने लाया जा रहा है ग्रीर बाकी लोगों को छूट धिलाने की कोशिश की जारही है। यह मेरा कहना नहीं है, स्पेशल कोर्ट के जज ने कहा है। इससे जनता के बीच में जो भावना पैदा होती है उससे सरकार की नीयत के बारे में प्रश्न चिन्ह लग जाता है। मैं इसी के साथ यह कहना चाहुंगा कि बिल 🖔 के क्लाज-3, सेक्शन-2 में यह कहा गया है कि जो सिक्युरिटी ट्रांजेक्शंस हुई उसके दौरान जो एवीडेंस पता चलेगा वह फर्स्ट डे ग्राफ एप्रिल, 1991 एंड ग्रान द्यार विफोर सिक्स्य जून, 1992, यह फुर्स्ट एप्रिल का महत्व क्या है ? उससे पहले क्यों नहीं रिजीसे कि सदन में भी बातचीत हुई और बाहर

पित्रकाओं में भी आया है कि यह प्रतिभृति घोटाला तो इससे पहले भी शुरु हो चुका था। रिजर्व बैंक के पुराने अफसरों का कहना है कि खुद रिजर्व बैंक को इस बारे में मार्च, 1991 में पता चला था। तो उससे पहले फस्ट अप्रैल से पहले जो ट्रांजेक्शन हुआ उसके बारे में अगर कुछ गड़बड़ी है तो उसके तहत हम क्या कार्यवाही करेंगे? स्पेशल कोर्ट को आपने फस्ट अप्रैल के बाद की जिम्मेदारी दी है लेकिन मैं मंत्री महोदय से इस बारे में स्पष्टी करण चाहूंगा कि इस डेट का क्या महत्व है और उसको पहली अप्रैल ही क्यों रखा गया है? इतना कह कर मैं अपनी वात खत्म करता है।

المری میدسلیم العربی بالا الی الی بالا الی ب

^{†]} Transleteration

[श्री मोहम्मद सलीम]

رحصیرے۔ دوسری حبکہ بہٹرا ہے،

اس کے بارے یں آپ کون سے گارڈ لینے

بجبى ببيت سيع لوكون كانام آرابيد الوليس بترعيك كاروه وسم فرسس

أف البيرك - ١٩٩١ بين أن أر تفورسسكت

श्री ईश दत्त यादव (उत्तर प्रदेश) : माननीय उपसभाध्यक्ष जी, विशेष परिस्थिति में श्रीर विशेष कार्य के लिए इस विशेष न्यायालय के गठन के लिए विधेयक प्रस्तुत किया गया है । मैं इसका समर्थन करता हूं ।

इस विधेयक में मुख्य खामियां हैं जिनके संबंध में मैं निवेदन करूंगा । लेकिन मान्यवर, इस देश में बैंक घोटाले की जो घटना हुई है यह शायद इस देश की नहीं बल्कि दुनिया की श्रद्धितीय घटना है

†[] Transliteration in Arabic Script.

ग्रीर इस घटना से हमारे देशका स्वाभिमाने गिरा है इस बात से भी इन्कार नहीं किया जा सकता है। इस बात से भी इन्कार नहीं किया जा सकता है कि जो कुछ हुआ, बैंक घोटाले में यह वित्तीय व्यवस्था में, जो भी गड़बड़ की गयी इसमें इस देश के बड़े लोगों का हाथ है, बड़े अधिकारियों का हाथ है। सरकार में जो लोग शामिल हैं उन लोगों का भी इसमें हाथ है इससे भी इन्कार नहीं किया जा सकता है।

सान्यवर, राष्ट्रपति जी द्वारा 6 जून को अध्यादेश जारी कर दिएा गया है और 10 जून, 1992 को विशेष न्यायालय का गठन करके इसके लिए बम्बई हाई कोर्ट के जज की नियुक्ति भी कर दी गयी है। लेकिन सान्यवर, न्यायालय की तो स्थापना कर ही गयी और विधेयक पास हो जाते. के बाद न्यायालय को पूरे के पूरे अधिकार हो जाएंगे इस घोटाले से संबंधित अपराधों का हाथल करने के लिए । अदालत तो बन गयो लेकिन मुझे संदेह है कि इस अवालत में केसेज जाएंगे कि गहीं जाएंगे क्योंक जिस तरह का राजनैतिक हस्तक्षेप हो रहा है सी श्वी श्वाई विको जांच में

उपसभाध्यक्ष (श्री सख्य प्रकाश भारत्योष) : एक सिनट आप वैठ जाइये। श्री रफीक ग्रालम को यहां पर बैठने की सद: को अनुसति है ?

[श्री रफीक आलम पीठासीन हुए]

श्री ईश दल यादव : माननीय उपलभाध्यक्ष जी, मैं निवेदन कर रहा था
कि विशेष न्यायालय की स्थापना तो हो
गयी और यह विधेयक पास हो जाने के
बाद उस विशेष न्यायालय को सारे के
सारे श्रीधकार भी हो जाएंगे लेकिन मुझे
संदेह लगता है कि इस विशेष न्यायालय में
मुकदमें जा पाएंगे कि नहीं जा पाएंगे
क्योंकि इस विशेष न्यायालय का
ज्योरिस डिकशन तभी शुरु होगा जैसा कि
इस विल के सेक्शन 6 में दिया गया है—
इस विधेयक के पेज 3 की मैं दो लाइनें
पह रहा था :

'The Special Court shall take cognizance of or try such cases as

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are instituted before, it or transferred to it as hereinafter provi-

इस न्यायालय में जो मकदमें दायर किये जाएगे उन्हीं मुकदमीं का यह न्यायालय निर्णय कर सकेगा । मैं फिर **अपनी** बात को दोहरा रहा हूं कि इस न्यायालय में मकदमें जाऐंगे कि नहीं जाएंगे इसमें मुझे लुदेह लग रहा है क्योंकि बड़े राजनेताओं का हराक्षेप हो रहा है जांच में, माधवन का इस्तीफा प्रत्यक्ष प्रमाण है। इसलिए में आपके माध्यम से देश के दिल मंत्री जी ग्रीर सरकार लोगों से कहना चाहंगा, प्रधान मंत्री जी से कहना चाहंगा कि सी 0त्री 0त्राई 0 की जांच या जो लोग जांच कर रहे हैं. उन कोगों की यांच निष्पन्न होनी चाहिए। त्रगर निष्पक्ष यांच नहीं होती हैं। न्यायालय की स्थापना करने से कोई लाभ यडीं होने वाला है ।

दुसरा, मैं निवेदन कर रहा आ कि प्रधान मंत्री जीने बार-बार इस सदन में और बाहर मां कहा है कि इस घोटाले से जो भी सम्बंधित होंगे साहे वे सरकार में हों, चाहे इंडे अधिकारी हों, चाहे कोई हो उनको बस्त्रा नहीं जाएगा । मान्यवर, प्रधान मंत्री जी के इस कथन का मैं स्वागत करता हूं। लेकिन आपके माध्यम से प्रधान मंत्री जी है मैं प्रनुरोध करना चाहुंगा कि प्रधान मंही जी का यह दिशेष कर्तव्या है कि वह देखें कि इनके-स्टिगेशम सही-यही हो स्रीर उसमें किसी भी प्रकार का अजनैतिक हस्तक्षेप नहीं होना चाहिए ।

दूसरी बात विधेयक के संबंध में मैं यह कहना चाहंगा--कह दिया गया कि किमिनल प्रोसीजर कोड इस पर एप्लाई करेगा । परतु इस बिल के जो स्टेटमेंट श्राफ श्राबजेक्ट्स एंड रीजंस हैं, इसके पैराग्राफ दो में कहा गया है---

> "To deal with the situation and, in particular, to ensure the speedy recovery of the huge amounts in-

तो धन की वसूली के लिए भी प्रोहिजन बनाना चाहिए था, लेकिन क्रुने पूरा विधेयक देखा है । उससे यह स्पे_ट नहीं होता है कि ग्रगर किसी से किसी धन की वसूली करनी होगी, तो उसके लिए इस विधेयक में क्या प्रोदिजन है-यह कहीं भी मालूम नहीं होता है । इस बात की इसमें कमी लगती है।

इसलिए वित्त मंत्री जी को चाहिए कि वह इसके ऊपर ध्यान दें ताकि ग्रगर यह न्यायालय में साबित हो जाए कि किसी ने धन का दुरुपयोग किया है, गबन किया है श्रीर उससे धन रिएलाइज करना है, तो किस दिखिसे ग्रीर किस **प्रोव**िजन में यह रिएलाईज होना चाहिए ।

तीतरी चीज, मदन भाटिया जी जब बोल रहे थे, तो मैं उनकी बात समर्थन तो नहीं करता, लेकिन एक चीज कहना चाहता हूं कि सपराध तो **बह**त हए हैं. अनेकों अपराध हुए हैं, बैंक श्रोटाले से संबंधित श्रीर किसी एक श्रादमी ने नहीं किया है और ट्रांजैक्शन अलग-अलग हए हैं । इसलिए मैं समझता हूं कि केनेज बहुत ज्यादा होंगे और एक ही कोर्ट रहे. एक ही अञ रहे, तो इन मुकदमों के निर्णय में विसम्ब होगा ।

इसलिए मेरा श्रापके माध्यम से अनुरोध है कि कई कोर्ट की स्थापना— इस तरह से कई दिशेष न्यायालयों की स्थापना सरकार को करनी चाहिए ताकि इनका स्पीडी डिसपोजल हो जाए और जब कई दिशेष न्यायालय स्थापित हो जायेंगे, तो जल्दी से निषटारा भी होगा।

चौथी चीज, जो सदन भाटिया की श्राशंका **थी कि ट्रांसफर का प्रोबींज**न नहीं है, तो सुप्रीम कोई कहीं इसे नल एड वायड न डेक्लेयर कर दे, तो कई न्यायालयों की स्थापना हो जाएगी, तो सी0मार0पी0सी0 का प्रोवीजन हैटांसफर श्राफ केसेज का-उनके हिसाब से अगर किसी भी व्यक्ति को जिसका ट्रायल होता होगा; उसको न्याय भिलने में सदेह होगा, तो सी श्यार 0 सी 0 पी 0 के अनुसार वह ट्रांसफर के लिए भी सूव कर संकेशा ।

[थी ईश दत्त यादव]

इस मंबंध में मैं एक श्रांर निवेदन करना चाहूंगा कि इस बिल के सैक्शन 9 में कहा गया है कि जो स्पेशल कोर्ट वनाई जाएगी, इस स्पेशल कोर्ट का अधिकार या स्पेशल कोर्ट की मान्यता नेशंस कोर्ट की तरह से होगी।

मान्यवर, यह अच्छा प्रतीत नहीं होता ग्रीर विधिसम्मत और संवैधानिक भी प्रतीत नहीं होता, क्योंकि आपने विशेष न्यायालय में न्यायाधीश तो हाई कोर्ट के न्यायाधीश को बनाया और उनके अधिकार के बारे में कह दिया कि यह सेशंस कोर्ट का अधिकार इस्तेमाल करेंगे। इस संबंध में दूसरी बात यह होगी कि अधिकार तो उनके सेशंस कोर्ट के होंगे, लेकिन उनके फैसले के विरुद्ध अपील सुप्रीम कोर्ट में की जाएगी। वीच में हाई कोर्ट को इग्नोर किया जा रहा है।

इसलिए मेरा निवेदन है कि ट्रायल का तो जो प्रोविजन है, या ट्रायल की सी०ग्रार०पी०सी० में जो विधि है---(समय की घंटी)--उसके अनुसार करें, इसमें मुझे ग्रापित्त नहीं है, लेकिन जिस विशोध स्यायालय की स्थापना श्रापने की है, उस विशेष न्यायालय का स्धिकार आपको हाई कोर्ट का अधिकार देना चाहिए। जो सैंक्शन 9 में कहा गया है कि वह सैशंस कोर्टका ग्रधिकार होगा, बह सेशंग जज का ग्रधिकार न होकर के हाई कोर्ट का ग्रधिकार होना चाहिए, क्योंकि यदि ग्राप सेशंस कोर्ट का ग्रधिकार उन्हें देते हैं, तो बीच में मैं समझता हूं कि हाई कोर्ट को इग्नोर नहीं किया जा इकता, क्योंकि फिर पहली भ्रापील, फर्स्ट ग्रपील इस निर्णय के विरुद्ध हाई कोर्ट में करनी पड़ेगी और फिर हाई कोर्ट के बाद सुप्रीम कोर्ट में जाना न्यायोचित प्रतीत होता है।

इसलिए मेरी श्रापके माध्यम से दर्खास्त है कि इस पर सरकार की गौर करना चाहिए श्रीर इस पर विचार करके यह संशोधन स्वीकार कर नेना चाहिए

ग्रंतिम चीज में कहना चाहता हूं, भान्यवर, कि इस पूरे विधेयक में कहीं समय की बाध्यता नहीं रखी गई है । कि विशेष न्यापालय में जब मुकदमा दायर हो जाएगा चार्जशीट सबिमट हो जाएगी, तो कितने समय में वह न्यायालय इसका निर्णय करेगा क्योंकि अन्य जो कानून हैं, मान्यवर, उसमें इस तरह का विधान है, इस तरह के प्रोविजन हैं कि इतने समय के अन्दर इस बात का या इस मुकदमें का निर्णय हो जाना चाहिए। लेकिन यह जो विधेयक लाया गया है इस विधेयक में उस न्यायालय को कुछ नहीं कहा गया है कि कितनी अवधि के भीतर इन वातों का वह निस्तारण कर देंगे और समय की बाध्यता नहीं है तो संभव है कि ज्यादा समय लगे और चूंकि इस तरह का यह सनसनीखेज विषय है....

उपसभाध्यक्ष (श्रो रफीक आलम): ग्रव ग्रापका समय समाध्त है।

श्री ईश दत्त यादव : मैं आपकी ग्राज्ञा मान रहा हूं। केवल एक मिनट समय ग्रीर लेना चाहता हूं। क्योंकि ग्रगर समय का निर्धारण नहीं किया जाएगा, लिमिटेशन नहीं रहेगा कि कोर्ट इतने समय के भ्रंदर अपनः निर्णय दे दे, मैं ग्रापसे मर्ज कर रहा था कि यह कोई साधारण मामला नहीं है, यह जसाधारण है, इसीलिए स्पेशल कोर्ट्स को एस्टैब्लिश करने की ग्रावश्यकता पड़ी । यह केवल इस देश का विषय नहीं है यह दूनियां की चर्चा का विषय है और ग्रगर लंबी म्रविध तक केसेज पैडिंग रह जायेंगे तो इसका महत्व ही समाध्य हो जाएगा और जो दोषी लोग हैं ये दोधी लोग किसी न किसी तरह से सजा से बच जायेंगे गवाहों को तोड़ करके, टेंपरिंग विटनैसेज का करके ग्रौर किसी न किसी तरह से बचने का ये प्रयास करेंगे।

उपसभाध्यक्ष (श्री रफीक आलम) ह अब ग्राप तारीफ रखिए । ज्लुरानन मिश्र जी 3 मिनट समय है ।

श्री **ईश दत्त यादव :** सें अपनी वात समाप्त ही कर रहा हा

उपसभाध्यक्ष (श्री रफीक आलम) : जल जल्दी कीजिए, क्योंकि टाईम बहुत कम है।

श्रो ईश दल यादव: ठीक है, में अपनी बात खत्म कर रहा हूं। इस संबंध में नरकार की तरफ से ग्रभी कोई नियमावली नहीं वनाई गई है। मैं चाहता हूं, मेरा अनुरोध है कि सरकार की तरफ से जब अध्यादेश जारी कराया गया सरकार की तरफ से जब इस विधेयक को लाने के लिए तैयार किया गया तो चाहिए या कि इस संबंध में जो रूल्ज हैं, नियमावली है, उसको भी तैयार कर लेना चाहिए। श्रव ग्रापको ग्राज्ञा का मुझे पालन ही करना है ग्रापक साध्यम से केवल एक वात का में ग्रन्रोध करना चाहता था और हमारे वित मंत्री जी बैठे ये, चले गए, भैं उन्हीं से कहना चाहता था कि इस देश के वित्त मंत्री के माथे के ऊपर बहुत वड़ा कलंक है और इनको चाहि⊓ था कि जब इस तरह केबोटाले प्रकाश में ऋाएं ऋौर इस देश में नहीं, दुनियामें चर्चा का विषय वनें तो इनको ग्रादर्श उपस्थित करना चाहिए था । मैं वित्त मंद्री जी पर कोई ग्रा**रोप न**हीं लगा रहा है, लेकिन जो नैतिकताका तकाजाथा, जो ईमानदारीका तकाला था, उनको वित्त मंत्री के पद से न्याग[्]यत जलर देना चाहिए शाः उन्होंने दिता मंत्री के पद से त्याग-पत्न न दे करके दोषी व्यक्तियों को बचाने की कोशिश की है। इसलिए मान्यवर, में श्रापके माध्यमसे ग्रनशेध करता हं कि श्रव भी वहत समय है. भारत सरकार के दिल मंत्री अभिमनमोहन सिंह जी को, इस इतनी वड़ी बटना पर जो दनिया में चर्चा का विषय हों, अपने पद से त्याग-पत्र दे करके एक ध्यक्ष्यां प्रस्तृत करना चाहिए । धन्यवाद :

उपसभाध्यक्ष (श्री एकीक श्रालम) ः श्री चतुरातन मिश्र जो । तीन मिनट ।

श्री चतुरानन मिश्र : उपसमाध्यक्ष हैं महादय, जब हम लोगों ने इस विधेयक को नामंजूर करने का प्रस्ताव दिया था तो इसलिए नहीं कि ब्राडिनेंस नामंज्र हो जाए बल्कि पॉलियामेंटरी मैथड वह ही एक तरीका है बहुस में लान का इसीलिए हमने दिया था। मैं उन माननीय सदस्यों के साथ नहीं हूं जो समझते हैं कि इस सवाल पर ब्राडिनेंस नहीं जारी होना चाहिए। मेरा ख्याल है

कि ऐसी पूर्ण यह परिस्थिति थी जिसमें इस तरह का ग्रांडिनेंस जारी होना चाहिए था नहीं तो ग्राखिर इन लोगों को पकड़ा कैसे जाएगा ? साधारण कानुन से पकड़ना और रुपया बसूल करना संभव नही था। मुझे तो शक है कि श्रभी भी संभव नहीं है। जहां तक इस बिल पर श्राने के पहले माननीय सदस्य जो ग्रिधिवक्ता भी हैं, लीगल एक्सपटे हैं भाटिया जी नेजो एक-दो प्रकन उठाए है, में वित्त मंत्री जी से कहना कि इसको न्नगर श्रापको जल्दबाको है इसे ग्राज हो। पास करा लेने के लिए ब्रौर फिर ब्राने के लिए, जब सब रिहा हो जाएं,तब तो दुसरी बात है, नहीं तो आप लीगल श्रोफीनियन ले लीजिए । क्योंकि उसमे कुछ ऐसी वात हैं, तो में भी सोच रहा हं। फिर से मान लीजिए कि यहैं लिखा हमा है कि इसमें फर्स्ट अप्रैल से लेकरके ही, तो मैं वराबर सोच रहा था कि यह फर्स्ट अप्रैल क्यों रखा है इन्होंने, तो मुझे इसको छोड़ करके ग्रौर कोई श्रदे नही लगा कि यह अप्रैल फुल्ज डे है जो सभी लोगों को धेवकफ बनायाजा रहा है इसीलिए सरकार ने शायद यह डेट दे दिया है। कि सब तो छुट ही जाएगा। फिर बाद में होगा कि यह हो गया वह हो गयः । . . . (व्यवधःन) . . .

बिस मंत्रालय में राज्य मंत्री श्री दलबीर सिंह : ऐसा नहीं है ।

श्री चतुरानन मिश्र : ऐसा नहीं है । ग्रन्छा नहीं है तो ग्राप बता ही जिएसा कि यही डेट श्रापको कहा से मिली? क्यों ऐसा हुआ दि क्योंकि हमको नहीं माल्म है. इसलिए श्रापसे पूछ रहे हैं ।

मान्यवर, फिर कुछ बात हैं, जिसकी तरक हम सरकार का ध्यान प्राक्षित करेंगे इस कान्न की तरफ और दूसरे विन्दुओं की तरफ भी और वह यह है कि दो तरह के काम बकायदा हुए। एक तो हुआ है स्टोंक मार्केट में, जेयर स्टॉक में और दूसरा हुआ मनी सार्केट में, जहां बैंक हैं वहां। अपराधी दोनों जगह हैं।

[श्री चतुरातन मिश्र]

अब हम देख रहे हैं कि ग्राप जो यह कानुन बना रहे हैं उससे क्या उनको पकड़ा जा सकता है ? ग्रापने जो रास्ता तय किया है, उसमें क्या उनका कसूर है ? ग्रगर किसी ने यह शेयर का पैसा बढ़ाया शेयर खरीदा तो कहां जुल्म कर दिया है ? जो बैंक रिसीप्ट वाली पढ़ित है, सो तो है पद्धति, कहां से यह इल्लीगल हो जाती है? किस स्टेब पर हो जाती हैं ? लॉ में कड़ीं डिफाइन नहीं है । जो डिकाइन है उसका ग्राप किक नहीं करना चाहते या उस पर एक्शन नहीं लेना घाहते । जैसे, मान लीजिए, अखबारों में यह बात आई है कि फोर्जंड रिसीप्ट के आधार पर काम किया गया। इसके लिए स्पेक्षल कोर्ट की जरूरत नहीं थी। यह तो डिपार्टमेंटल एक्शन लेकर के भी उस ग्रादमी को नौकरी से हटा देते या जो श्ररेस्टेड लोग हैं, जेल में 48 घंटे से ज्यादा हैं, उनको नौकरा से सस्पेण्ड कर लक्ते थे या दूसरी प्रोसीडिंग कर सकते थे । इसलिए आपकी ईमान्बारी पर लोगों को शक हो रहा है। इसलिए हमने अप्रेल फूल की दात कही क्योंकि हमको लग रहा है कि इनको कैसे पकड़ा जाएगा ।

दूसरा, कुछ विदेशी वेक ग्रौर कुछ विदेशियों ने इस काम को किया। हमारा लॉ उन पर गवर्न होगा या नहीं होगा? यह बात भी हमको स्पष्ट नहीं लगती है कि इस तरहे का होगा। हमारे लॉ मंत्री जी हैं, यह बताएंगे कि ऐसा प्रोवीजन है या नहीं है? या फिर, ग्राप उनको छूना नहीं चाहते क्योंकि ब्रौर विदेशी पंजी लाने के लिए ब्राप फेर में हैं ब्रीर इसलिए सोचते हैं कि छोड़ो इन लोगों को, इधर-उधर करके ऐसे सफेद किया जाए। इस तरह से यह जो शेयर मार्केट का धंधा है, उसमें तो ब्रार्टिफिशन शेयर का भाव बढाया ही जाता है। इसमें ग्रपराध क्या है? यह तो ग्राप एलाऊ किए हुए हैं, सारी दुनियां में एलाऊ है, जहां-जहां पूंजीवादी **अ्यवस्था** है, हर जगह एलाऊ है। बाद में ब्राप एक स्टेज पर जाकर कहेंगे कि यह इल्लीगल होता है। यह तो

लां में हमारे डिफाइन नहीं है तो हम उनको कैसे पकड़ेंगे? यह तो श्राप हमको बता टीजिए।

दूसरी बात, जिस पर परकार पर शक हो रहा है, वह यह कि एफ ग्राई. ब्रार. में जिनका नाम ब्राया है उन पर कार्यवाही नहीं की गई है। क्योंकि सुना है, वह ए स्राई सी नी. के मैम्बर हैं या क्या हैं, क्रखबारों में यह बात श्राई है, मेरे पास कुछ तथ्य नहीं हैं। विवेदी जी बोल रहे थे अतुर्वेदी जी के बारे में, तो दिवेदी से चतुर्वेदी की बात द्रा गई तो द्रौर भी गंभीर कात हो जाती है, अगर मिश्र जी गवाह हों तो फर्दर जोर देने की बात हो जाती है। तो आप इसको कहिए कि क्यों नहीं पकड़े गए किर, एक क्रोकर थे भूपेन्द्र; सुना है, वह तो नाम ही एखे हुए है दलाल, अब ग्राप उसको पकड़ ही नही पा रहे हैं। कहां चला गया, देश गया या विदेश गया? यह सब सानकर धाप पर शक होता है।

फिर, इसके लिए ग्रापको क्या दिनकत है कि बिना सिक्योरिट के कैसे बैंक रिसीप्ट ज्यादा दे दिया, वह तो गॉलेज में ह्या गया। ह्यापको डिपार्टमेंटल एक्झन लेने में क्या दिक्कत है? तो यह मिल-मिलाकर हमको ऐसा लगता है कि एकाउण्ट का रिकन्साइल करना वैंक में अत्यधिक असंभवसा काम है, जब आप कम्थटर में लाइएगा तत देखा जाएगा, वह रिकन्सायल होता नहीं है। आप किसी पर मुक्दमा चला नहीं पाएंगे। पहले भी इनका रिकस्सायल नहीं था, 80,000 करोड़ का, 85,000 फरोड़ का, कुछ-कुछ हम जानते हैं इसलिए आपको कह रहे हैं। तो कहें कि हमारा क्या कसूर था, इनके पास साधन नहीं था। यह कितने लूप-होल हैं। इनको भागने के बहुत ज्यादा मौके हैं।

हमारे यहां से हमारा कानून इस ढंग से है कि ईमानदार कम काम कर सकता है और बेईमान बहुत ज्यादा कायदा उठा सकता है। यही हमारी

ज़ीमल व्यवस्था भी है और कुछ इस तरह की पद्धति भी है। अब आपने कहा कि स्पीडी टायल...(स**भव की** बंदी)...सर, दो-तीन भिनट ग्रौर दी-जिल्गा। स्पीडी ट्रायल का ग्रापन देखा कि स्वागत होगा कि स्पीडी ट्रायल हुन्ना, लेकिन होगा कैसे स्पीडी ट्रायल? जितना कानुन है, संविधान है, उसको छोड़कर के तो यह ग्रलग से नहीं जाएगा। क्या ग्रापको यह ग्रधिकार था या ग्राप कर सकते हैं कि ट्रायल की अवधि निश्चित कर दें कि इतने दिनों के अंदर इस कैस का डिस्पोजल कर दीजिए। श्रीर क्या सरकार के पास यह तथ्य जमा है, हम नहीं जानते? क्या सी. की. ग्राई. ग्रभी तक पहुंच गई है, इतना रिकार्ड ग्रा गया है कि उनका कन्विक्शन श्योर हो जाएगा, अस्यका दायल ही होकर क्या होगा? जब सत्र छट ही जाएंगे तो उसमें दायल क्या करेंगे? तो इसी लिए माल्म नहीं पड़ रहा है। इसी तरह से अनील केसिस का जो डिस्पोजल होगा, उसमें लोगों को मालुम है कि एक-एक केस को 20, 25, 30 बरस लग जाते हैं, वह भादमी मर जाता है, केट चलता रहता है। तो इसको देखते हुए उसका भी श्रापने टाइम लिमिट नहीं किया है। फिर आप कह रहे हैं कि स्थीडी डिस्पोजल होगा, इसका तो कोई लक्षण लग नहीं रहा कि इसका यह हो सके। दूसरी बात, कोर्ट द्रगर जस्टिस करना चाह छौर चाहता ही है तो उसके लिए उसको मदद देने की बात है। तो ग्रापने कहीं प्रोविजन तो नहीं रखा है कि इस तरह के केसिज में जो टैक्निकल मेन्वरिक्स होती हैं, उसके लिए एक्सपरटाइस कोर्ट को भी उपलब्ध कराया जाए इंडिपेंडेंट ताकि कोर्ट जल्द से जल्द बातों को समझ सके, नहीं तो वही पेक्सकार और वही मंशी लेकर करेगा तो उसको तो समय लगेगा। श्रीर हमने कहा कि श्राप जो व्यवस्था ला रहे हैं उसमें हमको देखने से पता चला, सरकार श्रपना कुछ पैसा बचा ले, बचा नहीं सकती है, वापिस ंकरा नहीं सकती है, कुछ टैक्स भी रिकवर हो सकता है, लेकिन जिन लोगों ेने श्रेगर खरीदे हैं आर्टिफश्यली बहुत

हाई दाम पर, उनको सरकार वापिस करेगी यह ग्रसंभव बात है। न्योंकि सरकार ने तो धाज तक हिसाब भी नहीं दिया है कि वह रूपया कितना है। यह जो श्राप तीन या चार हजार करोड़ रुपया दे रहे हैं, यह तो दे रहे हैं, ग्रापके रुपए का घोटाला हमा है--बैंक का, इसका, उसका, यह हिसाब दे रहे हैं लेकिन वह कितनी रकम है यह तो कोई जानता नहीं। इसलिए उसके लिए काहे को उनको दिलासा दे रहे हैं कि उनका ग्राप वापिस कर सकोंगे। यह तो होता नहीं है। यह एक तरह का जुआ है, जो लीगल जुबा है--श्रेयर माफिट--हम लोग अलाउ किए हुए हैं। इसलिए उनको तो संतोष करके बैठ जाना होगा, वह इसका प्रावधान नहीं कर सकते। इसरे ग्रापने इजाजत दी है हमारे देश 🗟 कि रुपए की तुरंत विदेशी मद्रा में युष्त्रई कर लेंगे. पहले हवाला मार्किट के होता था, यह होता था, अभी भी होता है, वह कर लिया होगा ग्रगर वह निश्चित रूप से चौर था तो, वह इसलिए तो नहीं बैठा था कि वित्त मंत्री जी बिल लाएंगे श्रीर थाप सभापति रहेंगे ग्रीर चत्रानन मिश्र भाषण करेंगे, उसके बाद कानन पास होगा, तब हम चोर भ्राकर इसको करेंगे। ऐसा कोई देवकुफ चोरनहीं होगा और अगर होगा तो सब कुछ हटा लिया होगा इधर-उधर, थोड़ा-सा बचा गया होगा। इसलिए एन्टायर जीगल सिस्टम जो हैं जिस हंग का, उसनें हम लोग कैसे कर सकते थे। हम चाहते ये कि थोड़ा-बहत इस लॉ के श्रंदर प्रोविजन कर दें नहीं तो स्पेशल कोर्ट का कोई महत्व नहीं रह जाता।

श्रंत में, उपसभाव्यक्ष जी, मैं कहना चाहता हूं कि यह तो ठीक है कि हम लोग विरोधी पक्ष में हैं इसलिए आपको कहते हैं कि आप गड़बड़ी कर रहे हैं, यह कर रहे हैं, यह सब जायज है, लेकिन समस्या यह है कि बाहर जाकर लोग कहते हैं कि आखिर पार्लियामेंट क्या

[श्री चतुरावन मिश्र]

बिगाड लेगी ? बोफोर्स में क्या किया जे०पी०सी० ने ? इसमें जे०पी०सी० क्या करेगी ? हम उनकी मंशा में, ईमानदारी पर कोई डाउट नहीं करते, हम जानते हैं कि बहुत ग्रच्छे लोग हैं, सभी माननीय सदस्य हैं। लेकिन ग्रन्छे लोग बरे लोगों को पकड़ नहीं सकते हैं यह भी हम श्रापको बता देते हैं क्योंकि जो बहुत बुरे लोग होते हैं, बहुत होशियार होते हैं। तो हम लोगों पर भी यह ग्रा रहा है कि ग्राप लोग पार्लियामेंट में बैठकर करते क्या हैं? इसलिए जो ग्रट-स्टेक है, वह सिर्फ मनमोहन सिंह जी का ग्रट-स्टेक है, कांग्रेस गर्दनमेंट का ग्रट-स्टेक है, ऐसी बात नहीं है, पालियामेंट की पद्धति का ग्रट-स्टेंक है कि इतने-इतने हजार करोड रुपए खाकर भी कोई किसी का कुछ नहीं कर सकता है, ऐसी स्थिति ग्राज हमारी हो गई है : इसलिए मैं चाहुंगा कि यह कानून जो आप बना रहे हैं तो कम से कम ऐसा बनाए कि त्रंत ग्रल्ट्रावायरस नहीं डिक्लेग्रर हो तो हम लोग सव भ्रष्ट जाए, नहीं के साथ समझे जाएंगे, इस कानून के जरिए से । इसलिए मैं ग्रापसे फिर एक बार ग्रनुरोध करूंगा कि सस्टेन प्रोविजंस के बारे में कुछ उन्होंने सवाल उठाया है और कुछ लगती भी है उस तरह की बातें, तो इसलिए श्राप उनके भी नेच्युरल ग्रिधिकार हैं या फंडामेंटल राइट्स हैं, उसका उल्लंघन तो हम नहीं कर सकते हैं, इसलिए उसको देखते हुए इस कानून को बनाएं ग्रीर कुछ जो हमने श्रापसे कहा है, जो ग्राप डिपार्टमेंटल एक्शन खुद ले सकते हैं—चाहे फोर्जेड **दी**∘गार० हो, चाहे बिना इसके हो— मोर ए-इवांस के लिए रुपया दे दिया, श्चिम्पूरिटी का रूपया दे दिया, बिना सिक्युरिटी के कर दिया, ये सव चीजें

जो हैं या 48 श्रावरस तर जेल में रहने के बाद भी श्रापने सस्पेंड नहीं किया है तो इन सबका जवाब तो दीजिए ताकि हम लोग यह पूछ सकें कि सरकार सीरियस है ? क्योंकि भाषण में श्राप जितने सीरियस हैं, एक्शन में नहीं हैं। इसलिए श्रापसे अनुरोध हैं कि इसको कीजिए क्योंकि हम सब की प्रतिष्ठा—श्रापकी, पूरे सदन की, पूरे पालियामेंट की, श्रट-स्टेक हैं। इसलिए इसको बचाइए, यही मुझे कहना है।

थी मोहम्मद खलीलुर रहमानः (ग्रान्ध्र प्रदेश): वाईस चेयरमेन सर, ग्रभी हाल में हजारों-करोड़ रुपयों का ओ का घोटाला हुम्रा है, उस बैंक के घोटाले के को मुलजभीन हैं, उनको सजा देने के लिए एक फौरी तौर पर 6 जुन को एक ग्रार्डिनेंस निकाला गया ेथा और उस ग्राडिनेंस को एक एक्ट की शकल देने के लिए यह बिल लाया गया है। इसका मैं खैर मकदम जरूर करता हूं। मगर साथ हो साथ इत्तफाक से हमारे फाइनेंस मिनिस्टर साहव भी यहां मौजूद है और हमारे मिनिस्टर ग्राफ स्टेट फार लों भी यहां पर मीजूद हैं। मैं ग्रापके जवाब में यह जानना चाहूंगा कि एक तरफ तो स्पेशल कोर्ट के जरिए ग्राप इस बात की कीशिश कर रहे हैं कि जो मुलजमीन हैं उनको सजा दे दी जाए और फिर साथ ही साथ अभी हाल में एक जोइंट पालियामेंद्री कमेटी बैठी है और वहां भी इसकी पूरी तहकी-कात चल रही है। तो मैं ऋषिसे यह प्रक्रमा चाहता है कि क्या वक्त बाहिद में या सिम्लटेनिसली सोशल कोर्ट भी जांच करेगी श्रोर जोईट पॉलियामेंट्री कमेटी भी तहकीकात करेगी। तो क्या यह नेच्यरल जस्टिस के एन जो हैं

Court and the Special Court

म्ताबिक हैं? इस बजह से जो मुलक्सीन, जो एक्यूज्ड हैं, वह वरावर इस बात का एतराज कर सकते हैं कि जो कुछ भी हमको प्ली लेना है और जो कुछ भी हम फ़ेस कर यहे हैं वह स्पेशल कोर्ट में भी कर रहे हैं, दूसरी तरफ जोइंट पार्लियामेंटी कमेटी के भी तहकीकात हो रही है। इस ताल्ल्क से मैं हमारे फाइनेंस मिनिस्टर साहब •सं यह दरख्वास्त कहंगा कि इस बिल को पास करने से पहले भ्राप ग्रन्छी तरह कानुनी राय से लीजिए कि क्या यह पौरिसीबल है ? इसके पास करने में यदि एक दिन या दो दिन की देरी हो जाए तो कोई मुजायका नहीं है। मगर एक दफे आप पास करेंगे, फिर यह बिल किसी न जिसी वजह से सुप्रीम कोर्ट में अगर चेलेंज किया जाए और स्प्रीम कोर्ट इस बिल को नल एड बोइड करार देदे तो फिर खामोखा की जो इतनी मेहनत होगी, वह मेहनत बिल्कुल रायगां चलो जाएगी श्रौर जाया होगी। लिहाजा में हमारे फाइनेंस मिनि-स्टर साहब से यह दरख्वास्त करूंगा कि इस विल को आज ही पास करने सं बेहतर बात यह है कि इसके ताल्लुक स ब्रहानी जनरल की कानुनी राय ले ली जाए, इस वजह से कि उससे पहले हुम्रा था यह बिस इंटरोडयज फिर उसके बाद लोक सभा में पास हुआ श्रीर फिर साथ हो जोइंट पार्लियामेंट्री कमेटी बनी। तो जाहिर है कि जोइंट पार्लियाभेंद्री कमेटी की वह अपने बराबर सजेशंस जारी रहेंने और फिर इसमें जो एक्युज्ड हैं वह बराबर स्पेशल कोर्ट में जाएंगे और इसको फेस करेंगे। यह एक ही बात मेरे जहन में क्या रही थीं, मैं इसकी बजाहत चाहंगा धौर फाइनेंस मितिस्टर साहव से दरख्वास्त करूंगा कि इसको ग्राप जरूर ग्रपने जवाब में पुरा हमको मुतमईन करने की कोशिश को**जिए**। शुक्तियाः

محمطة معايين ويحاجو منكب كأحوزاله

^{† []} Transliteration in Arabic script.

Court and the Special Court

†[] Transliteration in Arabic Script.

VICECHAIRMAN (SHRI SA-FIQUE ALAM): I seek the permission of the House for Mr. Sukomal Sen to eccupy the Chair.

[SHRI SUKOMAL in the Chair]

SHRI TAA CHARAN MAJUMDAR (Assam): While agreeing with the general purposes of the Bill, I will try to draw out some vagueness and defects in the Bill.

The purpose of the Bill is to see that the cases before the special courts are disposed of expeditiously. In this Bill a provision has been made that the presiding officer of the special court will be a judge of a High Court. The High Courts are already ever-burdened with work. There are rising arrears. If a High Court Judge is to sit only for trying these special court cases, arrears is the High Courts will further increase. I would like to know whether the purpose of the Government is to provide for a sitting judge continuously for a special court, or it wants that the High Court Judge presiding as a Judge of the special court will have Ms attention divider between the Bench and he special courts. That is the point to be taken into consideration. If the High Court judge' is to look after his work in the High Court Bench and also has to sit as a judge in the special court, the purpose of

361 Statutory Resolution seeking [17 AUG, 1992] (Trial of Offences relating 362 disapproval of the Special Court and the Special Court

peedy disposal of cases before the special Courts will not be achieved. Moreover, the High Court Judges will be overburdened. So, my humble suggestion is that the Government should make provisions , for appointing some retired judges of proven efficiency and integrity to sit as whole time judges in the special courts. That will help in the speedy disposal of cases

The offences to be tried by the special courts will be offences covered by the Indian Penal Code. This Bill does not make clear why ordinary courts are not adequate in the disposal of those cases, this thing should be made clear in the Bill.

I would draw the attention of the Government to another apparent contradicion in Section (9>. wherein it has been 1 rovided:

> 9(2): "Save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provivisions of this Act, apply to the proceedings before the Special Court and for the purposes of the said provisions of the Code, -the Special Court shall be deemed to be a Court of Session, and shall have all the powers of a Court of Session, and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor."

My submission is that a Public Prosecu-Or is to be appointed under Section 24 of the. Criminal Procedure Code. Simply tlaking a provision that a person conducting prosecution before Special Courts would be deemed to be a Public Proseptor, will according to my humble submission, lead to legal complications. In older to authorise a man to conduct the prosecution before a Special Court, he must be a person authorised under Section ,24 of the Criminal Procedure Code, It appears as if the intention of the Bill is to. allow some other persons, who are not appointed under the provisions

of transactions in Securities) Bill, 1992

of Section 24 of the Criminal Procedure Code to be Public Prosecutors. If that is the intention of the provision, I think, some legal complications will arise. Toe law requires that a Public Proseoutor must be one who is appointed under Section 24 of the Criminal Procedure Code.

Another submission is consideration of the fact that the persons to be tried before the Special Courts are very influential persons. They have got heavy funds at their disposal and they will hire the topmost lawyers of the land. In order to meet the challenge, my submission would be that there should be a panel of competent lawyers and lawyers of integrity to act as Special Public Prosecutors appointed under Section 24 of the Criminal Procedure Code. That should be. done for the successful conduct of the cases before the special

THE VICE-CHAIRMAN (SHRI SU-KOMAL SEN): Since it is your maiden speech, I have allowed you more time. Now please conclude within two or three minutes.

SHRI TARA CHARAN MAJUM-DAR: Some points were raised by some hon. Members regarding the transfer of cases before the Special Court. I think the purpose of the Bill is to have so many Special Courts in different parts of the country. When the Bill has made provisions for application of Criminal Procedure Code, there will not be any difficulty in seeking transfer of cases from one special court to another. It is so because the Criminal Procedure Code provides that the Supreme Court has wide powers to transfer one case from one criminal court to another criminal court. When the Special Courts are also Criminal Courts, there will be no bar in seeking transfer of cases from one Special Court to another, if the accused in any way think that they will not get. justice from, a particular, criminal court.

[Shri Tarachand Majumdar] - Some hon. Members were commenting that the Special Courts will be regarded as Sessions Courts and when a Court Judge is presiding over a special Court and will be dealing such cases, he will be lowered in his status. I think that is not the purpose of the Bill. It is to provide that the procedure followed in the Session Court will also be the procedure followed in the Special Court.

The Bill has made provision for one appeal *i.e.*, appeal before the Supreme Court. In that way it has curtailed the right of the accused person for the benefit of one appeal.

SHRI PRAKASH YASHWANT AM-BEDKAR (Nominate): Options are allowed in that.

SHRI TARA CHARAN MAJUM-DAR: In ordinary cases the accused person generally gets two appeals. Over and above that he has a right to seek revision. From the Bill it appears that the procedure followed in the trial of (general cases has been kept in tact.

THE VICE-CHAIRMAN (SHRI SU-KOMAL SEN): You have taken more" than double your time. You have already taken twelve minutes. Please conclude within one minute.

SHRI TARA CHARAN MAJUM-DAR: O.K. I conclude. I don't want just *to* over-step my right.

THE VICE-CHAIRMAN (SHRI SU-KOMAL SEN): Anyway, you can conclude your sentence.

SHRI TARA CHARAN MAJUM-DAR: If the purpose of the Bill' is to see that the cases are disposed of expeditiously, I think nothing much will be achieved because the speedy disposal of oases depends on the investigating agency, the prosecuting agency, the Court and the defence lawyers. Unless all these persons cooperate, there cannot be any speedy disposal. An hon. Member referred to a very important point that the Bill should have prorided for a time-limit for disposal of ceses. I

think that could have been done. The Bill could have also provided that the hearings before the Special Court will continue from day to day. Some such provision should have been made in the Bill if the purpose of the Bill is to see that the cases before the Special Court are to be expeditiously disposed of. So, my suggestion is that if the intention of the Government is to see that cases are speedily disposed of, this provision may be incorporated in the Bill. Thank you.

SHRI MADAN BHATIA: Sir. with your permission, may *I* take just one minute? I would like to have your permission to mention one point.

THE VICE-CHAIRMAN (SHRI SU-KOMAL SEN): You have already spoken. One more speaker is there. Let Mm finish first. Mr. Ambedkar. You have six minutes.

SHRI V. NARAYANASAMY (Pondicherry): You can take one minute more.

SHRI PRAKASH YASHWANT AM-BEDKAR): Mir. Narayanasamy is generous with *me*.

Mr. Vice-Chairman, Sir, there are now six agencies investigating into the scam. They are the CBI, the Revenue Intelligence, the local police, the Income-tax Department, the JPC and now the Special Court. I do not know where all these agencies are going to land us, or what is going to happen if these investigating agencies come to different conclusions. Are you again going to have another Committee to check up the recommendations of these agencies and to come to a decision as to which agency is right? I do not know what the Finance Ministry is up to.

There is one more disturbing factor which has come out. There have been reports in the press that there was some delay in arresting some of the persons or information being passed on by one agency to another and that delay has been used either to destroy some of the papers that were available or for the

flight of money from this country to other countries. And, they say that the media that were used were the foreign banks. May 1 know from the hon. Minister whether they are looking into this aspect?

I will again come to another issue on which I would like me Finance Minister to be very precise. A piece of information, a story, has been circulated in Bombay that there was one Revenue Intelligence Officer, by name Mr. Rai. When Harshad Mehta gave an interview to the Evewitness cassette, it was 15 days after he started investigating the whole case. He said that he had investigated into the whole matter somewhere in the end of April or the beginning of May and his report was complete and that the report was submitted to the Finance Department. The Finance Department had showed that report to the Prime Minister and all of a sudden we found that in the month of June or at the end of May, the Revenue Intelligence Officer, Mr. Rai, who was investigating into the case, was transferred from Bombay to Calcutta. I would like to know from the Finance Minister whether this information or the Story that is being told in Bombay is true or not. (Interruptions)

THE MINISTER OF FINANCE (SHRI MANMOHAN SINGH): This is all gossip which has no substance.

SHRI PRAKASH YASHWANT AM-BEDKAR: I know this is all gossip. But I would like to know whether Mr. Rai, an intelligence officer, who was working in Bombay, has been transferred to Calcutta. As per my information, til] April, he was posted at Bombay. In June, he has been transferred to Calcutta. Has transfer taken place? If so, why are the transfers taking place so fast? The hon. Finance Minister denied this report. Some of the hon. Members have got a copy of the circular. Some of the Members who have been making allegations both inside the House and outside, are waiting for the Finance Minister to male a categorical attune. They are

waiting to see how far these agencies are being manipulated'. Already, in one of the judgements, a judge has commented about the functioning of some' of the governmental agencies. I would not like to go into that. I think those Members who are having a copy of this circular, are holding it to see as to how far the Government is true on it.

Lastly, whatever seam has taken place, those who are found guilty, will be dealt with acossding to the law of the land. The law will take its own course and they will be punished accordingly.

Coming to shares, what is the Government going to do about shares? You have asked the RBI to hold up some of the dealings which have taken place. Basically, forward dealing was one of the reasons for this. I don't think it is time for us to withdraw those steps which we have already taken. We are disrupting the market economy which was established. I know there are scams which have taken place in the world. But they have taken remedial measures. I would like to know whether the Finance Minister is going to address himself to the problems of those share brokers who have been blacklisted or thoose shares which have been blocked or some of the banking processes which have been stopped. Will he take a decision regarding these? There is a total blockade of the money; there is a total blockade of the capital market and some of them are new selling them at a distress price. I would like to know when the Finance Minister is going to decide the whole matter. If he is going to decide the whole matter. If he is going to ask the JPC to look into this, then we will have to have another scam because this is what is known as short selling and then we will have another JPC to find out how the short selling has taken place and this will be an unending process. The Finance Minister should address himself to this and take a quick decision. Thank you.

SHRI MADAN BHATIA: I am grateful to you for giving me just one of two relates There was one point which

367 Statutory Reselution seeking [RAJYA SABHA] (Trial of Offences relating 368 disapproval of the Special of transactions in Securities) Court and the Special Court Bill, 1992

(Shri Madam Bhatia)

on this Bill. Clause 4 of this Bill says: minutes. the Custodian is satisfied that any contract or, agreement entered into any time after the 1st day of April, KOMAL SEN): All right. If you agree, 1991 and on or before the 6th June, 1992 the Minister can reply now. We can in relation to any property of the person complete the Bill then. Mr. Mathur, notified under section 8, has been entered mover of the Resolution, absent. Mr. fraudulently or to defeat the pro-of the Act he may cancel such visions of the Act, he may cancel contract or agreement." Now supposing, the person who is contemplated by clause 4 has gifted away his property during this period to his children or to his wife or to his relations or to his friends, that gift is not covered by clause 4 because gift is neither a contract nor That will mean the proan agreement. perty which he has gifted away, will completely escape the jurisdiction of the custodian. It will go out of the hands of the authority which is being constituted under this Bill. In order to attach seize and that property 5.00 P.M. and keep it under safeguard for the purpose of meeting liabilities after that person is convicted because it is neither a contract nor an agreement and the properties gifted away to the sons and the लाया गया है इसलिए टाइम-फेम इसमें relation completely escape. That's all.

VICE-CHAIRMAN THE (SHRI SU-KOMAL SEN) Now, according to the list of Business we have to take up two statements by Ministers, one by Shri Ajit Kumar Panja and another by Shri M. M. Jacob. It is 5 o'clock. If the House agrees, then the Ministers can make the statements and the clarifications can be taken up later on. After that, we can resume the discussion on the Bill because we will have to get the Bill passed today itself. Clarifications be can taken up tomorrow and we can complete the Bill today.

SHRI VITHALBHAI M. PATEL (Gujarat): That will do...(Interruptions)

THE VICE-CHAIRMAN (SHRI SU-KOMAL SEN): It is all right. .. (Inter-; ruptions)...

AFFAIRS AND MINISTER OF STATE IN THE MINISTR.Y OF HOME AF-FAIRS: (SHRI M. M. JACOB): The Miescaped my mind when I was speaking nister can reply now in four or five

at THE VICE-CHAIRMAN (SHRI SU-

श्री दलबीर सिंह : उपसभाध्यक्ष महोदय, स्पेशल कोर्ट बिल में माननीय सदस्यों की ग्रोर से बहुत से सुझाब ग्राए हैं श्रीर बहुत सी चीजों की जानकारी भी हमें मिली हैं। खास कर के एक मुद्दे को ले कर जो भाटिया जी ने भी उठाया तथा कई ग्रन्य माननीय सदस्यों ने भी कहा कि 1-4-1991 की बात क्यों कही गई है। कोई भी स्पेशल लेजिस्लेशन हो उसकी समय सीमा निर्धारित होनी चाहिये और जहां तक 1-4-1991 का सवाल है जानकीरमन कमेटी ने 1-4-1991 पश्चात ही आंच की है, इसलिए 1-4-1991 रखी है । इन केसेज को निपटाने के लिए स्पेशल लेजिस्लेशन जो 1-4-1991 का इसमें रखा गया है स्रौर इसके साथ साथ 6 जुन को स्राडिनेंस जारी किया गया । मैं माननीय सदस्यों को ∕यह बताना चाहंगा कि इस दिल को लाने के पहले इस की बहुत गहराई से देखा गया । एटोर्नी जनरख से राय भी ली गई श्रीर हमारे जो कानुन के ज्ञाता हैं उनसे भीवात की गई। इतना ही नहीं हमारे जो ग्रपोजीशन पार्टीज के लीडर्ज हैं उनसे श्रभी सात श्रगस्त को इस बिल के ऊपर विचार-विमर्श भी हुआ। । स्वयं सरकार यह चाहती है कि कोई भी क्लाज ऐसी न हो जिसका लाभ उठा कर कलप्रिट छूट जाए । जहां तक स्पेशल कोर्ट का सवाल है, एक कोर्ट से दूसरे कोर्ट में क्यों नहीं ले जाना चाहिये, इस सवाल पर भी बड़ी गहराई से विचार किया गया । इस लिए इसमें एडमिनिस्ट्रेटिव जो चीजें हैं वह लाई गई हैं ताकि केलों का स्पीडी डिस्पोजल हो, जैसे कि श्रापने भी कहा

है कि वर्कको जल्दी निपटाया जाए । इसलिए में माननीय सदस्यों को यह ग्रास्वासन देता हूं कि जो मुद्दे उन्होंने यहां पर उठाए हैं, मेरे विचार से सभी सदस्यों की इस बात के प्रति सहमति है भीर इसको में मानता हूं कि इस देश में यह विश्वाल धोखान्नड़ी हुई है । इस धोखाधड़ी के खिलाफ सरकार कार्यवाही करेगी । जैसे ही यह प्रकरण सामने श्राया, जानकीरमन कमेटी की रिपोर्ट आई, त्रा**डि**नेंस यहां ५२ लाया गया । इतना ही नहीं कस्टोडियन भी बैठाया गया । इसके साथ साथ जैसे कि श्री ईश दत्त यादव ने कहा है कि इसके रूल्ज बनने चाहियें, नियमावर्की भी बननी चाहिये। नियमावली बन गयी है और उसको भी हमने जारी किया है । मैं अधिक डिटेल में नहीं जाना नाहंगा । स्वयं माननीय प्रधानमंत्री जी ने भी दोनों सदनों में घोषणा की ! 15 ग्रमस्त को भी उन्होंने कहा कि चाहे कोई कितना भी बड़ा श्रादमी क्यों न हो जो भी दोषी पाया जाएगा उसको नहीं छोड़ेंगे। स्वयं श्रपने श्राप में सदन सर्वोच्छ है । दोनों सदनों के माननीय सदस्यों की जे०पी०सी० का गठन हो चुका है। जो भी खामियां हैं उन को जे॰पी॰सी॰ देखेगी। हमारे माननीय सदस्य जो यहां पर स्टेट्य्टेरी रेश्वोल्यूशन लाए हैं, उनके लिए मैं थोड़ा सा संक्षेप में कहंगा।

ed on 6th. June, 1992, requires to be re-That the Bill to provide for the estab August, 1992. The Bombay High Court trial of offences relating to transacthe Ordinance. The Finance Minister has already had a detailed discussion with the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, and the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the leaders of the Opposition parties repeated by the Lok Sabha, the l urge the hon. Member to kindly wife-The motion was adopted. draw the Resolution so that the Bill is passed today itself unanimously.

चाहूंगा क्योंकि इसमें बहुत से मुहे यहां पर उठाए गये हैं ग्रीर इसके साथ साथ स्वर्ग जै॰ पी॰ सी॰ फिर इस मामले को देखेगी। Bill.

इसीसिए में मानगीय संबद्धों से, सबसे विनेषण कर्षका कि सर्वानुमित से इस विल को पास किया जाए ।

भी प्रकार बरावंत भागों उत्तर : मैंने राय के बारे में पूछ। था । इनके बारे में ग्रापने कोई जवाब नहीं दिया ।

भी अस्तिकीर सिंहः खुद मित्री जी ने कहा है..., (अवस्थान) न उनको जानकारी है बौर ऐसा है कि भगर कोई बापको फैक्ट्स मालूम हैं तो ग्राप दीजिए। अगर ऐसा होगा तो हम एक्शन लेंगे... (अवस्थान)

श्रीप्रका**श यशवंत भन्वेडक**रः राय की क्या प्रगति हुई है...(**ज्यवधा**न)

THE VICE-CHAIRMAN (SHRI SU-KOMAL SEN): The mover of the Resolution is not present. It has to be put to vote. The question is:

"That this House disapproves of the Special Court (Trial of Offences relating to Transactions in Securities) Ordinance, 1992 (No. 10 of 1992) promulgated by the President on the 6th June, 1992."

The Motion was negatived.

THE VICE-CHAIRMAN (SHRI The Special Court (Trial of Offences relating to Transactions in Securities) ordinance, 1992, which was promulgated on 6th line 1992 requires to the distribution of the control of the co

placed by an Act positively before 18th lishment of a Special Court for the

VICE-CHAIRMAN SUKOMAL SEN): Now, we shall take सर, इसमें में ज्यादा कुछ नहीं कहना up clause-by-clause consideration of the Bill.

Clause 2 to 15 were asked to the

THE VICE-CHAIRMAN SHRI SHKOMAL SEN"

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

SHRI DALBIR SINGH: Sir, I move

That the Bill be passed.

* The motion was adopted.

STATEMENTS BY MINISTER

1. Organisation of International Film Festival of India, 1993 at New Delhi

THE MINISTER OF STATE OF THE MINISTRY INFORMATION OF AND BROADCASTING (SHRI AJIT KUMAR PANJA): Sir, International Film Festival of India (IFFI) is organinised by the Directorate of Film Festivals (DFF) under the Ministry of Information and Broadcasting, every year in the month of January. The IFFI, '87 at New Delhi was the last competitive Film Festival organised by the DFF. All the 5 International Film Festivals¹ which were organised after that were noncompetitive events. After the last festival at Bangalore in January, '92, a review was conducted with a view to make the festival attractive and to organise it in a better way so as to fulfil the objectives for which it was designed. In principle, it was decided to organise the next IFFI as a competitive event and this August House was apprised of this decision of the Government in reply to an UnStarred Question No. 3951 on 26.3.1992.

I am happy to inform the members that arrangements have already been initiated for organising this International went in Delhi. However, in view of the resource crunch faced the countiy in the current financial year and also ihe tight position in respect of the foreing exchange availability, the matter of making the next IFFI, a comevent has been reconsidered. The Film Advisory Committee of Ministry has gone into the matter of revival of the concept of the competitive festival and has recommended that first of all we have to see that all necessary I

infrastructural facilities become available, since it is the perception of the importance of a festival that attracts the best films and outstanding film personalities. Also, a lead-time of 15—18 months is required by the Directorate of Film Festivals to plan in a systematic manner the organisation of a world class competitive event. In the current scenario, it has been considered prudent to retain the existing character of International Film Festival and to hold it as a noncompetitive event at New Delhi in January, 1993.

JOHN F. **FERNANDES** (Goa): It is mentioned in the statement that it was decided by the Government to hold the next IFFI as a competitive event. I am sure the Ministry is already in touch with other nations. Now it is not proper for us at this moment to back out. May I know from the hon. Minister, because it is the prestige of the country which is involved, what is the foreign exchange implication for conducting this competitive Film Festival? I would also like to know why such decision was taken without making available the necessary infrastructural facilities. Sir, when we put an invitation forward and We don't have the necessary infrastructural facilities, we are making a mockery of ourselves. May I know from the hon. Minister as to why the Government made this proposal to hold a competitive Film Festi-

It is also mentioned in the staement that the last competitive Film Festival was held in 1987. That means we have the paraphernalia with us. May I know from the hon. Minister what more paraphernalia is to be added to facilitate this Film Festival?

THE VICE-CHAIRMAN (SHRI SUKOMAL SEN): Shri Digvijay Singh—not present. Shri Syed Sibtey Razi.

श्री सैयद सिब्ले रजी (उत्तर प्रदेश) : मैं माननीय मंत्री जी से जानना चाहंगा कि बंगलीर में जो पिछला इटरनेशनल फिल्म फेस्टिवल हुआ था हमारे तत्वाद्यान