

[Shri D. Bandyopadhyay]

else? This is going a little too far away from the rule of the law itself. If there is no conviction, has the court passed an order? Is it proved? Who proves it? Where is it proved? Is it the Enforcement Directorate? Is it the RBI? Who proves it?

And there cannot be any full proof unless the court gives the verdict. So, there is a contradiction, which, I think, the Government must clarify; otherwise, we are giving too much of delegated legislation to subordinate authorities usurping courts' privileges and rights.

Sir, coming as I do from the Trinamool Congress, we believe in crystal clear politics, be it money-laundering, be it black money we are against them and so is our leader, Km. Mamata Banerjee. So, we wholeheartedly support the Bill. But for the clarifications I sought, I would like the Government to clarify them. Thank you, Sir.

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#### MESSAGE FROM THE LOK SABHA

##### **The Appropriation (No. 4) Bill, 2012**

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:—

“In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Appropriation (No.4), Bill, 2012, as passed by Lok Sabha at its sitting held on the 14th December, 2012. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India.”

Sir, I lay a copy of the Bill on the Table.

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#### **The Prevention of Money-Laundering (Amendment) Bill, 2012 — contd.**

**प्रो. राम गोपाल यादव** (उत्तर प्रदेश) : धन्यवाद, उपसभाध्यक्ष महोदय। इस विधेयक पर हमारे तमाम विद्वान साथियों ने चर्चा की है और उसकी कई अच्छाइयों की भी चर्चा की। मैं एक-दो बातें कहना चाहता हूँ। जब कभी भी इस देश में economic offences को रोकने के लिए या अन्य तरह के अपराधों को रोकने के लिए बहुत कठोर कानून लाने का प्रयास हुआ

है या कानून लाए गए, तो उनका हमेशा दुरुपयोग हुआ है और इसका एक भी exception नहीं है, इसलिए इस विधेयक के बारे में भी मुझे यह आशंका है कि इसका दुरुपयोग हो सकता है, क्योंकि समय के साथ-साथ कुछ आदत सी हो गई है कि जो न्यायशास्त्र के बेसिक सिद्धांत हैं कि जो आरोप लगाता है, वही आरोप सिद्ध करे, उसके विपरीत जाकर अब यह होने लगा है कि जिस पर आरोप लगाया जाए, वह अपने आप को निर्दोष साबित करे। यह **jurisprudence** के बेसिक सिद्धांत के खिलाफ है। **Rule of Law** की अवधारणा का जिक्र जब सबसे पहले प्रोफेसर डायसी ने किया था, तब से लेकर हमेशा इस बात को माना गया कि किसी भी व्यक्ति को तब तक दंडित नहीं किया जा सकता, जब तक कि वह दोषी सिद्ध न हो जाए। यहां चार्ज लगाते ही किसी व्यक्ति को दोषी मान लिया जाता है, यह भी न्यायशास्त्र के मूल सिद्धांतों के खिलाफ है। यही नहीं, आपने **Schedule (a)** में जो लिमिट थी, उसको समाप्त कर दिया है, **Schedule (b)** में तो 30 लाख रखी है, लेकिन **Schedule (a)** में इसकी राशि को कम कर दिया है। इसका भी दुरुपयोग हो सकता है, क्योंकि कितनी ही राशि पर किसी भी व्यक्ति को या व्यक्ति के साथ अगर कुछ बैठे हुए लोग हैं, जो उनको भी मनी लाउंड्रिंग एक्ट के तहत बंद किया जा सकता है।

उपसभाध्यक्ष जी, यह **non-bailable offence** है और अगर इसका जरा भी दुरुपयोग हुआ, तो कोई भी व्यक्ति जेल में डाला जा सकता है, उसकी संपत्ति को जब्त किया जा सकता है और उसकी कोई पैरवी करने वाला भी नहीं होगा, जो उसके लिए जमानत और अन्य तरह की कार्रवाई कर सके। इस तरह के जब भी क़ानून बनते हैं, तो उनमें सेफगार्ड्स होने चाहिए। हमने **Maintenance of Internal Security Act** देखा है, हमने टाडा को भी देखा है, पोटा को भी देखा है और तमाम सारे क़ानून देखे हैं, सब में उनका दुरुपयोग हुआ है। इसमें सेफगार्ड्स की कोई व्यवस्था नहीं है। यह बात सही है कि मनी लाउंड्रिंग करने वालों के खिलाफ कार्रवाई हो, इससे कोई असहमत नहीं हो सकता, यह अच्छी बात है। मैं समझता हूं कि आपका जो क़ानून है, अगर सही तरीके से उसको एन्फोर्स किया जाए, तो वह भी पर्याप्त है। अगर आप उसे और ताकतवर बनाना चाहते हैं, तो उसकी जो दूसरी साइड है, उसकी जो मिसयूज़ होने की आशंका है, जो कि अतीत में हुए भी हैं, अगर हम और आप अतीत से कुछ नहीं सीखेंगे, तो भविष्य में भी वे गलतियां करते चले जाएंगे, इसलिए मैं कहता हूं कि उसमें सेफगार्ड्स की कोई व्यवस्था होनी चाहिए, जिससे कोई बेगुनाह व्यक्ति अनावश्यक रूप से जेल में न पड़ा रहे।

इन्हीं शब्दों के साथ और आपसे यह अनुरोध करते हुए मैं अपनी बात समाप्त करता हूं कि न्यायशास्त्र के मूल सिद्धांतों से हट कर गवर्नमेंट को जो यह चलन बन गया है कि अब न जाने ऐसे कितने कानून बन गये हैं, जिनमें सिर्फ एक एफआईआर लिख दो, उसके बाद जो बन्द हो जाता है, उसकी यह जिम्मेदारी है कि वह अपने आपको निर्दोष साबित करे। प्रॉसिक्यूशन वालों की कोई जिम्मेदारी नहीं है, उन्होंने तो आरोप लगा दिया, **that is final**. इससे कैसे इसको सेफगार्ड किया जा सकता है, कैसे लोगों को बचाया जा सकता है, यह भी ध्यान में रखा जाए। बहुत-बहुत धन्यवाद।

DR. K.P. RAMALINGAM (Tamil Nadu): Thank you, hon. Vice-Chairman, Sir. Many reforms have been undertaken by our Finance Minister. This Amendment Bill is yet another milestone in the direction of these reforms. We are happy that we are also a part of it because one of our Members is MoS to him. Sir, there were several shortcomings, administrative as well as legislative framework, in the existing parent law. Sir, money-laundering is a serious crime in which it is very difficult to trace and keep track of the flow of money. Why is it so difficult to trace and keep track of the flow of money? It is because it involves multi-jurisdictional entities and involvement of various layers of transactions across several countries. That is to say the menace of money-laundering is no more nation-specific, but it is a global phenomenon. Since the coming into force of the Money-Laundering Bill, 2002 with effect from 1st July, 2005, several practical difficulties came to the fore, which were not perceived during the enactment. So, a need was strongly felt to make appropriate amendments in the parent Act. Sir, I confine myself to the prominent features of the Bill. The first and foremost important aspect of this Amendment is that the Act is very categorical in saying that proceeds out of the crime will be treated as money-laundering and the probable crimes which could be sources of money have been mentioned in the Schedule to the Act under Part-A and Part-B.

Sir, white-collar crimes like money-laundering are very technical in nature and it requires a lot of expertise to nab the criminals. In order to involve the technical persons into investigation the amendment makes Department of Posts, Commodity Exchanges and brokers, stock exchanges, entities registered with PFRDA, entities who can be included when notified by the Government, real estate agents, sub-registrars who register the properties, dealers in precious metals and stones, high value goods and safe deposit keepers as reporting entities. The information received from the above mentioned entities will be useful for the investigating agencies to identify the transaction which involves multi-layered transactions and round-tripping. Sir, there is always an apprehension in the minds of the people of our country that proceeds of the crime are entering India through stock exchange. With a view to mitigate the fear and also instill confidence in the minds of people, SEBI has been aptly roped in as reporting entities and their valuable information will be used. Intelligence Unit will be used to monitor the flow of money. This is the importance of this amendment. This is the importance of this Amendment. The important aspect of this Amendment Bill is the introduction of the concept of 'corresponding law'. This concept links the Indian laws with the laws of foreign countries. The multi-jurisdictional

problem is thus addressed and it will now become easy to trail the flow of money and conviction will be ensured. The proposed sections, 58A and 58B, make the release of seized and confiscated properties very difficult and it is the need of the hour to ensure powers to the local courts in India.

At this juncture, I would like to give you a very valuable example. There is one vigorous case of money-laundering. There was a gift case in which money came from a foreign country and was deposited here. That case was registered by the CBI in the year 1996, but charge sheet was filed only in 2006. It took 10 years to file the charge sheet. This is a clear case of the maxim 'Justice delayed is justice denied.' And, lastly, appeal was not filed. The accused was acquitted in this case. Then, the accused became a law maker. This type of escapism and malpractice cannot be ... *...(Interruptions)...*

DR. V. MAITREYAN (Tamil Nadu): You also talk about how Rs. 215 crores were laundered for TV. ... *...(Interruptions)...* You talk about that also. ... *...(Interruptions)...*

Dr. K.P. RAMALINGAM: Sir, now the cat has come out of the bag. ... *...(Interruptions)...* I have not mentioned who.. ... *...(Interruptions)...* I just mentioned about a case. ... *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI SHANTA KUMAR): Let him speak. ... *...(Interruptions)...* Let him speak. ... *...(Interruptions)...* Let him complete. ... *...(Interruptions)...*

DR. K.P. RAMALINGAM: Sir, I am not yielding. ... *...(Interruptions)...* I have not named. ... *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI SHANTA KUMAR): Please continue. ... *...(Interruptions)...*

SHRI T.M. SELVAGANAPATHI: That would be decided by.. ... *...(Interruptions)...*

DR. V. MAITREYAN: Think about Tihar. ... *...(Interruptions)...*

DR. K.P. RAMALINGAM: I am not yielding, Sir. I am talking about this amendment. This amendment is to rectify all malpractices and escapism. That is why, I mentioned that case. One case was registered in 1996. Then, the charge sheet was filed in 2006. There was an enormous delay of ten years. By that time, the accused had escaped. That accused has now become a law maker. This is what I said. I did not mention anybody's name. ... *...(Interruptions)...*

DR. V. MAITREYAN: How FDI vote came, because of the 2G deal.. *...(Interruptions)...* That is known to everybody. *...(Interruptions)...* Let him say that also. *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI SHANTA KUMAR): Please try to wind up now. *...(Interruptions)...* Try to wind up please. *...(Interruptions)...*

DR. K.P. RAMALINGAM: Okay, Sir. *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI SHANTA KUMAR): Your time is over. *...(Interruptions)...* Try to wind up. *...(Interruptions)...*

DR. K.P. RAMALINGAM: Sir, I am concluding. *...(Interruptions)...* Sir, I am not yielding. *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI SHANTA KUMAR): Try to wind up. *...(Interruptions)...* Let him complete. *...(Interruptions)...*

DR. K.P. RAMALINGAM: Sir, having made these submissions, I on behalf of my party, DMK, support this Bill. There have been malpractice and escapism; culprits and criminals escape from the case and, then, they become law-makers. It should not be so. They should be punished. Sir, I support and welcome this Bill. *...(Interruptions)...*

DR. V. MAITREYAN: You think of Tihar. *...(Interruptions)...*

DR. K.P. RAMALINGAM: We are reserving a room for you also. *...(Interruptions)...*

SHRI D.P. TRIPATHI (Maharashtra): Mr. Vice-Chairman, Sir, I thank you for giving me permission to speak on this subject. Actually, the points that I wanted to make have been made by many speakers. Sir, we used to talk about our economy as a mixed economy and I remember one of my comments, I said, "Yes, of course, India has a mixed economy, because it is more black and less white." So, our mixed economy is to be managed properly so that the rule of law is properly implemented and those who are indulging in money-laundering are not merely prevented but are also punished. To that extent, this Amendment Bill is a very welcome Bill and we entirely support the Bill proposed by the UPA Government.

The three points that I wish to make have been already made by hon. Satish Misra and Shri N.K. Singh. The basic point that Mr. Satish Misra makes about

clause 24 is that there should not be any vagueness in defining the charges, accusations and the proper, legal and judicial procedure. The second point which is made by Mr. Misra, which I entirely support, is about the vagueness about persons, because the rules, laws have to be specific about punishing anybody in any economic offence, and, especially, money-laundering which involves the stashing away of national wealth in many foreign countries, which is the case in our country, and we have been demanding that we should try to unearth all the money that is stashed away in foreign banks. The Government of India has also assured the House and the nation that they are trying their best to unearth all the money that is stashed away in foreign banks which is the real money-laundering. This money-laundering has created serious problems. The point that Mr. Javadekar made in his speech is again very, very important, that we should not make those kind of laws or rules which are made to be broken and the laws which should be observed, which should be maintained, should be made like many laws and rules that we have made about foreign exchange makes exchange 'foreign' for the citizens of India. We should try to simplify the laws so that these are implemented.

(MR. DEPUTY CHAIRMAN in the Chair)

Now, Sir, I come to the last point that I wish to make in this connection. I do not want to repeat the points already made by the hon. Members here. Hon. Member Mr. Bandyopadhyay made a point about the corresponding laws, how you balance the Indians laws and the laws of other countries and execute them to punish the guilty. How that balance is created has to be very, very properly monitored and understood. Now, that is one aspect which is very important as far as the powers of Indian Parliament are concerned. The last point which Mr. Ramalingam made just now is that the punishment has to be quick and we should ensure that it doesn't take a long time. What happens is, for years and years you wait for the charges to actually fructify in chargesheets and even tried. So, it is not the question of individuals, it is the question of basic jurisprudence and legislation that punishments are effective and the processes which are followed are fast. To that extent, this Amendment tries to make certain provisions to quicken this process and to try and punish the guilty as soon as possible, as effectively as possible.

Therefore, on behalf of my Party, I again support this Amendment Bill. Thank you very much, Sir.

SHRI RABINARAYAN MOHAPATRA (Odisha): Mr. Deputy Chairman, Sir, I am thankful to you and to my floor leader for having given me an opportunity

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to participate in the discussion on The Prevention of Money-Laundering (Amendment) Bill, 2012.

Sir, this is the third amendment after a Bill was passed on 1st of July, 2005. This Amendment Bill has been brought to remove the difficulties arising in the implementation of the Act. The question now is whether this Amendment Bill of 2012 would remove the difficulties which have arisen in the implementation of the Act or we need some more amendments.

Sir, to quote the words of SEBI:

“Rapid developments and greater integration of the financial markets together with improvements in technology and communication channels continue to pose serious challenges to the authorities and institutions dealing with anti-money-laundering and also combating terrorism.”

Sir, the Government has been put in the dock by the people for corruption and for scams after scams, and even former ministers and corporates have been put in jail on corruption charges.

Another important issue is the black money. The Government has not been able to keep its promises on bringing black money deposited illegally in foreign banks back into the country. The CBI Director, Mr. A.P. Singh, speaking at the inauguration of the first Interpol Global Programme on Anti-corruption and Asset Recovery said, “It is estimated that around 500 billion dollars of illegal money belonging to Indians is deposited in tax havens abroad”. The largest depositors in the Swiss banks are also reported to be Indians.

Sir, it is understood that the French Government gave India a C.D. containing names of 700 Indian clients, who had accounts in HSBC’s Geneva branch, as reported in *The Hindu* newspaper on 10th November, 2012. The US Senate’s report in July criticized HSBC for letting clients shift potentially illicit funds from several countries including India.

The White Paper on Black Money discloses that there is no uniform definition of black money in the literature or economic theory. So, the Government should be practical and should define ‘black money’ on the floor of this House.

Sir, the then Finance Minister of India, in the White Paper on Black Money

observed, “Governance failure and corruption in the system affect the poor disproportionately. India is an under-developed country and we have to develop.”

Sir, Section 3 of the Money-Laundering Act, 2002, defines money-laundering as “whosoever directly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property.” In my opinion, the definition of ‘money-laundering’ should be enlarged to include concealment, acquisition, possession and use of proceeds of crime, which holds good in the present situation.

Sir, I am aware that there is a crucial difference between money-laundering and black money. Anything that includes proceeds of crime and is projected as untainted property is money-laundering, but black money can be generated even without a crime.

Sir, we have to be very serious on the issue of corruption and black money, which has come to the forefront with the active participation of civil societies and parliamentary institutions while amending The Prevention of Money-Laundering (Amendment) Bill, 2012, which has a global significance.

Sir, Australia is one of the world’s major financial centres and is also a member of the Financial Action Task Force, like India, wherein the Financial Transaction Report Act of 1988 was enacted to combat tax evasion, money-laundering and serious crimes. In the like manner, the legislative intention of the Government should be to combat tax evasion, amending the provisions provided in the concerned Acts, as tax evasion is a criminal offence, and those acts should be included in the Schedule of the Money-Laundering Act, 2012, in the wake of the financial crisis being faced in India.

This Bill needs amendment to punish criminals generating black money in sectors like real estate, manufacturing, mining, education and hospitals.

This Bill needs amendment to improve monitoring mechanism to ensure that value of goods exported on the paper matches the actual value and to improve the monitoring mechanism in the shape of coordination mechanism between SEBI and RBI to monitor the funds flow in the stock market as recommended by Parliamentary Committee on Finance.

Sir, asset recovery will be a long-drawn process and is likely to result only in a fraction of illicit money being returned. A more productive outcome can be

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to focus on stemming future illicit financial flow through mechanism such as anti-corruption legislation by applying pressure on the international community.

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI RABINARAYAN MOHAPATRA: I am concluding. I urge upon the Government that India should take a lead on a more transparent global financial system for the sake of not only its citizens but also for all developing nations. Sir, I come from Odisha and Biju Janata Dal. My party and my party supremo, Shri Naveen Patnaik, is always against corruption and black money. So, I support the Bill and urge upon the Government to amend the Act.

SHRI P. CHIDAMBARAM: Mr. Deputy Chairman, Sir, I am grateful to the hon. Members, especially ten hon. Members who have spoken on this Bill and supported the Bill. Naturally, some questions will arise; they have arisen. It is my duty to clarify those matters. Sir, firstly, we must remember that money-laundering is a very technically-defined offence. It is not the way we understand 'money-laundering' in a colloquial sense. It is a technically-defined offence. It postulates that there must be a predicate offence and it is dealing with the proceeds of a crime. That is the offence of money-laundering. It is more than simply converting black-money into white or white money into black. That is an offence under the Income Tax Act. There must be a crime as defined in the Schedule. As a result of that crime, there must be certain proceeds — It could be cash; it could be property. And anyone who directly or indirectly indulges or assists or is involved in any process or activity connected with the proceeds of crime and projects it as untainted property is guilty of offence of money-laundering. So, it is a very technical offence. The predicate offences are all listed in the Schedule. Unless there is a predicate offence, there cannot be an offence of money-laundering. Initially the thinking was unless a person was convicted of the predicate offence, you cannot convict him of money-laundering. But that thinking is evolved now. The Financial Action Task Force has now come around to the view that if the predicate offence has thrown up certain proceeds and you dealt with those proceeds, you could be found guilty of offence of money-laundering. What we are trying to do is to bring this law on lines of laws that are commended by FATF and all countries have obliged to bring their laws on the same lines. I just want to point to some of my friends that this Bill was passed in 2002. In 2002, we felt that these provisions are sufficient. In the

working of the law, we found that the provisions have certain problems. We amended it in 2005. We amended it in 2009. We still find that there are some problems. The FATF has pointed out some problems. And, we are amending it in 2012. It is not finding fault with anyone. All I am trying to say is that this is an evolutionary process. Laws will evolve in this way, and we are amending it again in 2012.

A few questions were raised. These are very pertinent questions and I will answer them very briefly. Firstly, both, Mr. Satish Chandra Misra and Mr. N.K. Singh, asked me about the 'burden of proof' and whether we have, in effect, given acceptance to the recommendations of the Standing Committee that we have made a distinction in the 'burden of proof' so that it does not fall heavily on persons who are not charged with offence of money-laundering. If you look at the original section in the parent Act, section 24, when a person is accused of having committed the offence, the burden of proving that the proceeds of crime are untainted property shall be on the accused. This was a drastic provision. Simply by an accusation that he had committed an offence of money-laundering, the burden of proof was shifted to the accused. He may not even be charged at that time. This was what we found to be an onerous provision and an unfair provision. And, what we have now done is to tone down this provision. In (a) and (b), you asked me as to why (b) was there. Now, (a) and (b) will make a distinction. In (a), there is a person charged with the offence of money-laundering — the principal offence under the Act. In (b), it is any other person who is brought before the Court. Therefore, in the case of (a), we maintain the rigour of the section. We borrow from the Evidence Act, 'shall presume', and 'shall presume', as you know, means that the court shall regard that the fact is proved unless it is disputed. So, we maintain the rigour of the section. But, we use the well-accepted phrase 'shall presume'. In the case of any other person, we borrow the phrase 'may presume'; the court may presume, may not presume and evidence to the contrary can be let off. So, we have now made a distinction between a person charged with the main offence of money-laundering, and persons who are charged with other offences because, as you know, under sections 43 and 44, all other offences shall be tried by the same court which tries offence of money-laundering.

Then, the question was asked that by using the word 'charged', whether we are shifting the burden of proof even at the stage of the report under 173(8). The answer is: obviously, no. Under 173(8), what is filed is a report after investigation. The word 'charge' occurs for the first time in the Criminal Procedure Code under

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section 211, “Every charge under this Code shall State the offence with which the accused is charged.”. So, we borrow the language of 211 and say, replace the word ‘accused’ and say ‘when a person is charged with an offence, that is when the court frames a charge against him under section 211’. Only at that stage, the burden shifts to him. So, I think, that makes it very clear.

Then, Prof. Ram Gopal Yadav asked me about Schedule A and Schedule B. See, Schedule A consisted of four paragraphs. Schedule B consisted of 25 paragraphs — number of other acts. Now, the FATF does not recognise any monetary limit. The FATF says, “irrespective of the monetary limit, if it is an offence leading to the proceeds of crime, you must prosecute the person for moneylaundering.”. Therefore, what we have done is that we have lifted 25 paragraphs under Part B and added it in Part A. Since Indian Penal Code occurs in paragraph 1 of Part A and paragraph 1 of Part B, we have collaged it into one. So, 4+25, but as one is a double counting, it comes out to 28 paragraphs in Part-A. Part-B remains Part B, but there are no paragraphs under Part B. I have only removed paragraphs 1-25 of Part B. I have left the title there and left it blank.

In case the Parliament wishes to add any other offence, we can still add the same in Part ‘B’. But, at the moment, we have only got Part ‘A’, which has 28 paragraphs, we have got Part ‘C’ which has one paragraph, and, we have the Part ‘B’, where only the title remains, but there is no paragraph.

PROF. RAM GOPAL YADAV: What about the limit?

SHRI P. CHIDAMBARAM: Since we have shifted all the Part ‘B’ paragraphs to Part ‘A’, there is no limit now because FATF requires that you must prosecute every person for money-laundering irrespective of the value of the proceeds of the crime. As the Act originally stood, if the proceeds of crime were Rs. 25 lakhs, you could not prosecute him for money-laundering. Today, even if the value of the proceeds is five lakhs or ten lakhs of rupees, as long as a predicate offence is presented, he has to be charged with the offence of money-laundering. That is what we have done. Otherwise, there was no serious question about the contents of the Bill. I welcome everybody’s support to the Bill, and, I am sure, in 3 – 4 years’ time, some other amendments would be necessary. This is a whole new concept of money-laundering. It is intended mainly to fight the menace of money-laundering,

especially, money, which is being used for terrorism. This money today is the money that funds terrorism. It is for that purpose that we have put these provisions.

Mr. N.K. Singh asked me as to what have we done about traderelated offences. We have accepted that. It is already there. Section 135 of the Customs Act is one of the predicate offences, that is, evasion of duty. So, if anyone violates Section 135 of the Customs Act, either by over-invoicing or by under-invoicing, it is a predicate offence and the proceeds of that crime would be a crime of money-laundering. I think, to the best of my ability — I am not a criminal lawyer — I have looked into the provisions and have tried to frame a law, and, I am sure that three, four years later, somebody will find some deficiency, and, they will amend the law once again, but, for the time being, I request the House to pass the Bill. ...(*Interruptions*)...

SHRI K. N. BALAGOPAL: What about the corresponding law, what is the impact?

MR. DEPUTY CHAIRMAN: Please. ...(*Interruptions*)...

SHRI P. CHIDAMBARAM: Corresponding law, now, we will define, as meaning any law of any foreign country, corresponding to any of the provisions of this Act or dealing with offences in that country, corresponding to any of the scheduled offences. All countries, which are Members of the FATF, and, virtually all Member States of the United Nations, are passing similar laws. But we cannot equate every section in our law with a section in the other law. So, if there is a corresponding law, and, one has been prosecuted in other country, and, the matter comes before our court, the court will look at that law and our law, and, find out as to which is the section in that law which corresponds to our law.

SHRI PRAKASH JAVADEKAR: Sir, the HSBC issue.

SHRI P. CHIDAMBARAM: I am answering. Sir, I thought, I had explained as to what an offence of money-laundering was. Unless there is a predicate offence, there is no offence of money-laundering. My learned friend is very interested to know as to what happens to the HSBC matter. I have said in this House that the HSBC list of accounts is being investigated by the Income Tax department as also by other departments. The question of money-laundering in any of those cases will arise only when you have established that there is a predicate offence, which is in the Schedule of the Act, and, these are proceeds of a crime, which amounts to a predicate offence. I took the first five minutes in explaining that without mentioning the four magic letters, 'HSBC'.

MR. DEPUTY CHAIRMAN: Now, the question is:

That the Bill further to amend the Prevention of Money-Laundering Act, 2002, as passed by Lok Sabha, be taken into consideration.

*The motion was adopted.*

MR. CHAIRMAN: Now, we shall take up clause-by-clause consideration of the Bill.

*Clauses 2 to 30 were added to the Bill.*

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

SHRI P. CHIDAMBARAM: Sir, I beg to move:

That the Bill be passed.

*The question was put and the motion was adopted.*

MR. DEPUTY CHAIRMAN: The Rajya Sabha has worked with discipline. I am happy.

SHRI RAVI SHANKAR PRASAD (Bihar): Sir, it is because of a highly persuasive manner in which you run the House.

MR. DEPUTY CHAIRMAN: Thank you for your compliments. I am very happy that we could function properly. Friday also we passed a Bill. Today also we have passed a Bill. So, we are functioning properly.

DR. E.M. SUDARSANA NATCHIAPPAN (Tamil Nadu): Sir, many hon. Members have to speak on the Constitution (One Hundred Seventeenth Amendment) Bill, 2012. Therefore, it may be taken up immediately. Sense of the House may be taken on this, Sir.

MR. DEPUTY CHAIRMAN: If the House is in agreement, I have no objection.

SOME HON. MEMBERS: Yes, Sir, we can take it up.

MR. DEPUTY CHAIRMAN: Okay, we will now take up the Constitution (One Hundred Seventeenth Amendment) Bill, 2012 for further consideration.

SHRI RAVI SHANKAR PRASAD: Sir, I have to make one small request.  
...(Interruptions)...

श्री नरेश अग्रवाल (उत्तर प्रदेश) : उपसभापति जी, 5 बजे का समय तय किया गया था...(व्यवधान)...  
उपसभापति जी, जब 5 बजे का समय तय किया गया था और यही अनाउंस भी किया गया था, तब आप उसको 5 बजे ही लीजिए। यह हर व्यक्ति थोड़ा ही चेंज होगा।...(व्यवधान)...  
6.30 वोटिंग है...(व्यवधान)...

MR. DEPUTY CHAIRMAN: I will explain to you. Already ten speakers are there. नरेश जी, लिस्ट में दस स्पीकर्स हैं। This being an important Bill, Members may take a little more time and then reply is there. It seems that the House is in agreement. Why do you object? हाउस की सहमति है।

श्री रवि शंकर प्रसाद : उपसभापति जी, आपसे एक बात का विनम्र आग्रह था, क्योंकि आप इसको पहले शुरू कर रहे हैं और हमारे एकाध मैम्बर्स ने इस पर बोलने का आग्रह किया है, यदि उनको अनुमति दे देंगे तो अच्छा होगा।

श्री उपसभापति : जरूर। आप उनके नाम दे दीजिए। Now, Shri Kumar Deepak Das. Not present. Then, Shri Thaawar Chand Gehlot.

श्री थावर चन्द गहलोत : माननीय उपसभापति महोदय...(व्यवधान)...

श्री शिवानन्द तिवारी (बिहार) : उपसभापति जी...(व्यवधान)...

कार्मिक, लोक शिकायत और पेंशन मंत्रालय में राज्य मंत्री तथा प्रधानमंत्री कार्यालय में राज्य मंत्री (श्री वी. नारायणसामी) : तिवारी जी, उन्होंने शुरू किया है, आप बैठिए, आप बाद में बोलिएगा...(व्यवधान)...

श्री शिवानन्द तिवारी : मैं आपकी ही बात बोल रहा हूँ...(व्यवधान)...

श्री वी. नारायणसामी : आप बाद में बोलिएगा।

श्री शिवानन्द तिवारी : उपसभापति जी, \*

MR. DEPUTY CHAIRMAN : Tiwariji, you are speaking without my permission. ...(Interruptions)...

श्री मोहम्मद अदीब (उत्तर प्रदेश): आप नेहरू जी को क्यों कोट कर रहे हैं...(व्यवधान)...

[جناب محمد ادیب (اتر پردیش) : آپ نہرو جی کو کیوں کوٹ کر رہے ہیں۔(مداخلت)۔]†

श्री शिवानन्द तिवारी : \*

MR. DEPUTY CHAIRMAN: Tiwariji, you have not taken the permission. ...(Interruptions)...

\*Not recorded.

†Transliteration in Urdu Script.

**4.00 P.M.**

श्री शिवानन्द तिवारी : \*

MR. DEPUTY CHAIRMAN: There are certain rules. ...(*Interruptions*)...

श्री शिवानन्द तिवारी : \*

श्री उपसभापति : तिवारी जी, आप बगैर मेरी परमिशन बोल रहे हैं...(व्यवधान)... आपने परमिशन नहीं ली है...(व्यवधान)...

MR. DEPUTY CHAIRMAN: No, no, you have not been permitted. ...(*Interruptions*)...

श्री शिवानन्द तिवारी : \*

MR. DEPUTY CHAIRMAN: No, no, not permitted. ..(*Interruptions*)..

श्री शिवानन्द तिवारी : \*

MR. DEPUTY CHAIRMAN: Not permitted. ...(*Interruptions*)...

श्री शिवानन्द तिवारी : \*

MR. DEPUTY CHAIRMAN: Not permitted. ...(*Interruptions*)... It is not going on record. ...(*Interruptions*)... It will not go on record. ...(*Interruptions*)... It is without permission. ...(*Interruptions*)...

श्री शिवानन्द तिवारी : \*

MR. DEPUTY CHAIRMAN: Tiwariji, it is not going on record because it is without permission. ...(*Interruptions*)...SHRI V. NARAYANASAMY: Reservation for the SCs and the STs has been implemented by our Government. He has forgotten that. ...(*Interruptions*)...MR. DEPUTY CHAIRMAN: It's without permission. It's not going on record because it's without permission. ...(*Interruptions*)... Tiwariji, since it was without permission, it was not recorded.

**The Constitution (One Hundred Seventeenth Amendment)  
Bill, 2012**

श्री थावर चन्द गहलोत (मध्य प्रदेश) : उपसभापति महोदय, मैं सदन में संविधान (एक सौ सत्रहवाँ संशोधन) विधेयक पर बोलने के लिए खड़ा हुआ हूँ। देश की आजादी के तत्काल बाद