

DR. JINENDRA KUMAR JAIN:
 Only my point of order.

श्रीमती सुषमा स्वराज : मंडम का जवाब मैं देना चाहूंगी। सां सेज, लेजिस्लेटिव कम्पीटेस का सवाल यहाँ नहीं उठाया जा सकता क्योंकि चेयरमैन इज द प्रॉपर अथॉरिटी।

The Chairman is the proper authority. This is what you said. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Madam, kindly take your seat. I followed what he said. There is no problem about it. Now, Dr. Jain has raised the point of constitutional propriety as to how this Bill is being brought in the House and the authority of the Government in constituting the Tribunals. I went through the provisions in this regard. It comes under the Subordinate Courts—Chapter VI. Article 223 is about the appointment of District Judges and so on and so forth. Article 333(a) and article 333(b) have also been read by me. My ruling is this. My ruling, as far as the constitutional part is concerned, is that this House cannot decide about the propriety or otherwise of the constitutional provision. Therefore, I am ruling out your point of order. (*Interruptions*)... I would like to say that the point which you would like to raise about the constitutional provision, you can raise before the court, not in this House. Now you can move your Resolution. (*Interruptions*)... If you are not moving your Resolution I am going to call the other man.

SHRI JAGDISH PRASAD MATHUR: Under what provision of the Constitution is he bringing this Bill? Let him reply. (*Interruptions*)... Under what provision of the Constitution is he bringing this Bill? (*Interruptions*)...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Madam,

while replying he will reply to your point. Dr. Jain, you can move your Resolution. (*Interruptions*)... Dr. Jain, now you can move your Resolution.

**(i) STATUTORY ... RESOLUTION
 SEEKING DISAPPROVAL OF THE
 RECOVERY OF DEBTS DUE TO
 BANKS AND FINANCIAL INSTITU-
 TIONS ORDINANCE, 1993.**

**(ii) THE RECOVERY OF DEBTS
 DUE TO BANKS AND FINANCIAL
 INSTITUTIONS BILL, 1993.**

DR. JINENDRA KUMAR JAIN
 (Madhya Pradesh): Sir, I beg to move the following Resolution:—

"That this House disapproves of the Recovery of debts due to Banks and Financial Institutions Ordinance, 1993 (No. 25 of 1993) promulgated by the President on the 24th June, 1993."

Sir, I have a very valid reason for moving my motion of disapproval. This is the 25th Ordinance of this year, 1993. The Government is getting into a very bad habit of bypassing the Parliament and issuing Ordinances for every thing which it thinks should be done and this is bad. I have said it earlier also and I would like to reiterate this that the Government should respect the authority of the Parliament and it should not get addicted to a bad habit of legislating through Ordinances. In this case, while promulgating the Ordinance, I am sorry to say, the Government has not done its homework properly. I respect the ruling given by the hon. Vice-Chairman. But the facts which I have stated are clear. That the officials of the Ministry and the team of Ministers of the Finance Ministry have not done their homework is obvious. When the specific powers are not mentioned under the head 'setting up of tribunals', how can it promulgate an Ordinance to set up tribunals? I think, it is an action which is *ultra vires* the Indian

Constitution. Anyway, the Government has powers to promulgate an Ordinance and it becomes a *fait accompli*. For the survival of the Government it has got to pass it here in this House. I appreciate that. But, I think, it will be honest and decent on the part of my colleagues, the hon. Finance Minister, or his deputy, that is, the Minister of State for Finance, who is sitting here, Dr. Abrar Ahmed, who is my dear friend, to ensure that the Government side do their homework properly. If they just do that, they will not only be respecting the institution of Parliament but they will be avoiding embarrassment to the Parliament and they will be honest to themselves and to everyone. I am sure, it will be very bad if such an Act that as we propose to enact today is challenged in the courts. In spite of the fact that a Member got up and pointed out the gross deficiency, it was discussed.

Sir, the second point I would like to make here is that the express purpose of this law is to circumvent another law. We are making this law to circumvent another law. If you see the Statement of Objects and Reasons it has clearly stated the problem. On 30th of September, 1990 there were about 15 cases filed by the public sector banks and about 304 cases filed by other financial institutions and they were pending in various courts. There is no expeditious disposal of these cases and, therefore, this law is made to circumvent that. We have got to be a responsible Government or a responsible Parliament. I know that there is delay in courts. Why can't we improve our courts. Why can't we have more judges and more courts when there is a dearth of employment in this country? Are there no law graduates in this country?

There are a number of court cases where litigants pay for this. Why can't we enlarge and

empower our judiciary further to expand in quantity and quality and dispose of these cases? We are admitting that our judicial system is failing or has failed. Instead of taking a corrective measure, the Government is coming out with a bypass procedure, a procedure which will bypass the judiciary. So, this practice of making laws which will by pass the established legal procedure, I think, again is a bad practice. I would like to understand one more point from the hon. Minister. This desire of the Government that courts will not have their say and there will be expeditious disposal, is not likely to be fulfilled at all. As you see the Constitution, according to Articles 226, 227 and 136 the High Courts and the Supreme Court will still have their say. So, after the cases have gone to the Tribunal and the Appellate Tribunal, appeals can still be made to the High Courts and the Supreme Court as per this Act. It is not likely to happen that you will have an expeditious disposal of cases. You are only trying to evade the lower judiciary. I want to draw the attention of the hon. Minister and the House to clause 22(1) of the Bill which seeks to enact the proposition that Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908. You are giving powers to the Tribunals to frame their own rules. What do you mean by that? By that the established procedure will not be adhered to and the Tribunal will make its own laws.

I would like to put only one question. There are so many ambiguities. There is the Indian Evidence Act, 1972 which is one of the fundamental principles. After all, courts cannot proceed as they please. Will the Indian Evidence Act be applicable when the Tribunal frames its own rules or the Tribunal behaves like an arm of the Government, like a Pathan. If I feel that you owe me

[Dr. Jinendra Kumar Jain].

money, I will take the money because according to Clause 22(1) of the Bill, the Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908. What will be the basis for these Tribunals? What do you mean by principles of natural justice? It is not a slogan it is a procedure. How can you do that? This is my question. There are so many ambiguities left. How does the Minister propose to take care of these ambiguities? My fear is that the worst victim of such a legislation will be the small-scale sector, ordinary citizens, young technically educated but not so rich entrepreneurs, cottage industry and small growers. I have got genuine reasons to believe that. I am sure the Minister is aware of the large-scale sickness of our industries. It is as a result of that sickness that the money is blocked up. I would like to refer to the Economic Survey of 1992-93 which gives us some figures. There were 2.24 lakh sick or weak industrial units on the polls of commercial banks at the end of March, 1991. Outstanding bank credit of Rs 10,768 crores constituted about 17.5 per cent of the total industrial credit. And, Sir, it was locked up in 2.24 lakh units. This is excluding the many non-transferable units. The statistics are alarming. I would like the honourable Minister sitting here to refute my contention. Is it true or not that although the small units account for 99 per cent of the total sick and weak units at the end of March, 1992, the money that is locked up with them is only 25.9 per cent? The point is that most of the units which will be affected by this will be these 99 per cent small-scale and cottage units, and the money that is locked up with them is only 25 per cent. Where is the 75 per cent of the money? It is with the large-scale and medium units. And, what are you going to do about that? You are not touching them at all, because the Bill says that these provisions will be in addition to the

provisions of the Sick Industrial Companies Act of 1985, the IRBI Act and other Acts. Therefore, it is apparent that the companies in whose cases resort to action under these Acts is made would be protected from the recovery proceedings under the proposed legislation. So, those people who are rich, who have learnt the art of manipulating money, can go to the BIFR and other forums and under this Bill they will go and get the money by-passing the established procedures of the courts of law. But those entrepreneurs who had some education and who took some loans to set up small industries will now be destroyed and they will come under the increasing pressure of the new economic policies of this Government and these people cannot face international competition. This Government is opening the floodgates of the Indian market to the world giants and is trying to be very harsh towards its own citizens, the young entrepreneurs who are constituting 99 per cent of the sick units and who have taken only 25 per cent of the money. So, my worry is that this Government is trying to be kind to the big and the rich, and harsh towards the small people and it does not believe in the principle of "Small is beautiful." as Mahatma Gandhi, Deen Dayal Upadhaya and Dr. Rammonohar Lohia and a majority of other people who are sitting in this House believe. We should have some concern for the poorer and the lower-middle-class people who are trying to improve their own economy and the economy of this nation.

I would like to ask only one question. Is there any equality before the law? This is a credit given by the financial institutions belonging to the Government, by the nationalised banks, and the credit is also given by other people, the non-banking financial companies and others. All cases of recovery of such debts go to the courts under the law. But the Government for its debts does not have to go to the courts. So,

where is the question of equality before the law? You are making two kinds of law, one, which will be for the benefit of the very powerful vis-a-vis whom the citizen is very weak and the State is being made much more powerful again by manipulating the institution of Parliament. We are not the State, but we are ordinary citizens who are not being given the same benefit. I do not think that they should be given this benefit and we should be denied. But I am raising this issue now.

DR. JINENDRA KUMAR JAIN (Cont'd): Sir, these are only some of the points that I could put up for the consideration of this hon. House and for the Minister to reply. I have much more to say, but because the time does not permit me, I do hope that after listening to my submission, the hon. Minister will be kind enough to apply his mind, and in all fairness reconsider this point that I have raised about the legislative competence of this House and withdraw this Bill and the Ordinance and come back to this House after he has done his homework properly and adequately. Thank you, Sir.

The Vice-Chairman (SHRI MD. SALIM in the Chair).

वित्त मंत्रालय में राज्य मंत्री और संसदीय कार्य मंत्रालय में राज्य मंत्री (डा० अब्दुल अहमद) : मैं प्रस्ताव करता हूँ कि :

“बैंकों और वित्तीय संस्थाओं को शोध्य ऋणों के त्वरित न्यायनिर्णयन और वसूली के लिए अधिकरणों की स्थापना का और उससे संबंधित या आनुषंगिक विषयों का उपबन्ध करने वाले विधेयक पर, जिस रूप में उसे लोक सभा द्वारा पारित किया गया है, विचार किया जाए।”

महोदया, इस समय बैंक और वित्तीय संस्थाओं के सामने ऋणों की वसूली करने और उन्हें प्रभारित प्रतिभूतियों को लागू करने में बहुत अधिक कठिनाइयाँ आ रही हैं। बैंकों और वित्तीय संस्थाओं को देय ऋणों की वसूली की वर्तमान कानूनी प्रणाली

और प्रक्रिया से सरकारी क्षेत्र के बैंकों और वित्तीय संस्थाओं की निधियाँ अनुत्पादक आस्तियों में फँस गई। इनका मूल्य भी समय बीतने के साथ कम होता जा रहा है। श्री एम. नरसिंहम की अध्यक्षता वाली वित्तीय प्रणाली से संबंधित समिति ने महसूस किया कि एक ऐसे उपयुक्त तंत्र को तत्काल तैयार करने की जरूरत है जिसकी सहायता से ऋणदात्री संस्थाओं को देय राशियों को बिना किसी और विलंब के वसूल किया जा सके। अतः समिति ने सिफारिश की कि ऐसे मामलों के न्याय निर्णय और तेजी से वसूली करने के लिए ऐसे विशेष अधिकरणों की स्थापना की जाए जो वित्तीय क्षेत्र के सुधारों को सफलता पूर्वक कार्यान्वित कर सके। अतः एक ऐसे तंत्र को तत्काल तैयार करने की आवश्यकता महसूस की गई जिसके माध्यम से बैंकों और वित्तीय संस्थाओं को देय राशियों को बिना किसी विलम्ब के वसूल किया जा सके। 1981 में श्री पी० तिवारी की अध्यक्षता वाली समिति ने बैंकों और वित्तीय संस्थाओं के सामने आ रही कानूनी और दूसरी कठिनाइयों की जाँच की थी और कानून में परिवर्तन करने सहित उपचारात्मक उपायों का सुझाव दिया था। तिवारी समिति ने ऐसे विशेष अधिकरणों की स्थापना करने का भी सुझाव दिया था जो समीक्षा प्रक्रिया का अनुकरण करके विशेष रूप से बैंकों और वित्तीय संस्थाओं को देय राशियों की वसूली का काम करे ताकि विवादों को तेजी से निपटाया जा सके और बैंक तथा वित्तीय संस्थाओं समय नष्ट किए बगैर अपनी देय राशियों की वसूली कर सकें। विशेष अधिकरण स्थापित करने से बहुत समय से महसूस की जा रही जरूरत पूरी हो सकेगी।

30 सितंबर 1990 को सरकारी क्षेत्र के बैंकों द्वारा दायर किए गए 15 लाख से अधिक मामले और वित्तीय संस्थाओं द्वारा दायर किए गए 304 मामले विभिन्न अदालतों में लंबित थे, जिसमें सरकारी क्षेत्र के बैंकों को देय ऋणों की 5,622 करोड़ से अधिक और वित्तीय संस्थाओं को देय लगभग 319 करोड़

[डा० अवतार अहकद]

रूप की राशि अंतरित थी। मुकर्रबेबाजी में जनता की इतनी अधिक राशि अवरुद्ध होने से देश के विकास के लिए निधियों का उचित उपयोग और पुनर्उपयोग नहीं हो पाता है।

चूंकि बैंकों की लाभप्रदता को सुधारने और भारतीय रिजर्व बैंक द्वारा निर्धारित नए विवेकपूर्ण मानदंडों के अनुसार पर्याप्त प्रावधान करने में उन्हें सक्षम बनाने के लिए वसूली की प्रक्रिया में तेजी लाना जरूरी था और 1992-93 को कार्य-निष्पादन दर्शाते हुए सरकारी क्षेत्र के बैंकों के तुलन पत्र शीघ्र प्रकाशित किए जाने में, इसलिए मुख्य कार्यपालकों ने सरकार से बजट भाषण में घोषित वसूली अधिकरणों की स्थापना के कार्य में तेजी लाने का अनुरोध किया था। उक्त विधान के तहत शीघ्र विशेष वसूली अधिकरण स्थापित करना आवश्यक था ताकि वसूली प्रक्रिया को तेज किया जा सके और उससे साथ-साथ बैंकों और वित्तीय संस्थाओं की लाभप्रदता में सुधार हो। अतः राष्ट्रपति ने बैंकों और वित्तीय संस्थाओं की शोध्य ऋण वसूली अध्यादेश, 1993 (1993 का 25) 24-6-1993 को प्रख्यापित किया था। अब अध्यादेश को संसद के अधिनियम द्वारा प्रतिस्थापित करना प्रस्तावित किया जाता है।

अतः मैं बैंकों वित्तीय संस्थानों की ऋण राशियों की वसूली तथा उससे संबंधित या उससे प्रासंगिक मामलों के शीघ्र अधि-निर्णयन के लिए अधिकरणों की स्थापना हेतु बिल जैसे कि इसे लोक सभा द्वारा पारित किया गया है, विचारार्थ पेश करता हूँ। मैं इस बिल को इस सम्मानित सदन द्वारा एक मत से पारित करने हेतु भी पेश करता हूँ।

The question was proposed.

DR. ISHWAR CHANDRA GUPTA
(Uttar Pradesh): The Recovery of
Debts due to Banks and
Financial Institutions Bill,
1993 was introduced in May,
1993 in the Lok Sabha and
thereafter an Ordinance was promul-

gated on 24th June, 1993. I fail to understand the necessity of the Ordinance on 24th June, 1993 specially when the monsoon session was to start just after a month of the promulgation of the Ordinance. The Government could have easily waited for one month and could pass it in the regular from after discussion. May I ask the hon. Minister to explain the urgency of issuing the Ordinance and what action has been taken in transferring the cases to the proposed Tribunals? There was a time when normally one or two Ordinances were promulgated in one year. During the last six months, this is the 25th Ordinance during 1993 which only shows that this is a Government of Ordinances.

I agree that there are huge out-standings to the tune of nearly 5622 crores of public sector banks and about 391 crores of the dues of the financial institutions but the most important question is why this realisation of urgency has come so late in the mind of the Government.

The hon. Minister in the proposed Bill has mentioned in the Statement of Objects and Reasons that the Committee on Financial System headed by Shri M. Narasimham has considered the setting up of the Special Tribunals with special powers for adjudication of such matters and speedy recovery of dues of the banks and the financial institutions. He has also stated that in 1981 a Committee under the Chairmanship of Shri T. Tiwari had also examined the legal and other difficulties faced by banks and financial institutions, and he had also suggested setting up of Special Tribunals for the recovery of dues of the banks and the financial institutions. The fact however remains that 12 years have since passed after the recommendations and the Government has been sleeping over it. What was the reason and why was the functional recommendation of the Tiwari Committee not accepted and

implemented by the Government for so many years?

The recommendations of the Narasimham Committee are nothing but a replica of the report of the World Bank and the dictates of the IMF and the Ordinance has been promulgated under the pressure of IMF only. Though the Bill has been delayed, it is a welcome step. Efforts should be made to recover the huge outstanding of the banks and the financial institutions and if the Tribunals can be of any help in realising the dues, it is a welcome step.

After a study of the Bill, I would like to raise certain points which require clarification. (1) Why is this Bill not applicable to the State of Jammu and Kashmir? Are there no dues due to the banks and the financial institutions in Jammu and Kashmir, or is it an appeasement of the minority by this so-called secular Government?

(2) What would be the fate of 15 lakh cases already pending in the various courts? How many Tribunals will be set up to clear a such a huge number of outstanding cases? (3) Why have no rules been framed so far? (4) The Tribunals have been given very wide powers and unfettered jurisdiction under clauses 25 to 30, right from attachment of the properties to the arrest of the defendants. What would be the modus operandi for the realisation of the dues? (5) Can the Tribunal and its Recovery Officer be able to sell the property so long as the present Urban Land Ceiling Act is in existence? How can the decree passed by the Tribunal or confirmed by the Appellate Tribunal be executed? (6) The Bill is completely silent regarding realisation of the dues from public sector undertakings, co-operative sector and joint sector. Who will be arrested for the realisation of dues from these sectors? (7) The provisions of this Bill are very harsh. They have not differentiated

between genuine defaulter and mala fide defaulted. There are no provisions to charge the banking personnel in cases where lending has been made by violating the norms of lending. Who will be responsible for not disbursing the sanctioned amount in time and consequently making the borrowing organisation sick due to cost overrun?

Again, initially, the Bill would cover cases above Rs. 10 lakhs. But there is a provision in the Bill that this may be reduced to Rs. 1 lakh by notification. Why don't you make the provision in the Bill itself? You can make a provision in the Bill itself, whether it is Rs. 1 lakh or Rs. 5 lakhs.

Then, recovery officers have been given powers but no duties have been spelt out in the Bill. It will create large-scale corruption and the very purposes of the Bill will be defeated.

Sir, the filing of an appeal before the Tribunal has been made very difficult since 75 per cent of the decreed amount is required to be deposited before the appeal is filed. This is against all the rules of equity, particularly, when the defendant is a sick unit and unable to pay due to lack of liquidity.

Here, I would like to refer to the report of the Committee on Industrial Sickness and Corporate Restructuring. The Committee was headed by Mr. Goswami. The Committee has pointed out that the greatest barrier to industrial restructuring is that it is virtually impossible to liquidate and wind up an unviable firm. The Committee has pointed out how much time it takes even when a sick unit wants to wind up. It conducted a survey of 1857 companies that were 'in winding up'. The report of this Committee was submitted in July this year. There, they have pointed out how much time was taken. In 42 per cent of the cases, it took up

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to 10 years. In 27 per cent of the cases, it took 10-20 years. In 19 per cent of the cases, it took 20-30 years. In 12 per cent of the cases, it took over 30 years. From this you can easily understand how difficult it is, even after getting the decree from the Tribunal, to realise the amount.

In this connection, I would suggest that the Government should scrap the Urban Land Ceiling Act. I say this because it is the only source from where you can realise the money. You know how the Urban Land Ceiling Act was passed during the Emergency when Parliament was a capative one; it was a mock-legislative body. Therefore, unless you scrap the Urban Land Ceiling Act, it is very difficult to recover the dues, it is very difficult to realise the money, whether they go before the court or they go before the Tribunal.

My suggestion is that the Urban Land Ceiling Act should be scrapped. In this connection, I would like to refer to what has been said by the Goswami Committee.

"Often, cash strapped but operationally viable companies own considerable vacant laid within the factory premises. Since such lands are unutilised by these firms, and command high prices for alternative commercial use in urban areas, their sale can generate substantial additional funds for repaying whole or part of outstanding debts and also for meeting the costs of rationalising the labour force. Land sale is the most profitable and economically meaning way of generating internal resources for re-organising viable companies or getting the best value for unviable firms. Unfortunately, very few land sales have taken place, thanks to two major barriers;

the Urban Land (Ceiling and Regulation) Act of 1976 and local municipal and State-level deterrents."

Therefore, until and unless these difficulties in regard to realising the money—which is because of the existence of the Urban Land Ceiling Act and other local and State-level laws—are removed, it will be difficult to realise the money. Therefore, immediate action should be taken to scrap the Urban Land Ceiling Act.

SHRI V. NARAYANASAMY (Pondicherry): Mr. Vice-Chairman, Sir, thank you for giving me this opportunity to speak on the Recovery of Debts due to Banks and Financial Institutions Bill, 1993.

It is a novel idea for the simple reason that various business houses industrial establishment and other individuals who have taken loans from the banks, nationalised banks, have not paid their dues. The banks and financial institutions have to approach them for recovering their dues. Today, the tendency particularly, in the case of business houses is not to repay the dues. Once they receive money, hardly 10 to 15 per cent of them, who are honest, pay back the money. In all other cases, they allow the recovery proceedings to take place through courts. The hon. Minister referred to the Narasimhan Committee. While analysing the amount due to various banks by the industrial houses and business houses the Committee has recommended that separate institutions are to be created for the purposes of recovering this amount. The hon. Member who spoke earlier to me, has said that more than 15 lakh cases are pending in various courts for recovery of money by various nationalised banks. In this connection, Sir, I would like to mention two or three important things regarding the procedure that is being adopted by various banks for recovery of loans.

Firstly, the amount that the banks have to spend for the purpose of instituting proceedings in the courts is enormous. Not only that, it takes a minimum of 3 years at the trial court, a minimum of 2 years at the appellate court and if it goes to the High Court it takes another 5 years to decide a case. So, in all, the time taken by courts to decide a case is near about 10 years. This means, the money which was given to the business houses and industrial houses for improving their business is locked up for ten years. It is public money deposited by poor people of the country in various nationalised banks. But the industrial houses and the business houses find it convenient to prolong the proceedings in different courts. The hon. Members are well aware that if matter goes to a court, the court subsequently passes an order that after the institution of the proceedings they have to pay only 6 per cent interest on the loan taken by them from the banks. That being the case, from interest point of view also they take the advantage and with that advantage in mind they want the cases to continue for years together. In this way the funds are locked up for years and the banks are not in a position to recover the money which has been advanced by them in good faith to the business houses and industrial houses.

Therefore, Sir, the idea brought forward by the hon. Minister is a noble one. There has been a demand from various sections of the society, including the hon. Members of Parliament, that there should be a separate tribunal for the purpose of adjudicating the matters relating to recovery of loans from various parties.

Coming to the Bill, in clause 2(d) 'bank' has been defined. This clause 2(d) says:

"Bank" means—

- (i) a banking company;

- (ii) a corresponding new bank;
- (iii) State Bank of India;
- (iv) a subsidiary bank; or
- (v) a Regional Rural Bank;"

I would like to know whether co-operative banks which are lending money for various agricultural operations are also coming under the purview of this provision. Here "Regional Rural Bank" has been mentioned. I would like to know whether cooperative banks also come under this.

Then there is a provision of a time-limit. It is a noble provision. A time limit of six months has been fixed. It has been clearly mentioned that the matters instituted by banks against any individual or company or industrial house, must be decided within six months. That is the main purpose of this Bill. There are a large number of cases pending before the courts. The hon. Member from the other side has given the number as 15 lakhs, whereas, according to my information, the number is more than 8 to 9 lakh cases which are more than 5 years old. Now, because provision has been made in this Bill for a Tribunal and an Appellate Authority, the cases can be completed, as far as possible, within one year before the Appellate Authority also.

But one thing has been conveniently omitted by the hon. Minister. The time-limit for the institution of proceedings should be a minimum of three years. Within three years from the date the amount is due to a bank, a case has to be instituted before the Tribunal, but this is conspicuously absent in this Bill. The banks can, even after 10 years, claim the amount. When I went through the provisions of the Bill, I could not find anything to show that within three years from the date when the amount is due, proceedings can be instituted. That is

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not available here. Under the General Clauses Act and the Limitation Act, for the recovery of money which is due to any individual or bank it is clear that proceedings can be initiated within three years from the date when the amount was due or from the date of default. That is not available under these provisions. I would like to know whether the hon. Minister is going to reply to this point or not.

Sir, the hon. Member from the other side was referring to various deficiencies. He said the Urban Land Ceiling Act is there in various States but when the land has been mortgaged to you or given to you, when you start the proceedings for recovery you will not be able to sell it. The hon. Member has also said that the proceedings are very harsh. There cannot be any sympathy for a defaulter, a chronic defaulter who is running an industry or who is running a business and having a good turnover and who want only is not paying back the amount. Ninety to ninety-five per cent of the cases in which suits have been filed by the banks for recovery involve people who deliberately do not want to pay back the money as I said for obvious reasons therefore this Bill is very important and it will serve the purpose for which the hon. Minister wants it.

People from the rural areas—farmers—and people who are running small, petty shops in the rural areas, have been paying back the dues promptly. I have also narrated how people, who borrow Rs. 3,000 or 5,000 for starting small, petty shops or even for running small businesses, have been paying back the money to the banks according to the time-schedule fixed by the banks. But tens of thousands of crores of rupees have been locked up because of big industrial houses and big business houses who have been deliberately

avoiding payments to the banks under the guise of going to court and filing cases against the banks. In some cases where the banks file cases against them, they try to drag the proceedings. Therefore a lot of money is locked up thus and, as the hon. Minister has said, at the right time he has brought this Bill.

Sir, there is a novel provision in this Bill which is very good. Before the introduction of this Bill, if a person went in appeal against the order of a court enabling a bank to proceed against him and got a stay from a District Court or a High Court, then he need not pay any amount to the bank. He can simply file an application for stay and get the order. But under this novel provision brought by the hon. Minister, until and unless the person deposits 75 per cent of the amount that has been decreed by the Tribunal, he cannot go to the Appellate Authority and he cannot get a stay. Therefore the recovery will be prompt, the recovery will be made very easy, and because the Recovery Officers are bestowed with adequate powers, it will definitely help the banking institutions to recover their dues.

Sir, there are conflicting provisions under clause 22 of this Bill. Under sub-clause (1) of clause 22 of the Bill it has been mentioned that, as far as possible, the principles of natural justice have to be adopted. Sir, when it is a question of natural justice, the Government should issue guidelines for their adoption because each Tribunal or even the Appellate Tribunal will be able to follow its own procedure. About summoning persons and discovery and production of documents, clause 22 is all right, but sub-clause 2(a) is very nebulous. That has to be taken care of by the hon. Minister while framing the rules.

About the pending cases, an hon. Member from the other side was asking what will happen to those cases.

Clause 31 is very clear. The cases that are pending before various courts will be transferred to the Tribunal or to the Appellate Authority and the matter will be decided according to the provisions of this Bill.

Sir, an objection to this Bill that has been raised that generally this Bill will not serve the purpose, is totally unwarranted. As I said earlier, we know from our practice in courts, bank officials now go to courts. They have to wait there. Evidence is taken. They are wasting their time in the court. The bank officials have to sit for days together for the purpose of getting an order. Not only that, but the interest that the court decrees for the purpose of recovery of the amount is not even 6 per cent. The banks are charging more than 18 per cent or 24 per cent. When the matter goes to the court, the court is seized of the matter. The interest amount is also lessened. Therefore, people go to the court. They make the banks to go to the courts. Therefore, Sir, extra cases are there. After the matter is decided, the bank's money, the public money has to be realised. For further transactions the banks have to recover the money from the concerned persons, for the purpose of giving it to the down-trodden, the poorer sections of the society and also other genuine persons.

I made another appeal also to the hon. Minister. Now the lending activities of the banks have been slowed down. I made an appeal to the hon. Minister of Finance in the Budget Session of the House. I made a complaint to the hon. Minister of Finance and also to the Hon. Minister of State for Finance. Whenever genuine persons go to banks for the purpose of getting loan facilities when they start small industries, when they go for the working capital—small persons go for Rs. 3,000 or Rs. 5,000 which banks have been

giving them earlier—because of the securities scam they say that they are not in a position to provide funds. The Finance Minister was kind enough in the officers' meeting to give clear instructions, but the situation has not improved. I take this opportunity to submit to the hon. Minister that the Government should give strict guidelines to all the public sector banks because now the farming community needs money. For the farmers this is the season to raise crops, and they have to go for tractor loans, for the purpose of raising crops, also for fertilizers and for everything else. This is the time. In our country, now that we have brought the liberalisation policy, a lot of small-scale industries are coming up. They need financial assistance. You have to satisfy yourself about the viability of the units and you have to give them finance. Therefore, the banking activity has to be geared up. On the one hand, you want recovery. I welcome it. I support the Bill fully. But, on the other side, there are drawbacks and shortcoming in the banking system. Because of the securities scam, the activities have been suspended by some of the banks. Some have partially opened it. That activity has to be started in full swing so that the purpose for which the banks were nationalised by Indira Gandhi and nurtured by Rajiv Gandhi, our former Prime Minister, is achieved. Therefore, that has to be taken care of by the hon. Minister.

I have mentioned to the hon. Minister two or three other points about the legal provision. I think he will take care of them. I fully support this Bill.

Not only that, I submit that this will save crores of rupees for the banks by avoiding litigation in the courts.

It will reduce the time of bank recoveries from the various parties. It will also plough the money

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back for the purpose of investment and for the purpose of lending it to the various people. It is a novel Bill. I support the Bill and I thank the hon. Minister for bringing this Bill to the House.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Shri Digvijay Singh. Absent. Shri Ashis Sen.

SHRI ASHIS SEN (West Bengal): First of all I would like to point out that there are some department-related standing committees where all Bills are supposed to be placed before they come to the House. This is with the intention that it undergoes scrutiny so that everyone can speak in detail on the various aspects that are there. But straightway to place it here means it is a deviation from the very foundation on which these department-related committees were formed. Therefore, I raise my objection to this for that matter.

Today the banks and financial institutions are virtually being converted as instruments for swindlers to loot people's money and thereby commit frauds on the exchequer, because the loots are related mostly to banks and financial institutions owned by the State. They do it with a deliberate idea that they are going to repay it.

The health of the banking system has a direct and immediate bearing on the progress of the economic growth and development. When a system has reached a point where it subverts the monopolists and vested interests, naturally the problem of the type that you are faced with today cannot but grow. That is what has actually happened.

Banks are repositories of public deposits. Millions of people are keeping their money deposited with the banks, and the big borrowers operate with the money deposited by the common man in the form of small

deposits. Here comes the gross contradiction because those big borrowers who fully utilise the bank resources are the people who have brought the institutions to such a situation, but they have little contribution to the deposit growth of the banking institution which could be utilised for development purposes. How much money has been with them? That is a big problem for that matter. The health of the financial system has a direct bearing as I have told you already, but the performance of these institutions is to be judged by various factors the deposit growth, growth of advances, profitability, good services etc. But profitability is mainly dependent on the income earnings from the loans and advances, investments etc. The problem arises when these advances do not come back to the banks. The amount is advanced from the banking institutions to the borrowers. Neither do they pay the principal, not do they pay the interest and these advances turn into non-performing assets. According to estimates not contradicted so far—rather it was confirmed in a meeting that trade unions in banks had with the Finance Minister—these non-performing assets in the shape of advances are to the extent of Rs. 20,000 crores to Rs. 25,000 crores. It is a very colossal amount. If they remain as non-income bearing assets, then what result can be there can very well be understood. The result is that neither the original money given comes back, nor the interest thereon. The result is that the banks and the financial institutions are not in a position to cater to the needs of the new borrowers. They cannot cater to the needs or the essential requirements of the development projects for which they are intended. They cannot recycle the amount they could otherwise have done. Why this has been so, is an important question. Not all the borrowers

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are defaulters. There are small borrowers and as far as my knowledge goes, small operators are genuine people. Unless they are in serious difficulties, they do repay the money they borrow from the banking institutions. The problem lies with big borrowers, those who come with a deliberate attempt not to pay. The people who take larger amounts create problems so far as profit-earning assets of the banks are concerned. In most cases, high borrowers are defaulters. Individual advances are granted by banks and financial institutions to the extent of Rs. 5 crores, Rs. 10 crores and even Rs. 20 crores. In many cases, it has been done without processing through the board of directors. In many cases, it has been done under compulsion of political directives. Political patronage comes in these. There have been interventions in many cases when some honest managements tried not to grant loans. There were interventions from other places. The question here is, how they are going to recover the money from large industrial houses. Large amounts have been given by banks and financial institutions. At whose instance? I know of a case where an amount was disbursed to the extent of Rs. 22-23 crores to a particular party by a banking institution. From the next day onwards, the account turned out to be inoperative and there was not repayment. I am talking about a cycle-manufacturing company. I am not going to name the bank and give the details. Subsequently, when the bank went to examine the assets, a portion of land was seen there with barbed wire fencing. There was no machinery, no production of cycles. The company had some Italian linkage, collaboration. When they wanted security for giving loan, there was intervention by a particular Minister who is not today in the Finance Ministry, but who is in some other Ministry and continues to be a Minister in the Central Government

even today, and the loan was granted. If necessity arises, I may give the name of the Minister. Now, why has this happened? When did it start? Did it not start from the 'loan melas' that were started by one of the Ministers earlier? The way loans have been sanctioned, there has been no mechanism to ensure repayment. Today, in the objects of the Bill it is stated that there are about 15 lakhs of cases pending before the Courts, various Courts. And it was the figure of September, 1990. The cumulative amount is to the extent of Rs. 6,000 crores.

Yes, the Narasimhan Committee has made certain recommendations. As my friend, Mr. Jain has already pointed out, whereas the earlier Commissions required several years to give their recommendations on the banking system, the Narasimhan Committee gave its report in 90 days' time. Some of the recommendations are of such nature that a drastic change is sought to be made in our financial system. At whose instance has it been done? Has it been done in the process of taking measures whereby it would be possible for our country to reshape its financial system or has it been imposed by a foreign agency like the IMF or the World Bank? As my friend, Dr. Jain, has already pointed out, one of the recommendations of the Narasimhan Committee is this. The full amount outstanding has not been before us. I is only that Rs. 6000 crores which is before Courts that they have given. But the total amount that has been taken away by the borrowers has not been exposed so far. One of the recommendations of the Narasimhan Committee was the creation of Assets Reconstruction Fund and what was the procedure for its creation? The procedure was that banks will part with some of their assets to this Fund. The Fund will have the authority to go to any court to take remedial measures to

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recover the loan from those concerned. But they will take these assets from the banks at a substantial discount themselves. The bank will have to part with some of their assets. Not only that, the Assets Reconstruction Fund is also to be financed by those very banks themselves whose assets will be taken away for the creation of the Fund. Thus, banks will be cut in two ways—one by parting with a part of their assets and another by contributing to the Fund. In two ways, the concerned banks are affected. The usefulness of the Assets Reconstruction Bank has been commented upon adversely by those who are aware of these things. Incidentally, we find that protests were launched by various unions in the banking sector. They have also objected to that. The present recovery system by going to the court no doubt causes an enormous delay and by non-realisation the loanable fund dwindle and banks become weak to fulfil their social obligation. Now, the bank's trade union organisations, including the Bank Employees' Federation of India, had suggested before the Narasimhan Committee which legislative measures should be undertaken to overcome this situation. Firstly, they suggested that the existing laws should be amended and simplified to plug the loopholes which make loan recovery a time-consuming and difficult process and sometimes, impossible. Secondly, the Bank authorities should be empowered to directly enforce the securities of the defaulting borrowers to recover the dues. Thirdly, the large institutional finance should be sanctioned restrictively. The credit facilities given to industrialists and associated guarantors are used to erode the network of their concerns by diversion of funds for activities other than for which borrowings are made and turn the industry sick and they thereby become a defaulting borrowers. The banking and other lending institutions should

be enabled to proceed for enforcement of securities of the other concerns also of such defaulting borrowers. What do I mean by that? According to that, one is a borrower and the other is a guarantor. The guarantor is never brought to book. The guarantor has a liability for a borrower three persons. One gives guarantee for the borrower. Then the former borrows and the other man becomes the guarantor and this chain goes on. Naturally, the question comes that the borrower escapes and the guarantor also escapes. So something should be done in this regard.

Then, another important point which the union made was removal of the secrecy clause so as to make the balance-sheet of banks as well as other financial institutions transparent. It should include publication of provisions made for bad and doubtful debts which is not done and also what are the debts written off and the names of defaulting borrowers beyond 50 lakhs of rupees should be published in the balance-sheet. The purpose of transparency is not to hide certain things and then say, I am making it clear. That is not the way that transparency comes. Why has such a state of affairs come in the banking system? What was the Reserve Bank doing? Was the Reserve Bank keeping its eyes closed? I know that the Reserve Bank officials who conduct inspections are the people below. Those who conduct inspections, with all sincerity they conduct the inspections and bring out all facts in the matter of investments, in the matter of advances, in the matter of staff position and all other aspects in the banking system. They look into these things very carefully. Fortunately or unfortunately, for some years, I had occasion to be associated with this type of working in the Reserve Bank. That is why I am in a position to say with more clarity that every detail of the bank's working is investigated. But then what happens after the report is given? Everything is given in detail. When the report is

given to the RBI Central office banks, where does it go? Copies of these reports go to the top officials of the Finance Ministry also. But no action is taken thereon. That is the background of the securities scam. I know some officials who put forward detailed reports as to what was going on in the banking system but they were not taken care of. Today the Government blames the Reserve Bank and the Reserve Bank blames the Government. Irrespective of that, both of them knew what was happening because the reports were available to both. The people below are doing their work honestly and sincerely and bringing out who the culprits are, who the defaulters are and who are not paying though they are able to pay. These are brought to their notice. But no action has been taken either by the Reserve Bank or by the Government of India. These are the things which require to be investigated. The reports are laying in the shelves of Executive Directors, Deputy Governors and Governor. Reports are there but they never come to light. Had it not been so, probably many of the ills which have been examined and scrutinised by the JPC and others would have come to light earlier.

As regards this Bill, I would like to say that this law is proposed to be enacted in a mechanical way. If it is being done in a mechanical way, it will fail to serve the purpose for which it is being enacted. A distinction has to be made between a wilful defaulter and a defaulter under genuine circumstances, specially in the small, near-small and medium industrial units. It is important, Sir, If you allow me just a couple of minutes more, I want to mention the points caluse by clause.

Clause 2 of this Bill does not cover financial institutions like IDBI and ICICI. It has only mentioned financial institutions which are registered under the Companies Act. Today IFCI is the only institution which is registered under the Act. Financial empires

like IDBI and ICICI, which are running with thousands of crores of rupees and where so many malpractices are going on some of them have come in the papers; some of them I had occasion to mention in this House itself are just kept outside the ambit of this Act. It means that much of the job, well-intentioned job, which is sought to be done by this Bill, will remain incomplete.

Now another point which comes is that these tribunals are going to be one member tribunals. A one-member tribunal having power to adjudicate up to Rs. 10 lakhs, I can understand. But when the whole environment and the system have become corrupt, should I be wrong if I ask for a multimember tribunal? I am not comparing it with what is going on with the Election Commission. I am saying that these tribunals should consist of not one member but three members if the amount is too large, say, Rs. 1 crores and above. Corruption may be there and corruption may be tried. But when the figure is too high, if there are three or four members in the tribunal, perhaps, it will lessen the consequences or the effect of that. I don't know whether it will be completely ruled out or not. It should be like one tribunal for one area and another tribunal for another area; otherwise the tribunal will be overloaded and the very purpose of quick disposal of the cases, which is being intended to be done, will be frustrated because it will be difficult for one tribunal to look after two areas. The appellate tribunal also should not consist of one member but it should consist of more than one member. Now it is not clear here whether the banks themselves will be going to the tribunal on their own or whether the unions and employees, who know that certain wrong things are being done by the banks or the borrowers, will also be given the authority or power to go directly to the tribunal with specific

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cases, if they have any. So, involve the unions, employees and the officers so that they can also assist in the process of recovery of debts. I would suggest that the Minister should think in terms of providing this scope to them.

Then one point is about the deposit of amount of debt due, on filing an appeal. The Bill says where an appeal is preferred by any person from whom the amount of debt is due to a bank, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited 75 per cent of the amount of debt so due from him. Why is it 75 per cent? It should be made 100 per cent. Other wise, this will be the escape route by which attempts will be made to bypass it. This proviso should be deleted. There is a provision in Clause 23 that an officer or a lawyer can be appointed to act as Presenting Officer. We know that banks have to pay thousands of rupees to a lawyer who will present their case. I want that the officers should directly appear before the Tribunal. Clause 24 says that the Limitation Act, 1963 should be brought here. I don't think that the Limitation Act should be allowed here. I would like to mention Clause 25 also. The attachment of the properties of the defendant and the guarantor should be brought into the net. I had made a distinction between the wilful defaulters and the genuine defaulters. That has to be brought out here. What is done about the officials of the banks and the financial institutions if they are responsible for collusion? How would you book them? Today it is clear that such things could not have happened without collaboration and collusion of the top people of these institutions, whether they are bureaucrats in the Government or in the financial institutions or the people who have tried to defraud these

institutions. Naturally, there should be some provision. So, officials of these institutions who are found to be responsible should be brought under the net of this Act. Those who authorise big advances are the top bosses. When sanctions are given by the Board, they directly exercise their discretion and allow it. Why not Nominees of the Government and the Reserve Bank who are on the Board of Directors should also be held responsible for the situation which has arisen today. I have got many points to make. But due to lack of time I conclude. Thank you.

SHRI RAJNI RANJAN SAHU (Bihar): Mr. Vice-Chairman, I rise to welcome....

DR. JINENDRA KUMAR JAIN: Sir, as per the List of Business, the House was supposed to take up clarifications on the three statements by Ministers which are pending for quite some time.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Actually, both the Ministers are busy. They are busy in the Joint Select Committee. So, this business can be taken up tomorrow.

DR. JINENDRA KUMAR JAIN: Up to what time do you want to run the House?

THE VICE-CHAIRMAN (SHRI MD. SALIM): Let us first finish this Bill.

SHRI RAJNI RANJAN SAHU: Sir, I rise to welcome this Bill. This Bill is to provide for the establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions and for matters connected therewith or incidental thereto. Before I say something or suggest something I would like to request the hon. Minister to throw some light in respect of some ambiguities which I feel are in the very definition. While been said, "(i) a banking company; (ii) a corresponding new bank;

defining the meaning of banks, it has (iii) State Bank of India; (iv) a subsidiary bank; or v a Regional Rural Bank;" While defining financial institution it is not clear whether the State investment corporations or the State financial corporations are covered under this definition. It is also not clear whether the foreign banks which are also being governed by the rules and regulations of the Reserve Bank are covered under this Bill.

Sir, there is no doubt that the object of the Bill is very pious. What are the reasons for initiating such a Bill when we have already a Civil Procedure code and a Criminal Procedure code? This is a matter which needs to be looked into. Obviously, the reason might be, late recovery of dues and other related things. The maximum time for giving effect to the judgement of the court would be the same as in the case of Tribunals which we are going to have. Even if the Tribunal gives a judgement in favour of Bank, for speedy recovery, the instrument for implementation would remain the same. The banks will only have the satisfaction that the Tribunal has ordered for recovery. But who is going to implement it? I know of a case and the Government is also aware of it and we have also discussed it several times in the House, there was a judgement by the Supreme Court for recovery of Rs. 700 crores within two months and fifteen days, of course, it is about the Drug Equalisation Fund. More than three years have elapsed, but the money has not been recovered from the company concerned. So, it is important to pin-point who is going to implement the orders of the Tribunal. How are you going to attach property? How are you going to recover it? The other thing that needs to be considered is, under what circumstances the debtor has usurped the banks' money. We have to consider whether it is deliberate or circumstantial. Sometimes it so happens

that somebody takes loan from the banks. The money as required by the project report is not given by the banks in time, as a result the company becomes sick and naturally a sick company cannot pay its debts. The bank files a case and it goes to the Tribunal under Section 19, a provision has been made in the Bill in this connection. So there will be a case against the company. This is a very important clarification which I seek from the hon. Minister. The circumstances should also be taken into account by the Tribunal. Sometimes it is seen that losses occur because of lack of electricity and they are unable to pay their bank dues. All this needs to be scrutinised while making rules after passing the Bill. A time-limit should be fixed for the Tribunal as well as the Appellate Tribunal while dealing with such cases. We have Cr. P.C. If the same procedure is followed, the very purpose of the Tribunal will be defeated. We all know that the Bill is a followup action of the two Committees, that is, one headed by Mr. Tiwari and the other by Mr. Narsimham who had gone into the working of banks and come to the conclusion that the banking industry faces different kinds of hurdles and bottlenecks including legal bottlenecks. So an Ordinance was passed and now we are here to pass the Bill. This Bill is meant for speedy recovery of national securities and assets. But it should not meet the same fate, we have the precedent where in spite of the judgement, recovery could not be made. So far as I know Rs. 5622 crores of bank money and Rs. 390 crores of other financial institutions are involved in litigation. As much as 15 lakh cases were filed by the banking institutions and about 4304 cases were filed by other financial institutions, which are pending in various courts. We do not know as to how many tribunals would be set up all over the country. I think that unless the Government

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considers setting up of as many tribunals as there are the civil courts, the problem of disposal of the cases. (Interruptions) would be.

SHRI CHIMANBHAI MEHTA (Gujarat): Mr. Vice-Chairman, Sir, how long are we going to sit today?

THE VICE-CHAIRMAN (SHRI MD. SALIM): Let us conclude this business.

SHRI CHIMANBHAI MEHTA: But we do not generally sit beyond 5.30 p.m.

THE VICE-CHAIRMAN (SHRI MD. SALIM): It was decided in the last Business Advisory Committee meeting that the House should sit up to 6 o'clock and beyond, if necessary. So, we can finish the discussion on this Bill today.

SHRI RAJNI RANJAN SAHU: Sir, as per the report of the RBI, the bad debt was 14.6 per cent, that is, nearly Rs. 20,000 crores of non-performing banking assets. And the Narasimhan Committee has stated that this figure may be 50 per cent higher. I would like the hon. Minister to clarify this point in his reply. I also want to bring to the notice of this House as well as the hon. Minister that there is a difference of opinion about the number of cases that are pending.

Banks have not been able to reconcile their accounts so far. I had an opportunity, when I was associated with the Committee on Papers Laid on the Table, to visit some banks and I noticed that in the audited report nothing was mentioned. It is a matter of consideration that whether transparency should not be there, the hon. Minister had said once that there should be transparency. So, what I wanted to mention is that the banks have not been able to reconcile their accounts of all their branches. So, unless their house is put in order, the number of cases pending cannot be established. So, this is a very important aspect. The hon. Minister has

provided Rs. 57 crores for liquidation of the bad debts in the budget. So my suggestion is that the banking house should be put in order and the accounts should be reconciled properly because there is a conflict in views expressed by the RBI and by other committees. There is no fool-proof law for confiscation of the collateral securities or properties left with the banks by the debtors. So, this problem cannot be solved merely by passing the Bill. We have also to go into the details of the Civil Procedure Code and Criminal Procedure Code and find out whether a particular liability is a civil liability or a criminal liability. The law of the land is there. We have also to see whether it affects the existing law. If so, are you going to incorporate it with the existing law? So, these are the anomalies in this Bill. Sir, as the Government is aware, at present, Rs. 6,000 crores are lying as loans to be recovered. But apart from the loans that are to be recovered, more than Rs. 10,000 crores are bad debts over and above this, the loss arising out of the securities scam is estimated to be about Rs. 70,000 crores. Nobody has even been able to assess the correct figure. So, what is necessary is that we will have to restore faith in the banking system. There are several ambiguities in the whole banking system which give rise to corruption.

There is a notion in the 60.0 p.m. minds of the people that the

Chairmen of these banks live like princes. If you go to a Chairman's office, you will see that even the highest person will not have such an office and the expenditure on the Chairman and his office is also very high. So, you will have to curb the expenditure on the Chairman and the high standard that he is maintaining. They are no less than the princes in the present days. This is a very essential thing. When a poor man sees, in the changed circumstances and scenario in the country, a person of the bank sitting in he

chair of the Chairman, sitting in such a high style and not caring for his clients, he becomes stunted (these are the things which are working in the minds of the people. That is why I have said that the whole system should be such as to inspire the faith of the people in the banks.

The need of the hour is socialisation of banks. By socialisation I mean social control of banks. One way of doing it is to have local board to guide the banks, consisting of eminent educationists, economists and men of repute, who can guide the banks. Of course, administrative control should be there and I do not decry that administrative control from the headquarters of the bank from the Chairman sitting in Bombay, Delhi, Calcutta or Baroda. But, for the purpose of recovery of loans and for the purpose of giving loans, there should be local boards which should be constituted immediately. Filing cases in the Tribunal alone will not solve the problem. You will have to have mass support and local support to get back the money and recourse to legal proceedings will not solve the problem. Therefore, my request to the honourable Minister is that local boards should be constituted and these boards should be taken into confidence for the recovery of loans as well as for giving new loans.

Then, Sir, there should be guidelines from the Government or the Reserve Bank of India as to how they should function in consonance with the local boards.

Due to the securities scam, there is a credit squeeze. I would request the honourable Minister to see that this credit squeeze is also done away with. Further, all the other aspects of the Bill, particularly provisions of section 19, should be taken proper care of. This is not going to solve the problem, but it will only cause unnecessary expenditure to be incurred. First of all, the banks should

try to negotiate with the parties and try to avoid unwarranted expenditure. Otherwise, the procedures laid down are not going to solve the problem. Proper guidelines should be issued to the banks to the effect that only after taking into account all aspects they should go to the Tribunal.

With these words, I support this Bill.

SHRI ASHIS SEN: I will make only one sentence. I have made a critical assessment of the factors leading to this Bill and I have also pointed out certain defects and have made certain suggestions also. With all that, I must make a mention that the Bill is a move in the right direction.

DR. YELAMANCHILI SIVAJI (Andhra Pradesh): Sir, while supporting...

SHRI JAGDISH PRASAD MATHUR (Uttar Pradesh): How long are we supposed to sit?

THE VICE-CHAIRMAN (SHRI MD. SALIM): We will complete this business.

SHRI JAGDISH PRASAD MATHUR: It will take another one hour, not less than that.

AN HON. MEMBER: There are at least half a dozen speakers.

THE VICE-CHAIRMAN (SHRI MD. SALIM): We will complete with in an hour. If you co-operate, we will finish it before 7 o'clock.

DR. JINENDRA KUMAR JAIN: Let us finish it tomorrow.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): Sir, I fully appreciate the patience-cum-impatience of the hon. Members. But as a Member of the supreme legislature of this country, I feel that we are not giving just enough time for doing our main function of legislating. I am also eager to go, but that is not to say that if we find

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a day like today where we can comparatively make progress, even if it means sitting up to 7 o'clock, we should not go through the Bill.

THE VICE-CHAIRMAN (SHRI MD. SALIM): If all the Members co-operate.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I only appeal to them. I have no objection if the House is adjourned. I would appeal to them. Let us set an example. Why 7 o'clock? Why not 8 o'clock or 9 o'clock or 10 o'clock? Let us get through the legislation.

(Interruptions)

SHRI T. A. MOHAMMED SAQHY (Tamil Nadu): There are some Standing Committees posted for this evening.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): We are sitting from 11 o'clock...

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I fully appreciate that there are two Joint Parliamentary Committees going on. When they are sitting, we can carry on with this business. Therefore, that objection is also very limited. I would only appeal to them. (Interruptions) This is a non-controversial Bill. I don't think anybody is going to ask for a division or anything of that kind.

(Interruptions)

SHRI VITHALBHAI M. PATEL (Gujarat): We have passed only two Bills in these three weeks.

DR. JINENDRA KUMAR JAIN: Sir, I am in favour of giving preference to the legislative business. But let us take the facts. Today's List of Business, as it was circulated, listed at 5.30 p.m. clarifications to be sought. So many Members, who, I presume would be interested in the serious business of this sort of a Bill, are not here. Please understand. We jumped from one Bill because

there was a request by the Minister. And this is a serious business. We cannot pass it in such a hurry. Some of the Members who had given their names are not present in the House. They left because they knew that at 5.30 p.m. some other business was listed. Why do we deprive those Members who would like to participate in the deliberations?

(Interruptions)

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Jain, this was also listed. What we did was this. Clarifications will be taken up tomorrow. It was at the request of the Ministers concerned. And we will continue with this business. It is listed.

DR. JINENDRA KUMAR JAIN: Most of the Members who wanted to participate in this debate have left.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Jain, this was sent here, and they are participating.

DR. JINENDRA KUMAR JAIN: Two people like Mr. Digvijay Singh are not here. One more gentleman is not there.

THE VICE CHAIRMAN (SHRI MD. SALIM): Only one.

DR. JINENDRA KUMAR JAIN: Anyway, Sir, it is not a question of figures. The question is the spirit of the legislation. You declare that tomorrow the House will sit up to 10 o'clock, and we will sit up to 10 o'clock. But, here the listed business shows otherwise. In a serious legislation like this, I think, it would be in all fairness that we discuss it tomorrow. It is up to you, Sir, to give your ruling.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Sir, I fully appreciate what has been said by the hon. Member, Dr. Jain. There are two things. All of us who are used in working in the Parliament, we

how more often we just cannot transact the business which is slated. In fact, last minute accommodations are made. I remember, for example, the discussion on Bofors was slated at 4.30 and it started at 2.30. These are the exigencies of our occupation, and all that I am really appealing for is the maximum utilisation of time. It is true that one or two Members are not here; I went and checked up the list and I found that 80 per cent of the Members are here today and they will speak today. It is up to you to decide when 80 per cent of the Members are there and only one or two Members are not there to participate, and as I said, many of them would be in the JPC or other meetings and they would also like to contribute to this debate. As has been pointed out, we have in these three weeks' time finished only two Bills. Let us try to finish as much as possible. It is no use wasting the time and suggesting adjournment of the House. Let us finish. All the speakers who are present today and then those who are not present today can speak tomorrow. Let us utilise the time, because again tomorrow we will be short of time.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Except two, all others are here. Dr. Sivaji.

DR. YELAMANCHILI SIVAJI (Andhra Pradesh): While I support the Bill, I am afraid the thinking of the hon. Finance Minister as well as the Government has not percolated to the lower level and that is the whole problem. In spite of the Narasimham Committee Report about transparencies of bad debts, every day the Minister is answering questions in Parliament about the bad debts and doubtful debts and saying that under the provisions for secrecy under the Act, they cannot disclose this information. So there is a self-contradiction. On the one hand, the Government comes out with a Bill

and on the other hand, the Finance Minister says that banks have intimated to the Government that they are not prepared to disclose the information, and the Minister passes on the same answers as supplied to him by various banks that it is not possible to give this information.

In the Statement of Objects and Reasons the hon. Minister mentioned about the outstanding dues from various institutions and there is an outstanding amount of Rs. 5622 crores in 304 cases. Answering a question the Minister this morning said that outstanding dues to various nationalised banks amount of Rs. 18000 crores, and much of it is due from the industries, and that too, from the large industries and mediumsize industries. Then something is due from the small-scale industries and other small units, small shop-keepers etc. I may be allowed to say that at every stage the bank officials are hand in glove with big industries, and at the time of sanctioning the loans, the figures get inflated. The bank officials know very well that these figures are inflated but they get kick-backs at every stage and thereby the cost of the project goes up. I may also be allowed to say that even though a lot of industries are sick, no industrialist in this country is sick, and these industrialists are jolly well going in for more industries, getting loans from other banks.

I am very much doubtful about the intention of the Government also because simply by passing certain Bills and enacting certain laws, you are not going to solve the problem. You take the example of co-operative banks. Mr. Narayanasamy was mentioning about the co-operative banks. We know the recovery rate in various co-operative banks throughout the country is 80 per cent because the Revenue Recovery Act is applicable to small land owners or agricultural labour. The small land

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owners or agricultural labour get loans from various co-operative banks and unless they repay the entire amount, their belongings are banks and unless they repay are auctioned and the co-operative banks are empowered to do so. They need not approach the courts. They straightway recover their dues by putting the belongings of the defaulter to auction. Likewise, the State Financial Corporations are there. The recovery rate in the case of State Financial Corporations is also very high when compared with the commercial banks because the R.R.A., the Revenue Recovery Act, applies to the recovery of loans due to the State Financial Corporations also. Therefore, why does not the Government take courage into its hands and see that the Revenue Recovery Act is made applicable to the recovery of loans extended by the commercial banks, the nationalised banks, also? It is very easy. You need not approach the court of law. You need not approach the tribunal. You need not go for any litigation. You can go straightaway and recover the loan.

I would, therefore, suggest to the Central Government that they should take up this matter with the State Governments and see that an officer of the rank of R.D.O. or Sub-divisional Officer or Tahsildar, with some magisterial powers, is attached with each bank to see that the loans are recovered from the borrowers, as is being done in the case of co-operative banks as well as the State Financial Corporations. It is very easy but somehow or other, the Government is not serious about it. The Government feels that simply by enacting certain laws, their job is over. They wash off their hands.

Apart from this amount of Rs. 18,000 crores, a lot more money has been lost by the nationalised banks in the scam. Now, I would like to

know from the hon. Minister whether the scam cases would also come under the purview of the Tribunal.

I would also like to point out here that at several places, including my place, on several occasions, where the parties come forward, where the borrowers come forward, to settle the accounts with the banks, the banks are not coming forward; not only the Chairmen of the banks, but even the Managing Directors as well as the Managers of the branches, behave like princes. They are not bothered about recovering the loans. The banks officials think in terms of approaching the court because there is a collusion between the bank officials and the people who are on the panel of legal advisors. The bank officials feel that they can make a provision by paying some money to the legal advisors like Mr. Bhandare. Therefore, they choose to approach the court.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: In my case, it is 'little money'. In the case of some others, it is 'some money'. In the case of yet some others, it is 'all money'. There are three classes.

DR. YELAMANCHILI SIVAJI: They are not prepared to settle the accounts, they are not prepared to settle the dues, across the board.

In this connection, I would like to suggest that a provision should be made. Now, even after enacting this law, if the banks do not choose to approach the Tribunal, what measure of relief is there for the banks? Therefore, I suggest that a provision should be made whereby any depositor can approach the court, under public interest litigation, for the recovery of advances or bad debts that are due to the nationalised banks. Thank you.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Mr. Vice-Chairman, Sir, taking into account the

sentiments of the Members, I shall be extremely brief. Brevity is the soul of wit, as they say.

Sir, any Bill, any legislative measure, that curtails law's delays is, particularly, welcome to me. Things have become impossible. As they say, justice delayed is justice denied. Therefore, a measure which cuts short the litigation period has to be welcomed.

I have always felt that one of the reasons for law's delays is because, in our judicial system, we have a multiple-tier of appeals and revisions. I have always felt that what society owes to its citizens is one fair trial on facts and law and one appeal both on facts and law. Today, we have multiplicity of appeals. That is why I welcome this measure. At the same time, I find that the law you have proposed, that the power you are giving, does not bar the Supreme Court as well as the High Courts.

...to go into a decision even of the Appellate Tribunal. I think, as has been done in the constitution of many other tribunals, the power of the High Court should have been deleted. If this is not done, what will happen? First, they will go to the High Court and then they will go to the Supreme Court. So, the very object of having only one trial and one appeal is defeated by a multiplicity of proceeding first under Article 226 and then under Article 136 of the Constitution of India. Indeed this subject has engaged the attention of the Ministry of Finance for a long time. As many as four Committees have gone into this problem. There was the Tewari Committee, the Narasimhan Committee, the Vessuvella Committee in 1986 and recently the Hegde Committee in 1992. Now I welcome the measure but I have some reservations. Please do not think that this legislation which provides for a summary disposal of the cases its validity will not be challenged, its constitutiona-

lity will not be assailed. We have, as I may point out, the provision for Tribunals under part XIV-A of the Constitution. Article 323A deals with Tribunals with respect to recruitment and conditions of services of persons appointed to public services and posts in connection with the affairs of the Union and so on. Article 323B (1) says:

"The appropriate Legislature"—in this case it is the Parliament—"may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such legislature has power to make laws.

(2) The matters referred to in clause (1) are the following, namely..."

Now it is an exhaustive list, it is not merely enumerative. It provides for (a) levy, assessment, collection and enforcement of any tax; (b) foreign exchange, import and export across customs frontiers; (c) industrial and labour disputes; (d) land reforms; (e) ceiling on urban property; (f) elections to either House of Parliament; (g) production, procurement, supply and distribution of food-stuffs, etc.

I find that banking or banking debts are not mentioned there. I am not sure, I am only expressing a reservation and a very serious doubt. I am sure the Finance Ministry must have obtained legal opinion from the Law Ministry on this issue. I would request the hon. Minister to place on record in the proceedings of this House the relevant opinion on file so that when the matter goes before the court, it will be amply cleared that the Finance Ministry, while sponsoring this Bill, had acted within the four corners of the Constitution as advised by the Law Ministry.

There are some more things. They have mentioned that the cooperative bank is not mentioned. Well, I do not know whether foreign banks come under this legislation. Also, how does the Government propose to deal with a consortium of bankers because it is very

often seen that the same debtor takes loan from several bankers ?

I am very happy that Dr. Manmohan Singhji is personally present here so that he can look into these matters. What we consider as a lacuna may not be a lacuna for them, but nothing is lost in making express provision and not leaving things merely for implication. Then there is no provision for payment of interest *pendente lite*. This has been so under the Arbitration Act and this has been a matter of considerable litigation. Since the whole idea is to come with a measure which, from its very inception, does not meet several difficulties, I am raising this issue. Likewise, though you have made provision for interim orders, there is no provision for the appointment of Interim Receiver. Another thing which is important is, there is no distinction between a secured debt and an unsecured debt. You have applied so many provisions of the Code of Civil Procedure, and I would suggest that the provisions of Order 34 of the Code of Civil Procedure may be applied when the Ministry frames the rules under clause 22 (h).

The Bill also provides for the appointment of a sitting Judge. I am afraid, the executive by itself may not be able to make that appointment, and the consultation and concurrence of the Chief Justice of India may be necessary.

I may point out one more lacuna. It is a lacuna in the Bill itself and it may not be cured by the rules. There should have been adequate provision for punishment for contempt of the tribunals, by applying the Contempt of Courts Act to these tribunals.

Lastly, I would like to ask whether the scam-related matters which are now being disposed of by the Special Courts will also be transferred. If it is done, then, according to me, it would be disastrous. I would request that the scam-related matters be kept with the Special Courts and Special Judges.

Last but not the least, this is the appropriate time for some introspection for the banks. They are far from even the minimum of efficiency. I know that even on a small bank account which I have, do not get a monthly statement of accounts till the 15th of the following month. For a cheque which comes from Bombay, it takes a minimum of three to four weeks for clearance. So there is a lot to be done. I am not an expert on banking. I am merely a depositor. I have always been creditor of the bank, never a debtor of the bank. So I don't know. But I would like this opportunity to be taken to streamline banking and to make it more accessible to the general public. Though the basic confidence of the people is there—despite a big scam it has not been shaken at all—you have to enhance and enrich that confidence of the common man because ultimately it is the monies of the common man on which the banking systems thrive and survive.

Thank you.

SHRI J. S. RAJU (Tamil Nadu):
 Mr Vice-Chairman, Sir, I can understand the spirit behind the Bill, but this Bill only negates all the promises and assertions of the Centre over the years—that the Government was going hard on defaulters to recover the huge amounts due to the public sector banks and financial institutions. I will not be surprised if after a few years another Finance Minister comes with yet another Bill on the same subject to plug further loopholes.

This is not to say that I am pessimistic. I only want the Government to ponder over the whole gamut of the banking system and come to terms with reality. It will not be proper to say that the present legislation is not enough to recover the outstanding debts. The fact is that the Government has been soft on

big businessmen and industrialists who had borrowed huge amounts of money. Many hon. Members of various political parties have said time and again in this House that many Acts passed by Parliament have remained on paper, without proper and timely execution. It is my sincere wish that this legislation does not meet the same fate.

This Bill is the result of two expert committee reports. The Tiwari Committee—set up in 1981—and also the Narasimha Committee have recommended the setting up of Special Tribunals with special powers for the recovery of debts. The Government itself, admits that the outstanding debts from public sector banks is Rs. 5,622 crores and Rs. 391 crores from financial institutions. The total come to a staggering Rs. 6,013 crores. I think, by recovering this, the Finance Minister is trying to make up the huge loss suffered in the securities scam. I don't know how far he will succeed.

Without going into the technicalities of the Bill, I want to make an observation on the amount of debt recoverable under this law. Clause 1, sub-section (4) says:

"The provisions of this Act shall not apply where the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is less than ten lakh rupees or such other amount, being not less than one lakh rupees, as the Central Government may, by notification, specify."

I appeal to the hon. Minister to dispel the fears that arise out of this clause. Let us suppose, the Central Government notifies and, specifies Rs. 1 lakh debt as recoverable under this Act. I am afraid, farmers will be put to unspeakable trouble because even farmers having small land holdings, borrow money to the tune of Rs. 1 lakh for various purposes like boring tubewells, buying

buying motors, engines etc. There are societies of small and marginal farmers which borrow a few lakhs for agricultural development. There are times when they are not able to pay back such loans as promised because of favors caused by nature. Unfortunately, the vagaries of nature like torrential rain and also pests damage crops causing irrecoverable loss to the farmers. There are also cases of farmers who have spent Rs. 2 lakhs to Rs. 3 lakhs on drilling tubewells which have ultimately failed. Now how can they repay the loan?

I am not saying that you should not ask for the repayment of the loan you give to the farmers. I want the Finance Minister to realise the kind of hardships and problems the farmers have to face. I meet people everyday. I see the conditions of the farmers closely and I know how they live. I have seen instances wherein the cattles of the farmers were taken away, the doors of their houses pulled out and their utensils removed by the authorities because they owed a few thousand rupees which they could not return. Nothing can be more humiliating and traumatic to the farmers of this country where agriculture is said to be the backbone.

The Finance Minister should see that such a situation is not created through this Bill because law is always harsh with the meek. There was a time when the adage, "Meek shall inherit the earth", was relevant. Now meek shall inherit only debt.

Therefore, I appeal to the Finance Minister once again to assure us that farmers shall not be put to trouble through this legislation.

Thank you, Sir.

SHRI CHIMANBHAI MEHTA: Sir, let me say at the outset that I support this Bill. In fact, such a Bill was long overdue.

[Shri Chimanbhai Mehta].

Now I would request the Minister to create an impact on the people, the people who are borrowing money from the banks. The Minister should at least give—he is here in this House—the names of at least the top ten defaulters because while legal proceedings have their own effect, the disadvantage they get by exposure, the bad name they get by this is also a very important punishment, a moral punishment, sometimes of a greater value for deterring people to commit crimes. So, I request the Minister, if not today, tomorrow, to give the names of the top ten defaulters, how they defaulted and how they litigated. Litigation can go on for ten years, fifteen years, as was said by one of the earlier speakers. Litigation is much cheaper than the interest on the principal amount. Therefore, litigation could go on. Anyway this Bill is trying to stipulate the time-limit beyond which litigation would not go. Will that really be implemented? The tribunals may have their own reasons to go beyond six months. It is not that they are bound to dispose of the application within six months. Everybody endorses that the disposal of the case should be within six months, but the point is that they may not be able to do it successfully. Therefore, it has to be seen if the six-month limit will work.

There are various estimates about the debts. The admission of Rs. 6,000 crores debt is one thing. It has been reported by experts that bad debts or doubtful debts are estimated to be between Rs. 10,000 crores and Rs. 25,000 crores. That would mean around 10 per cent of the bank deposits. You know there is SLR, CRR and priority lending. All this comes to around 70—75 per cent. They have got only 25 per cent of the bank deposits for lending to business and industry. And if within that bracket 10 per cent gets locked up this way, you can imagine the plight of other people who really deserve money from the banks. Rs. 6,000 crores is admitted here. Rs. 10,000 crores to Rs. 25,000 crores are bad debts, because there is a nexus between the bankers and the borrowers. Politicians also have their

role in recommending the cases. I would like to know from the hon. Minister and his department if they would investigate this nexus. I am not saying it should be done by the JPC, because every time you cannot bring it to JPC. Let the department investigate and come with a report in this House within six months to show how the nexus operates. Even without the consent of the Board, the Chairman hands over the loan and crores of rupees have been handed over take this. Unless you are prepared to investigate and report to this House the enormity of the crime, which is known, the punishment that this crime deserves is not going to be realised. Therefore, it is my request to the hon. Minister to consider this point.

On two points I have made my request: top ten names of the defaulters should be disclosed and investigations should be carried out within six months. If the Minister answers this House on this, the moral authority of the Finance Ministry would go up. I once again say that I support this Bill.

श्री गया सिंह (बिहार) : आदरणीय उपसभाध्यक्ष महोदय, मेरी समझ से इस बिल का जो इन्टेंशन है, जो उद्देश्य है उससे मैं सहमत हूँ। मैं इस संबंध में एक-दो बातें कहना चाहता हूँ।

इस बिल के लाने के पीछे सरकार का इरादा है कि 15 लाख जो केसेज हैं, 6 हजार करोड़ जो बकाया है बैंकों का उसकी वसूली करें। लेकिन जब हमने बैंकों का राष्ट्रीयकरण किया था तो एक उद्देश्य था और देश की जनता में एक उत्साह आया था। यही कारण है कि उसको हम रिस्क करें तो राष्ट्रीयकरण के बाद बैंकों में डिपॉजिट काफी बढ़ गया। उनकी आमदनी भी बढ़ी। लेकिन आज उनकी हालत बहुत खराब हो गई है। आज बैंकों की हालत जर्जर हो रही है। उसका कारण सिर्फ यही नहीं है कि हमारे बकाये की रिक्वरी नहीं हो रही है बल्कि मिसमैनेजमेंट भी है और फ्राडिज्म बैंकों

में जो आज है वह इससे बड़ा है। जिन लोगों पर केसेज हैं और उद्देश्य है रिक्वरी का हम उससे सहमत हैं लेकिन वे कौन लोग हैं 15 लाख में? उनमें एक बड़ा हिस्सा किसानों का भी है। कभी बाढ़ आ गई, कभी सुखाड़ आ गया और वह पूरा नहीं दे सका। छोटे-छोटे उद्योग चलाने वाले लोग भी हैं और मझोले उद्योग वाले लोग हैं, व्यापारी लोग भी हैं, ट्रेडर लोग भी हैं, चीटर भी हैं। इसलिए हम नहीं समझते कि आप सिर्फ कानून बनाकर जो उद्देश्य है आपका उसकी पूर्ति कर सकते हैं। इसलिए दो-एक मुझाव हमारे हैं और मंत्री जी संयोग से यहां बैठे हैं तो उन पर विचार करना चाहिए। अगर उद्देश्य है रिक्वरी करने का, आम जनता का पैसा है तो हम समझते हैं कि हाउस को यह बताना चाहिए कि एक लाख से नीचे बकाया इन 15 लाख में जिनके ऊपर केसेज हैं, वे कितने लोग हैं। एक लाख से लेकर एक करोड़ तक वाले कितने हैं और एक करोड़ से ऊपर वाले कितने लोग हैं। मैं इसलिए इस बात को रख रहा हूँ कि हमारा अपना परसनल ज्ञान है कि बहुत सारे छोटे लोग ऐसे हैं जिन्होंने कुछ हद तक इंटरेस्ट भी दिया, कुछ प्रिंसिपल अमाउंट भी दिया। उसके बाद देने की उनकी स्थिति नहीं रही। ऐसे लोग भी हैं इनमें, जो उसके बाद नहीं दे सके। कुछ ऐसे लोग भी हैं जिन्होंने बैंक को चीट किया है बैंकों से मिलकर, अधिकारियों से मिलकर। उन्होंने फेक रूप से लिया, फेक उनके गारेंटर भी हैं। मैं जानता हूँ परसनली, कारोबारी, इंडस्ट्रीज एरिया में रहने के कारण, कि कई ऐसे लोग हैं मैनेजर से मिल करके लेते हैं, न तो असली गारेंटर हैं न तो उनकी कहीं फैक्टरी है और उन्होंने बैंक से लाखों और करोड़ों रूपए लोन के रूप में लिये। आज उन्होंने कोर्ट को भी इम्प्लूएण्ड कर लिया, यहां तक कि हाई कोर्ट के चीफ जस्टिस को भी इम्प्लूएण्ड कर लिया। मैं जानता हूँ। बगल में हरियाणा में उन्होंने दूसरी फैक्टरी भी खोल ली और उनकी सारी फैक्ट्रियों में ताला लगा हुआ है। बैंक का सब रुपया मार लिया।

तो आज जिस तरह से बैंकों में शांति चल रहा है उनके साथ मिल करके इसमें आप जो ट्रिब्यूनल्स बना लेंगे वे 15 लाख केसेज को कितनी जल्दी साल्व करेंगे यह मैं नहीं जानता। इसलिए मेरा मुझाव है कि आप इसमें कुछ, इन्सेंटिव दीजिए, जो लोग डिफाल्टर हैं उनको भी। बहुत ऐसे भी हैं जिन्होंने प्रिंसिपल अमाउंट दे दिया लेकिन इंटरेस्ट नहीं दे सके और वह इंटरेस्ट प्रिंसिपल अमाउंट से डबल हो गया। मैं ऐसे भी कुछ लोगों को जनता हूँ जिन्होंने प्रिंसिपल अमाउंट 5-10 लाख रूपए बैंक से लिया, वह चुका दिया इंस्टाल-मेंट्स में लेकिन उसका इंटरेस्ट नहीं दिया और आज उनका इंटरेस्ट प्रिंसिपल अमाउंट का तीन गुना हो गया है, डिफाल्टर हो गये हैं।

मंत्री जी अनाउंस करें कि ऐसे लोग जिन्होंने प्रिंसिपल अमाउंट वापस कर दिया उसके इंटरेस्ट में छूट दे सकते हैं। जिन्होंने 50 परसेंट और प्रिंसिपल अमाउंट भी दे दिया उसको आप क्या राहत दे सकते हैं। ऐसे केसेज भी इन 15 लाख में होंगे जिन्होंने हड्डेड परसेंट इंटरेस्ट भी दे दिया, प्रिंसिपल अमाउंट भी दिया लेकिन चूँकि टाइम पर नहीं दिया तो इंटरेस्ट उनका दो सौ परसेंट हो गया। ऐसे केसेज काफी मिलेंगे। उनको हम समझते हैं कि रिब्यू करना चाहिए मिनिस्ट्री को और इस तरह से अगर कुछ इन्सेंटिव उसमें देंगे तो जो छोटे लोग हैं या गरीब किसान हैं या ऐसे स्माल इंडस्ट्रीज के जो चलाने वाले लोग हैं उनको हम राहत दे सकते हैं क्योंकि हमारा उद्देश्य क्या है। हमारा उद्देश्य है, जब बैंकों का राष्ट्रीयकरण किया था कि बड़े पैमाने पर हम लोगों को रोजगार दें। लेकिन अगर ट्रिब्यूनल बनाकर फिर गरीब लोग उसमें भारे जायेंगे तो और भी सिक इंडस्ट्रीज तो होती ही जा रही हैं लेकिन बेकारी भी हमारी बढ़ेगी और जो परपज है वह पूरा नहीं होगा क्योंकि आज भी हम जानते हैं कि बड़े-बड़े लोग जो इस देश के हैं वे बैंक गारेंटर के रूप में बड़े बड़े कॉन्ट्रिब्यूटर्स रहे हैं, सारे हमारे बैंकों का मैक्सिमम यूटिलाइजेशन आज इन पब्लिक सेक्टर

[श्री गया सिंह]

के बैंक का धनी लोग करते हैं, विभिन्न तरह के उनके खाते भी हैं और उनका, बैंक का जो फ्राडिज्म है उसका लाभ उठाते हैं और मैक्सिमम जो गरीब लोग हैं, मझोले लोग हैं, उससे आज उनको काफी नुकसान है।

मैं बिन के उद्देश्य से सहमत हूँ, लेकिन जो शक है, जो संदेह है, उसको रद्द जो को यहां हाऊस में दूर करना चाहिए और उस उद्देश्य की पूर्ति के लिए कोई ऐसी चीज नहीं हो, जिससे हमारे उद्देश्य की पूर्ति ही नहीं हो।

हम समझते हैं कि शक को दूर करें, तो हम इस बिल के साथ हैं और हम समझते हैं कि जितना भी पब्लिक मनी है, उसके जो रियल डिफाल्टर हैं, जो रियल चीटर्स हैं, उनसे अगर हम वसूलेंगे, तो लाभ होगा। लेकिन सचमुच में जो पे करने वाले हैं, उन्होंने किसी और कारण से नहीं किया, उनको अगर नुकसान होगा—(समय की घंटी)—तो इससे इस बिल का जो उद्देश्य है, वह डिफीट होगा धन्यवाद।

श्री भूपेन्द्र सिंह मान (नाम-निर्देशित) : धन्यवाद साहब। इस देश में जो पैसा बैंकों के जरिए लोगों को दिया जाता है, वह वापिस नहीं आ रहा, इसकी चिंता है सरकार को, इसलिए सरकार यह बिल लाई है।

मैं समझता हूँ कि जो पैसा दिया जाता है, वह व्हाईट मनी दिया हुआ पैसा, लोन लेने वाला उसको ब्लैक मनी में कनवर्ट करता है और ब्लैक मनी का कनवर्ट किया हुआ पैसा—वह पैसा तो है, लेकिन कई हालात ऐसे आते हैं कि वह पैसा उसके पास है, लेकिन उसका रंग बदल गया है। इसलिए वह दे नहीं सकता।

एक और बात है कि पैसा तो उसके पास है, उसने जो फैक्टरी बनाई है, जो कारखाना बनाया है, उसमें से उसने निकाल लिया है, ओवर-इनवायसिंग करके या ज्यादा खर्चा करके। तो इस ढंग से जो पैसा देश का गलत इस्तेमाल किया जा रहा है अपने-अपने स्वार्थों के लिए उसको बंद करना बहुत जरूरी है। लेकिन उसके

लिए ब्लैक मनी को बंद करना यह सिर्फ इसी से नहीं, ब्लैक मनी को बंद करने के लिए और ज्यादा जरूरी चीजें हैं, जिनसे वह बंद किया जा सकता है और उसे बन्द करना जरूरी है।

सरकार चाहती है कि कोई जालसाजी न हो, लेकिन सरकार के अफसर चाहते हैं, क्योंकि जालसाजी से उनको लाभ है। इसलिए वह जालसाजी करते हैं। सरकार चाहती है कि उसे उसका पैसा मिले और देश की तरक्की हो, इंडस्ट्री लगे—सरकार इसलिए पैसा देती है। लेकिन सरकार के कर्मचारी छोटे ओहदों से लेकर बड़े ओहदों तक जो बैठे हैं, उनका अपना जाति हित है कि सरकार को चीट करके वह पैसा अपने हितों के लिए इस्तेमाल करें। तो इसलिए सरकार कुछ और चाहती है, लेकिन सरकारी कर्मचारी, जो सरकार की कुर्सी पर बैठते हैं, वह उस कुर्सी पर बैठ कर अपने समय को मिसयूज करता है। इसलिए यह सारी दिक्कतें हमारे सामने पेश आ रही हैं।

अगर इन दिक्कतों को इसी मशीनरी से हमने ठीक करवाना है, तो मुझे तो नज़र आता है कि जिस मशीनरी द्वारा पहले इतने सालों से अच्छा-भला देश चल रहा था, उसको इतनी बरी हालत तक बिगाड़ दिया है। उस मशीनरी को ठीक करने के लिए जितने मरजी कानून से कानून बनाते रहें, अगर उसका मन ठीक नहीं है, तो शायद यह दिक्कत होगी।

हम यह लोन जो लोगों को देते हैं, वह वास्तव में कहीं से लेते भी हैं। सरकार वर्ल्ड बैंक से पैसा लेती है और वहां से पैसा लेकर रिज़र्व बैंक आगे डिसबर्स करता है, वह आगे किसी और बैंक को डिसबर्स करता है। वह बैंक नवा को डिसबर्स करता है और नवाडं आगे लोगों को डिसबर्स करता है। ऐसे एजेंसियां बनी हुई हैं। तो इस वक्त देश में मानोपली लेने देने की—लोन देना एक कर्माशियल वैंचर है। लोन लेना है किसी ने अपने काम करने के लिए, तो यह जो मानोपली है, जब यहां इस वक्त फ्रीयर मार्केट की, लिब्रलाईजेशन की सरकार बात कर रही

है और सोच रही है—अच्छी बात है, और होनी चाहिए।

उस दिशा में इसकी भी सिर्फ मानोपली नहीं रहनी चाहिए। इसको भी कर्माधिकार तौर पर आना चाहिए। अगर सीधे तौर पर मुझे कहीं से लोन मिलता है, जहाँ से मेरी सरकार लोन लेती है, वहाँ से अगर मुझे सीधा मिले, तो मुझे लेने दिया जाना चाहिए, क्योंकि मैं समझता हूँ कि यहाँ लोन देने वाली मशीनरी के ओवरहेड इतने ज्यादा हैं कि वह लोन लेकर वायबल बैचर लग नहीं सकता, कर्प्शन इतनी है कि लोन जितनी देर तक कागजों का पेट नहीं भरा जाता उतनी देर तक कागज आगे नहीं चलते हैं और उसमें वायबिलिटी खत्म हो जाती है। वह लोन री-पे नहीं कर सकता। इसलिए सरकार का जो इरादा है वह यह है कि धोखा-धड़ी करने वालों के खिलाफ कुछ सख्त हाथ रखा जाए। लेकिन इसमें एक और बात है। इस देश में कुछ लोग ऐसे हैं जो लोगों के सरमाये के साथ खिलवाड़ करके अपने जाति हित पूरे कर रहे हैं और प्रोडक्शन नहीं कर रहे हैं, देश को आगे नहीं बढ़ा रहे हैं। दूसरी तरफ लोग हैं जो ग्राम नेशनल प्रोडक्ट में वास्तव में कुछ पैदा करते हैं और उनकी पैदा की हुई चीजों की उनको कीमत नहीं मिलती है। वे घाटे का धंधा कर रहे हैं उनके ऊपर सर्वाइस के नाम पर वास्तव में टैक्स लग रहा है। उनका जब धंधा घाटे का है तो कोई भी वह लोन ले, वह वापस कर नहीं पायेंगे। वहाँ कई बार सरकार का अपना इंस्ट्रुमेंट भी होता है कि उनको लोन दे ताकि वे प्रोडक्शन बढ़ाए इसमें स्पष्ट क्लीयर-कट डिस्टिक्शन होनी चाहिए, जो मैं समझता हूँ कि इस वक्त इस कानून में नहीं है, इस बिल में नहीं है। वह यह होनी चाहिए कि जो वाकई कोई पैदा कर रहे हैं, खास तौर पर जो खेती में पैदा कर रहे हैं और घाटे के धंधे में पैदा कर रहे हैं, जहाँ उनके ऊपर इतना बड़ा टैक्स लगा हुआ है, जो उनकी रेस्ट्रिक्शंस हैं उनको देखते हुए कई रिपोर्ट्स आ गई हैं कि 34 परसेंट तक किसान को जो खेत में काम करके चीज पैदा

करता है उसको जो उसके ऊपर जरेस्ट्रिक्शंस लगी हुई हैं वह कई हालात में उनसे 34 परसेंट तक उससे टैक्स लिया जाता है। तो इतना बड़ा डायरेक्ट टैक्स जो देने वाले लोग हैं, वे भी अगर पैदा करते हैं तो उनको अगर इसी जो लोगों का पैसा छीन कर, सरमाया लूट कर जो देश को पीछे धकेल रहे हैं उनको और उनको इस बिल में जो कानून बनाने की सरकार ने यह मंशा रखी है इसको अगर एक ही रस्से से बांधा जाएगा तो मैं समझता हूँ कि प्रोडक्टिव फोर्सों जो वाकई ईमानदारी से काम कर रही हैं और करना चाहती हैं, जिनके बलबूते पर आज भी देश जिदा है, नहीं तो कई इस वक्त रशिया जैसे देश में एक एक ब्रैड के लिए रात-रात भर लंबी लाइन में खड़े होना पड़ता है, तो ये यही इस देश के खेती करने वालों ने यह हालात यहाँ पैदा नहीं होने दिए, इसलिए बिल्कुल क्लीयर-कट डिस्टिक्शन होनी चाहिए कि वह जो देश के पैसे से खिलवाड़ करते हैं और वह जो देश के पैसे से अपना खून-पसीना बहाकर पैदा करते हैं उनमें डिस्टिक्शन करके, उनको इससे कोई नुकसान नहीं होना चाहिए। मुझे लगता है कि आज तो 10 लाख की एक हद रखी है शायद यह दिखाने के लिए कि कुछ यह एक ट्रेंड होगा कि बड़े लोगों को ही इस कानून से हाथ गले में पड़ेगा, लेकिन कल एक लाख, उसके बाद उससे भी कम, तो मैं समझता हूँ कि यह इतना अच्छा नहीं है। असली तौर पर जब हम एक फीयर मार्केट में जा रहे हैं तो फीयर मार्केट में अगर इस वक्त के जो बैंक हैं वह पैसा ठीक से नहीं दे पाते, उनसे रिवर नहीं होता और इनफोर्शिएंस है, वह वायबल यूनिट्स नहीं खड़े हो रहे हैं तो वह वापस नहीं दे सकते, या उनमें जब ब्रीच होता है तो अगर कोई कंपीटीशन में आकर यहाँ सस्ते दर पर पैसा सप्लाई कर सकता है तो यहाँ करने दिया जाना चाहिए, और इसमें ओपन होना चाहिए ताकि लोगों को, इस वक्त की जो इंस्टीट्यूट्स, लॉनिंग इंस्टीट्यूट्स, बैंकिंग इंस्टीट्यूट्स इसके ऊपर भी, इसको भी कंपीटीशन फेस करना पड़े। अभी तक

[श्री भूपन्द्र सिंह मान]

मोनोपली की वजह से इससे लोगों को कोई राहत नहीं मिल रही है और लोगों को बहुत बड़ा नुकसान हो रहा है।

इन्हीं शब्दों के साथ मैं आपसे क्षमा चाहता हूँ। धन्यवाद।

THE VICE-CHAIRMAN (SHRI MD. SALIM): Shri A. P. Gautam. Not present. Now, the discussion on the Statutory Resolution and the Bill is over. Dr. Jain to reply.

DR. JINENDRA KUMAR JAIN: Thank you very much, Sir. I also thank all the hon. Members who took part in the debate on the motion that was moved by me.

SHRI V. NARAYANASAMY: Thank you, Dr. Jain. I also participated in the debate. I am thanking you.

DR. JINENDRA KUMAR JAIN: First of all, I would mention the name of my most distinguished colleague, the brightest person in this House—I am not using all the adjectives for shortage of time—Shri V. Narayanasamy. There are other also Shri Ishwar Chandra Gupta, Shri Ashis Sen, Shri Rajni Ranjan Sahu, Dr. Sivaji, Shri Murlidhar Bhandare, Shri J. S. Raju, Shri Chimanbhai Mehta, Shri Gaya Singh and Shri Bhupinder Singh Mann. I am grateful to all of them.

Sir, I had moved my Resolution and I had submitted some of my preliminary observations and objections and the reasons for my disapproval. If the Minister, while introducing the Bill, had tried to respond to the preliminary objections which I had raised, I would have got an opportunity to reply to that.

Now I was deprived of an opportunity to respond to the Minister because as per the procedure the Minister would speak only after I finish my reply. Therefore, I have no opportunity to take care of the Minister's response to my resolution of

disapproval. I am just requesting you Sir, to see my helplessness. I would request the Hon. Minister that, in future, he should be kind enough; otherwise I will be deprived of something which is due to me in the debate. If he decides to take care of the objections at the end, I will have no opportunity to respond.

Sir, many important points have emerged in the debate. One thing is very clear. No Member of this Parliament wants to be kind to habitual defaulters or to those who manipulate provisions to receive money for development and misuse them for other things. Member after Member has expressed concern for small farmers, small-scale industrialists and such other categories. A point has been made: How do we make a distinction between genuine sickness and sickness that has arisen out of factors beyond the control of the loanee? There are things which are beyond the control of the entrepreneur. We have been living in very, very difficult times. There are law and order problems and other things, like arson riot, fire, large-scale disturbance, etc., of which an ordinary citizen cannot take care. Entire properties or projects of some of the entrepreneurs are destroyed. What is the distinction that would be made in this sort of a thing? I would like to know from the hon. Minister how he proposes to spare such categories. Member after Member has expressed that such categories don't deserve to be subjected to the rigorous provisions of this law. Shri Ishwar Chandra Gupta made a point. He suggested abolition of the Urban Land Ceiling Act, which would help many of the sick industries. It may not be within the competence of the hon. Finance Minister. But I would like to know what his response is, what his opinion is, whether he would recommend to the concerned Ministry disposal of the land and property, after making some suitable

amendment to the Urban Land Ceiling Act, in cases where the industry has gone sick and the real tangible asset is land and property, so that the money can be realised. Shri Narayanasamy made some important points. I would also like to know whether co-operative banks come under the purview of this Bill. He also narrated the problems of the farmers. I must thank Shri Ashis Sen; he gave a lot of important information, he is a very distinguished man having trade union experience and knowledge of the working of the banks. I am sure the hon. Minister would give an explanation here as to why this Bill was not discussed in the Standing Committee. The mere fact that he had already issued the Ordinance is not a sufficient reason.

THE MINISTER OF FINANCE (SHRI MANMOHAN SINGH): It is the Speaker who takes the decision whether it is to be referred to the Standing Committee or not.

DR. JINENDRA KUMAR JAIN:

I know that, Dr. Manmohan Singh, kindly allow me to complete my point. I know the Speaker decides it or the Chairman, Rajya Sabha decides it. It happened this time. This Bill was put up in this House. They sent it to the Rajya Sabha Chairman. He referred it to the Lok Sabha Speaker. The Speaker Lok Sabha referred it to the Standing Committee. I think, it is the duty of the Government. It is up to you to consider my plea. Once it is an established procedure it is both for the Government and the rest of the legislators. However, you have got your own views.

I support the contention of Shri Ashis Sen that this Bill should have been discussed in the Standing Committee before being brought here. Some Members, including Mr. Ashis Sen, said that political patronage was provided, political patronage of the Finance Ministry and its officials and their linkage with deliberate default-

ters. Sir, it is not a matter of just giving a sweet smile. We are so accustomed to the smile of Dr. Manmohan Singh. He really looks more handsome when he smiles. Sir, these are the genuine concerns of parliamentarians. Please take them seriously. Then the role of the IMF, the World Bank and the influence of these institutions and the recommendations of the Narasimhan Committee have been raised by several Members. I need not repeat that. How do you make a distinction between genuine defaulters and innocent defaulters? As may hon. Members have said, the objective of the Bill is good. But he says out of his experience that it will fail to deliver the goods because he has discussed it point by point. I know that you have taken notes. I don't want to take more time because it is not within my power to satisfy the hon. Members. But I request the hon. Minister to reply to all the specific points which my friend, Mr. Ashis Sen, has raised. He has pointed out the inadequacies and the ambiguities of the present law. You might be having all the solutions in your mind. But reading the Bill only does not give us that wisdom. We will be grateful if you enlighten us on those points which were referred to by Shri Ashis Sen. Mr. Rajini Ranjan Sahu is a very experienced man. He is a Member of the ruling party. He must support the Bill. But he also pointed out some ambiguities in the Bill. One hon. Member has also mentioned that foreign banks are also included in it. Who will implement the recovery orders? I don't know I am sure Mr. Manmohan Singh must be knowing it. Dr. Sivaji also mentioned that irregularities are committed right at the time of sanctioning loans. Sir, it is a fact that scarce money available for India's industrial and business management gets misutilised because of the unholy nexus between certain officials and some of the wilful defaulters. How do we tackle this problem? Dr. Sivaji gave a suggestion. I don't favour that suggestion. I

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don't know whether it is possible or feasible. He said that the Revenue Recovery Act which was applicable in the case of cooperative bank loans and State financial institution loans, should be applicable here also. At least, I am opposed to it if it is in practice. The Revenue Recovery Act cannot be made applicable to debt. Debt is not a revenue of the Government. But because he said that it was already applicable to cooperative banks and State financial institutions, he must be right. I would like to know the opinion of the hon. Finance Minister. Is what he said true? What is his opinion on this. I must express my specific thanks to my friend, Shri Murlidhar Bhandare, because, when he spoke not only as a distinguished lawyer, but he was also very candid and he put forward the same point of view with regard to Chapter XIV of the Constitution. If you recall, in my preliminary objections, I had raised a point of order and I had said that the constitutionality of the Bill that you were bringing forward was suspect in our eyes and that was why I had made that point of order. I am very grateful to Mr. Bhandare that he provided support to my contention and I would like to make it clear that neither I nor Mr. Bhandare are opposed to the idea of giving such powers to the banks. Basically, we are all for recovery of the dues of the banks and unless we streamline it, our economy will not proceed further. But there is a way to do it and the way is to respect the Constitution. There is only one chapter in our Constitution which deals with Tribunals and there are only two articles which are very specific and they indicate the subjects for which the Parliament can set up Tribunals and it is not illustrative, but exhaustive. And, Sir, if this mention of the recovery of debts does not find a place in article 323B, I cannot understand, in my little wisdom, how you can justify

the enactment of this legislation. Let the honourable Minister take the House into confidence. I am sure he must have consulted the Law Ministry and there must be information on the file. But sometimes we do commit mistakes. I do not want that a Bill passed by us, Mr. Bhandare and all others included, should be criticised in the courts saying that Parliament had gone beyond its powers and that Parliament had passed a law without doing its home work properly. I think that if the honourable Minister would have moved a Constitutional amendment and asked for permission for inclusion of 'dues' in this, everything would have gone perfectly well. But, I think, in spite of his wisdom he has committed an error. But I am sure that the honourable Minister will satisfy me and Mr. Bhandare on this point.

Sir, the other Members have made very good points. I am running short of time. Mr. Raju made a point regarding the inconsistency in clause 1 and asked the Minister to make up his mind to decide whether it should be ten lakhs or one lakh. Right from day one the honourable Minister is not sure and, subsequently, he may issue a notification and change the figure.

Mr. Chimanbhai Mehta also said the same thing and said that he supported the intention of the Bill, but he made a very valid objection. He asked how you proposed to tackle the nexus between bank officials and habitual defaulters. It is not that we are making our national economy sick by chance. There are certain people who have learnt the art of manipulating the system and this Parliament should be smart enough, should be competent enough, to evolve some mechanism. With experienced people like Dr. Manmohan Singh in charge of the Ministry of Finance, the time has now come

when the Minister, with the support of this Parliament, should be able to evolve a mechanism which should be able to deal with this menace of corruption, corruption which is deliberate, which is pre-planned, and laws should be made to deal with such corrupt people. Dr. Manmohan Singh is seeing his watch. And that was one reason, Sir, that for a serious debate like this, we must have time. I will be very brief, Sir. I want to support one or two points which were mentioned by my hon. colleague, Shri Gaya Singh. And he gave a very practical example. He supports you. He supports the Government. He also says that litigations may again be a time-consuming exercise. After all, you have the Tribunals, the Appellate Tribunals, the High Courts and the Supreme Court. And he gave a very practical advice, and you may consider it very seriously. Why don't you enter into a process of one-time settlement? Evolve guidelines, make a difference between potentially viable units and such units which are sick. There are a lot of units which are not potentially viable. You evolve guidelines. Don't leave it to the discretion of somebody because that will breed corruption. You say, 'okay' we will give you concessions in terms of interest on much of the principal amount; you indulge in an exercise of settlement instead of going into litigation.' This law is leading us to litigation. Mr. Gaya Singh says, "be wise; enter into a settlement and recover whatever this person can pay". After all, he is a citizen of India. He has failed due to many factors, one factor being the economic policies of Shri Manmohan Singh also because of the open competition with the big international, multinational giants. So, be kind to a national citizen and enter into a settlement and let him pay what he can pay, not that he will run away. And you can mop up much more money in

much shorter time by having a reasonable process of settlement. Sir, I know I am getting lengthy. But, Dr. Manmohan Singh is knowledgeable. And when I travel, I read some of the things. This is not just my brain-wave. I know that even in countries like America, these new mechanisms of loan swapping, etc. are coming into being. Most of these big multinational companies have found that if they go to the courts, litigations cost them much more than having mutual settlements. So, I support very strongly what my friend, Mr. Gaya Singh said on the floor of this House that settlement would be probably a more productive process than otherwise.

Mr. Bhupinder Singh Mann said one thing. Shall I stop here, Sir? I know you are anxious. But you have cut your hands by saying that you are serious Parliamentarians and you would like to sit late. If you want me to stop, I am willing to co-operate. But it is my duty to reply to the debate, and at least touch very briefly the important points made by the hon. Members. I will just take two minutes more.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: He is replying to the debate. He is not to reply to the whole debate. It is the hon. Minister's job.

DR. JINENDRA KUMAR JAIN: Thank you, Sir. My job is to reply to the debate on my Motion. I know my job, Mr. Bhandare. I don't want to argue because...

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: We are in agreement with you, I said so. In spirit, we agree; in letter, we do not agree.

DR. JINENDRA KUMAR JAIN: So, keeping in view the time constraint, Sir, I would limit myself to this. And I seek the forgiveness of those Members whose points I have not taken in detail. And I request the

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hon. Finance Minister to kindly take care of all the points that have been raised. Thank you, Sir.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now, Mr. Minister.

डा० अबरार अहमद : सर, बैंकों और वित्तीय संस्थाओं के शोध कृणों की वसूली संबंधी विधेयक, 1993 पर माननीय सदस्यों ने अपने विचार रखे, काफी सुझाव दिये और कुछ प्रश्न भी पूछे। मैं उन सभी का आभारी हूँ। इस विधेयक की एक लंबे समय से आवश्यकता महसूस हो रही थी। इसके बारे में तरसिहम रसिति ने भी सिफारिश की। इससे पहले तिवारी कमेटी ने भी इस तरह के ट्रिब्यूनल बनाने की बात कही। जिस तरह का एक ट्रेंड चल पड़ा था और जो देखने में आया है कि बैंक और वित्तीय संस्थाओं का पैसा लेने के बाद उसको लौटाने की धारणा में कुछ कमी आई है, इन सब बातों को देखते हुए ट्रिब्यूनल का बनाना नितान्त आवश्यक था।

माननीय सदस्यों ने अपने सवालोंने के दौरान कई प्रकार की शंकाएँ व्यक्त की हैं। मैं उन सभी को आपके माध्यम से बताना चाहता हूँ कि जो 31 मार्च 1991 तक की फिगर्स मैंने अपने प्रारंभिक वक्तव्य में दी हैं, जिनके अन्तर्गत 15,33,383 केसेज हैं उन पर बैंकों का जो पैसा है वह 5622 करोड़ रुपया बकाया है। यदि इसका ऐनिलिसिस करें तो इसमें जो 10 लाख से ऊपर की बकाया राशि है जिसके संबंध में अभी ट्रायब्यूनल का कार्य क्षेत्र रखा जा रहा है। तो सिर्फ 6570 व्यक्ति 10 लाख से ऊपर वाले बकाया में आते हैं, 15,33,383 में से। यदि प्रतिशत के आधार पर देखा जाय तो केवल 1.4 प्रतिशत लोग ऐसे हैं जिन पर 10 लाख से अधिक की राशि बकाया है। अगर ऐमाउंट में देखा जाय तो जो 5,622 करोड़ रुपया है इसमें से 3147 करोड़ रुपया जो कि कुल का 56 प्रतिशत है, उन लोगों के

स है तो 1.4 प्रतिशत या आधे प्रतिशत से कम व्यक्तियों के पास 56 प्रतिशत से ज्यादा बकाया है।

अभी माननीय सदस्य ने पूछा था कि कितने लोग ऐसे हैं जो एक लाख से अधिक और 10 लाख से कम वाले हैं, तो मैं उन्हें बताना चाहता हूँ कि उनकी संख्या 1526,817 है जिनके पास 2475 करोड़ रुपया बाकी है, टोटल का वह 44 प्रतिशत है और जिन पर 10 लाख से 20 लाख तक का बकाया है वह 3136 है और उन पर ऐमाउंट 405 करोड़ रुपया है और जिन पर 20 लाख से लेकर 50 लाख तक बकाया है वह 207 है और कुल ऐमाउंट 5083 करोड़ है और इससे ऊपर के 1358 हैं जिन पर 2159 करोड़ रुपया बाकी है। यदि हम इनको देखें तो 1.4 प्रतिशत लोग ऐसे हैं जो कुल प्रतिशत का 56 प्रतिशत दबाये बैठे हैं। उनसे वसूल करने के लिये इस प्रकार के ट्रायब्यूनल बनाने का फैसला किया गया ताकि उनसे जल्दी से जल्दी रिकवरी की जाय। इसके अलावा कोई दूसरा रास्ता नहीं है। अगर आप वित्तीय संस्थाओं के भी पैसे का आप देखेंगे तो आपको मालूम होगा 204 केसेज ऐसे हैं 31 मार्च 1991 तक जिनमें 10 लाख से कम वाले 32 लोग हैं। उन पर डेढ़ करोड़ रुपया बाकी है। बाकी सारे के सारे लोग इन 32 लोगों को निकालकर सारा पैसा उन लोगों के पास बाकी है। यदि इस ऐनेलिसिस का विश्लेषण करके देखें तो यह बात बहुत स्पष्ट हो जाती है कि जैसा कि माननीय जैन साहब ने जो कहा कि इसका संदेह था कि इस प्रकार जो ट्रायब्यूनल बनाया जा रहा है उसके माध्यम से छोटे लोगों को, लघु उद्योग वालों को परेशान किया जायेगा, मैं समझता हूँ कि इस प्रकार के ऐनेलिसिस को देखने के बाद उनके मस्तिष्क में यह धारणा निकल गई होगी कि यह जो ट्रायब्यूनल बनाया जा रहा है वह जिनके पास वित्तीय संस्थाओं का पैसा है उसे वसूल करने के लिये बनाया जा रहा है।

माननीय जैन ने जब शुरू में अपनी बात कही तो कई बातें उन्होंने अपने वक्तव्य के अन्दर उठाई थीं। उन्होंने एक बात बहुत जोर देकर कही थी कि जो कानून बनाया जा रहा है वह कानून तोड़-मरोड़कर बनाया जा रहा है। लेकिन जो जो कानून अभी है वह अपनी जगह पर है। लेकिन यह जो ट्रायब्यूनल बनाया जा रहा है इसके द्वारा एक सीमा निर्धारित की जा रही है। इसमें 180 दिन निर्धारित किये गये हैं ताकि निर्धारित अवधि के अन्दर पैसा वसूल किया जा सके।

माननीय जैन साहब ने यह भी कहा था कि ट्रायब्यूनल के बाद हाई कोर्ट और सुप्रीम कोर्ट में जाने का अधिकार रहेगा तो इसमें और डिले होगी। मैं आपके माध्यम से उनको यह बताना चाहता हूँ कि हाई कोर्ट और सुप्रीम कोर्ट में संविधान के अनुच्छेद 226, 227 और 136 के अन्तर्गत केवल लीगल, वैधानिक मद्दों पर ही लाया जा सकता है। फैक्चुअल इश्यूज पर नहीं। यह जो अनुच्छेद 226 और 227 का अधिकार है वह ऐक्स्ट्रा ऐंजीशनल रेमेडी है जिसको किसी भी तरह से बाई पास नहीं किया जा सकता है लेकिन इसके संवैधानिक अधिकार के बारे में है फैक्चुअल पोजीशन के बारे में यह नहीं है।

इसके साथ ही माननीय जैन साहब ने नेचुरल जस्टिस के बारे में कहा कि हम सिविल प्रोसीजर कोड की जगह ट्रायब्यूनल बना देंगे तो उसके अन्तर्गत नेचुरल जस्टिस नहीं मिल पाएगा। मैं आपके माध्यम से माननीय जैन को बताना चाहता हूँ कि ट्रिब्यूनल के अन्दर जहां तक भी ट्रिब्यूनल जाय, सिविल प्रोसीजर अपना सकता है। उसके अन्दर सभी पक्षों को बोलने, उनको सुनने, उनकी बात सुनने के बाद निर्णय देने का है। ऐसा नहीं है कि एक पक्षीय ही फैसला कर दिया जाय। जहां भी किसी पक्ष को बुलाया जाय उसको सुना जाय। उसके जो भी आस्पेक्ट्स हैं उन पर विचार किया जाय। उसके बाद निर्णय दिया जाय। तो मैं समझता हूँ कि किसी प्रकार

के नेचुरल जस्टिस की बात न मिलने की बात उसके अन्दर नहीं आती है। कानून के आगे सब लोगों को बराबर की बात माननीय जैन ने कही। इसके अन्दर तो मुझे कुछ कहने की आवश्यकता ही नहीं है। जिस प्रकार का ट्रिब्यूनल बनाया जा रहा है उस कानून में सब बराबर हैं। जिस पर भी 10 लाख से ऊपर या ज्यादा राशि बकाया है उसके साथ समान व्यवहार किया जाएगा। ट्रिब्यूनल के अन्दर जो जज रखे जायेंगे उसमें ट्रिब्यूनल में डिस्ट्रिक्ट रैंक का जज रखा जाएगा और जो अपीलेट ट्रिब्यूनल है उसमें हाई कोर्ट जज के रैंक का जज रखा जाएगा। जहां तक व्यवहार के दृष्टिकोण की बात हो, किसी प्रकार के डिस्ट्रिक्मिनेशन की बात हो, मैं यह कहना चाहूँ कि जहां डिस्ट्रिक्ट जज और अपीलेट ट्रिब्यूनल में हाई कोर्ट के जज के रैंक का आदमी रखा जा रहा हो वहां इस प्रकार के विचार आना भी मैं समझता हूँ कि मात्र सदेह ही है।

दूसरे माननीय सदस्यों ने कुछ बातें कहीं हैं और खास कर उन्होंने प्रश्न पूछा कि आडिनेन्स की आवश्यकता ही क्या थी। बहुत से माननीय सदस्यों ने अपने भाषण में स्वयं यह स्वीकार किया है कि यह पहले ही ट्रिब्यूनल बन जाना चाहिए था। इसमें आलरेडी देरी हुई है। मैंने अपनी स्पीच के शुरू में यह कहा था तो मैंने उन बातों पर प्रकाश डाला था कि किन परिस्थितियों के अन्दर यह अध्यादेश लाया गया है और आपके माध्यम से मैं माननीय सदस्यों को बताना चाहता हूँ कि हमने 13 मई, 1993 को लोक सभा में यह बिल पेश किया था। लेकिन वहां काफी कार्य होने की वजह से उस समय यह वहां पेश नहीं हो सका। उस सत्र के बाद अध्यादेश लाये और इस सत्र के अन्दर यह बिल पेश किया जा रहा है। इसके साथ ही माननीय सदस्यों ने यह भी पूछा था कि कितने ट्रिब्यूनल होंगे और कितने उसकी ब्रांचें होंगी। इसके अन्दर आवश्यकतानुसार इनको बढ़ाया जा सकता है। अभी चार स्थानों पर इसकी शाखाएँ खोली जायेंगी। उसके अन्दर

[डा० अबरार अहमद]

दिल्ली, बम्बई, कलकत्ता और मद्रास हैं जो अपीलेट ट्रिब्यूनल होगा वह बम्बई में रखा जाएगा। इसके साथ ही माननीय सदस्यों ने यह भी कहा कि अपीलेट ट्रिब्यूनल में 75 प्रतिशत पैसा जमा करने की अपीलेट ट्रिब्यूनल में जाने के लिए कंडीशन रखी है। यह बहुत स्पष्ट है कि जब ट्रिब्यूनल अपना निर्णय दे देगा और निर्णय देने के बाद कोई भी व्यक्ति अपीलेट ट्रिब्यूनल में जाना चाहता है तो उसको उसके पहले 75 प्रतिशत पैसा जमा कराना पड़ेगा। यदि ऐसी कन्डीशन नहीं रहती या इस प्रकार का प्रावधान नहीं रहता है तो फिर हमारा जो मंतव्य है, हमारी धारणा है, जो हमारा उद्देश्य है वह बेकार हो जाता है। लेकिन उसके साथ-साथ मैं माननीय सदस्यों को यह भी बताना चाहूंगा कि अपीलेट ट्रिब्यूनल को यह अधिकार है कि चाहे तो उस 75 प्रतिशत राशि को कम कर दे या बिल्कुल समाप्त कर दे और उसके बाद भी यदि अपीलेट ट्रिब्यूनल यह फैसला करता है, तो जमा की हुई राशि को विद इटैरेस्ट लौटाये जाने का प्रावधान है। इसके अन्दर किसी प्रकार की शंका वाली बात या किसी प्रकार के प्रावधान से डरने वाली बात नहीं है। यह तो ट्रिब्यूनल बनाने का जो मंतव्य है, लक्ष्य है, उद्देश्य है, उसकी पूर्ति के लिए यह प्रावधान रखा गया है।

माननीय नारायण स्वामी जी ने काफी कुछ सवाल, जिनका मैंने अभी पूर्व में उत्तर दिया, वे पूछे थे। कोऑपरेटिव बैंक के बारे में माननीय नारायण स्वामी जी ने जानना चाहा था कि कोऑपरेटिव बैंक क्या इसके अन्दर सम्मिलित होते हैं या नहीं होते हैं। और भी कई माननीय सदस्यों ने इस संदर्भ में कोऑपरेटिव बैंक के अलावा विदेशी बैंकों के बारे में पूछा, आई.डी.बी.आई. के बारे में पूछा, आई.सी.सी.आई. के बारे में पूछा और काफी इस संदर्भ में जानना चाहा कि ये इसके अन्दर में सम्मिलित होंगे या नहीं होंगे। मैं माननीय सदस्यों को बताना चाहता हूँ कि वे सभी बैंक जो बैंकिंग रेगुलेशन एक्ट

के तहत आते हैं तथा भारत में बैंकिंग का व्यवसाय कर रहे हैं तथा जिनके ऊपर आर.बी.आई. का सुपरव इजरी तथा कंट्रोल का अधिकार है वे सभी इसके अन्दर शामिल होते हैं और जहाँ तक राज्य वित्त निगम का सवाल है वे अभी इसके अन्दर शामिल नहीं होते हैं। लेकिन केन्द्रीय सरकार को अधिकार दिया गया है कि यदि वे चाहें तो आवश्यकता पड़ने पर स्पेशल नोटिफिकेशन के द्वारा उन्हें भी इस क्षेत्र में लागू किया जा सकता है। इसके साथ ही साथ माननीय नारायण स्वामी जी ने भी नेचुरल जस्टिस की बात कही थी। उसका मैंने अभी उत्तर दिया है और सेक्युरिटी स्केम का भी जिक्र किया था। मैं इस संदर्भ में यह बताना चाहूंगा कि जहाँ स्केम बात आती है... सारा सदन इस बात को जानता कि ज्वाइंट पार्लियामेंटरी कमेटी इस चीज को देख रही है। जो भी उसकी रिपोर्ट होगी, जिस प्रकार की भी रिपोर्ट आयेगी, इस पर इस संसद के अन्दर विचार किया जायेगा। उसके बाद इस पर कार्यवाही होगी और जो भी दोषी होंगे उन पर एक्शन लिया जायेगा। लेकिन इस चीज का एक दूसरा पक्ष और है कि जब भी किसी प्रकार के कोई सुधारात्मक कदम उठाये जाते हैं— एक बात बड़े खुले तौर से कही जाती है कि इस स्केम के अन्दर पांच हजार करोड़ रुपया बरबाद हो गया पांच हजार करोड़ रुपया चला गया तो फिर क्या आवश्यकता है। इस तरह के ट्राइब्यूनल की, क्या आवश्यकता है रिक्री की। यह बात सुनने में अक्सर मिलती है। मैं स्पष्ट रूप से कहना चाहता हूँ कि जो भी स्केम हुआ है, उसकी जी.पी.सी जांच कर रही है। लेकिन इसका यह तात्पर्य नहीं है, यह मतलब नहीं है कि इसकी वजह से कोई सुधारात्मक कदम न उठाये जायें। जो पैसा हमने दिए है उसकी रिकवरी के प्रयास न किए जायें और इस तरह का कोई ट्राइब्यूनल न बनाया जाय। अगर स्केम हो गया तो सारी एकानामी को कोलेप्स पर दिया जाय, किसी भी प्रकार के कोई

एफर्ट्स न किये जायें ? तो यह जो इस तरह की धारणा है इसको हस्त किया हुआ जाना चाहिये और जहां भी सुधारात्मक उपाय किये जायें उनको अप्रीसियेट किया जाना चाहिये और उनको किसी स्कैम से नहीं जाना चाहिये ।

माननीय आशीष सेन जी ने अपनी बात जब कही तो उस समय उन्होंने विभिन्न स्तरों पर हो रहे भ्रष्टाचार का जिक्र किया । तो यह एक इस प्रकार की बात है और जो उनका आशय है मैं समझ पाया वह यह था कि वे बैंकों के ऋणों के बारे में कह रहे थे कि उसके अन्दर भ्रष्टाचार है, अन्य वित्तीय संस्थाओं के बारे में कह रहे थे कि भ्रष्टाचार है । अगर कोई इंडिविजुअल शिकायत सेन साहब के पास इस बारे में है तो दे सकते हैं, निश्चित रूप से उसकी जांच करायी जायेगी और कोई भी व्यक्ति चाहे किसी भी स्तर का हो, निश्चित रूप से उसको सजा दी जायेगी ।

अभी माननीय जैन साहब, अन्त में जो कह रहे थे राजनैतिक संरक्षण की बात तो वे अन्य सदस्य द्वारा कही हुई बात को दोहरा रहे थे । मैं यह बात पूरी जिम्मेदारी के साथ कह सकता हूँ कि कोई भी व्यक्ति जिसने आर्थिक अपराध किया हो, वह व्यक्ति चाहे किसी भी स्तर का हो, उसको राजनैतिक संरक्षण या किसी भी प्रकार की मदद करने का प्रश्न ही पैदा नहीं होता । मैं सदन के सामने कहना चाहता हूँ कि अगर उनको इस प्रकार के संरक्षण के बारे में किसी प्रकार की जानकारी हो तो वे बता सकते हैं । निश्चित रूप से जो एक साधारण व्यक्ति के विरुद्ध कार्यवाही की जाती है वही उस व्यक्ति के विरुद्ध की जायेगी । आमतौर से इस तरह की बात को कहना तो आसान होता है लेकिन इस संदर्भ में प्रत्यक्ष रूप से प्रमाण प्रस्तुत करना बड़ा कठिन होता है । माननीय सेन जी ने पूछा है कि आई.डी.बी.आई. और आई.सी.सी. आई. इसकी परिधि में आते हैं या नहीं आते हैं । इसके बारे में मैंने पूर्व में बताया है । एक बात उन्होंने यह कही

थी कि जो जज रखे जायेंगे वे एक न होकर तीन हों । उपसभाध्यक्ष महोदय, मैं आपके माध्यम से माननीय सेन साहब को बताना चाहता हूँ कि अभी भी सिविल कोर्ट के जितने केस चल रहे हैं उसके अन्दर एक ही जज रहता है और जिन्हें डिस्ट्रिक्ट लेवल पर या हाई कोर्ट लेवल पर ट्राइब्यूनल में, अपीलीय ट्राइब्यूनल में रखे रहे हैं तो वह एक जिम्मेदार व्यक्ति हैं । जिस जूडिशियली का हम आदर करते हैं तो उसके लिये पहले से संदेह करना कि वे कोई बेईमानी करेंगे या उनकी कोई गलत धारणा होगी या जिस उद्देश्य को लेकर हम चल रहे हैं, वे उसको विफल कर देंगे मैं समझता हूँ कि यह कल्पना की बात है । इस तरह की बात करना या इस तरह की बात सोचना मैं उपयुक्त नहीं मानता ।

SHRI ASHIS SEN: You want statu quo of the society. When you are going to new vistas, why are you not accepting the new ideas which will overcome the present difficulties?

डा० अवतार अहमद : दूसरा, माननीय सेन जी ने यह भी कहा कि जो वसूली का कार्य है और जो वसूली का अधिकार है उसमें कर्मचारियों को भी शामिल किया जाये । मैं इसका स्वागत करता हूँ कि बैंक या वित्तीय संस्था के कर्मचारी इसमें भी मदद दें । वे इन संस्थाओं के हिस्से हैं और वे जिस प्रकार से भी मदद वसूली के अन्दर देना चाहें दें, यह एक स्वागत योग्य सुझाव है और वे जिस भी तरह से बैंकों और वित्तीय संस्थाओं को मदद देना चाहें अवश्य दें । यह प्रयास हम रिकवरी के लिये कर रहे हैं । अगर अपने कर्मचारियों से हमें मदद मिलती है तो यह हमारे लिये अच्छा ही होगा और यह एक मददगार कदम होगा । अभी जो अपीलीय ट्राइब्यूनल ब्यूनल में 75 प्रतिशत जमा करने का प्रावधान है, अपीलीय ट्राइब्यूनल में जाने के पहले हमने रखा है, इसके बारे में सेन जी ने कहा कि उसको 100 प्रतिशत कर दिया जाये । हमने

[डा० अवतार अहमद]

इसके अन्दर यह 25 प्रतिशत कम इस-लिये रखा है ताकि जो भी व्यक्ति अपी-लियेट ट्रिब्यूनल के अन्दर जायें, उसको वहां जाने के पहले कम से कम यह सात्वना रहे कि अभी उसको पैसा देना बाकी है और अपीलियेट ट्रिब्यूनल में जाने से पहले 25 प्रतिशत पैसा जो उसके पास है, उसको ध्यान में रखते हुये कम से कम उसको तसल्ली रहे, अभी माननीय सदस्य ने यहां भी कहा और जब दूसरे सदन में इस पर चर्चा हो रही थी तो कहा गया कि इसे 5 प्रतिशत ही रखना चाहिये था, 25 प्रतिशत ही रखना चाहिये था। बहुतेका यह भी सुझाव था कि पहले बिलकुल न लिया जाए। तो यह 75 प्रतिशत इसलिये रखा है कि इसके अन्दर कम से कम यदि वह एपासूट ट्रिब्यूनल में जाना चाहता है तो उसको लोजिकल लगे और उससे उसको सांवना रहे।

माननीय रजनी रंजन साहू साहब ने कई सवाल पूछे। उसमें खास तौर से उन्होंने विदेशी बैंकों और राज्य वित्तीय कारपोरेशंस के बारे में पूछा था। अभी मैंने यह बताया है कि कौन-कौन से बैंक इसके अन्दर शामिल हैं। दूसरा, ट्रिब्यूनल रिकवरी के आदेश तो देगा लेकिन उसको इम्प्लीमेंट कौन करेगा, यह साहू साहब जानना चाहते थे। मैं आपके माध्यम से बताना चाहता हूँ कि जब ट्रिब्यूनल रिकवरी का आदेश देगा तो उसके साथ-साथ रिकवरी अफसर भी एम्बरंट होगा। रिकवरी अफसर को हमने काफी अधिकार भी दिये हैं। उन अधिकारों के जरिए से वह उसकी प्राप्ति तक अटैच कर सकता है। अंतिम अधिकार जो दिया है इसमें अरेस्ट करने तक का भी अधिकार दिया गया है। इस पावर के कारण जो रिकवरी अफसर है, उससे यह आशा की जाती है कि जो पैसा बकाया है, वह वसूल किया जा सकेगा। एक बात माननीय साहू साहब कह रहे थे कि घाटे के कारण ऋण न दिया जाए, उसमें आपने बिजली बोर्ड का उदाहरण दिया है। जब भी कोई ऋण दिया जाता है, चाहे वह किसी

व्यावसायिक संस्था को दिया जाए, औद्योगिक संस्था को दिया जाए या किसी सर्विस रेंडर्स संस्था को दिया जाए, उसके अन्दर कभी यह मान कर नहीं चला जाता है कि उसको घाटा होगा और घाटे की स्थिति में वह ऋण नहीं देगा। ऋण अदा करने का दायित्व चाहे घाटा हो या प्रोफिट है, उसका है? अगर घाटा है तो इस वजह से उससे ऋण वसूल नहीं किया जाए या इसकी वजह से रिकवरी के लिए प्रयास न किया जाए तो यह एक काल्पनिक बात है। किसी भी प्रकार का जिसको किसी भी वित्तीय संस्था या बैंक ने पैसा दिया है, उस वक्त कंट्रैक्ट के अन्दर जो टर्म्स एण्ड कंडीशंस तय की गई हैं, उन कंट्रैक्ट्स की परिधि में आने पर यदि किसी भी प्रकार का डिफाल्ट है तो वह बैंक या वित्तीय संस्था उससे पैसा वसूल करने के लिए पूरी हकदार है। जब भी वह उचित समझती है वह इस प्रकार के ट्रिब्यूनल में जा सकती है—जब वह महसूस करे कि यह पैसा वसूल नहीं हो रहा है। ट्रिब्यूनल में कितने होंगे। यह मैंने बताया है। कुछ सवाल जो इसके अन्दर पूछे गये हैं बाकी करीब करीब वही हैं जिनका मैंने जवाब दे दिया है। एक महत्वपूर्ण सवाल जो माननीय भंडारे जी ने श्रीर जैन साहब ने संवैधानिक प्रश्न उठाया था और सेक्शन 323(ए) और (बी) का हवाला दिया था, मैं दोनों माननीय सदस्यों को बताना चाहता हूँ कि संविधान के अनुच्छेद 323(ए) और (बी) के अन्तर्गत बनाए जाने वाले ट्रिब्यूनल में हाई कोर्ट का ज्यूरिस्ट्रिक्शन खत्म हो जाता है तो संबंधित ट्रिब्यूनल का निर्णय ही फाइनल होता है। इसे केवल सुप्रीम कोर्ट अनुच्छेद 336 के अन्तर्गत सुन सकती है। परंतु प्रस्तावित बैंकिंग रिकवरी ट्रिब्यूनल संविधान के अनुच्छेद 323(ए) और (बी) के अंतर्गत नहीं आता है। प्रस्तावित ट्रिब्यूनल संविधान के निम्न प्रावधानों में आता है:

Entries 43, 44 and 45 of the Union List in the Seventh Schedule, Entries 11A, 12 and 13A of the Concurrent List in the Seventh Schedule.

अतः माननीय सदस्यों ने जो यह संवैधानिक प्रश्न उठाया था, मैं समझता हूँ कि वे इस बात से सहमत होंगे कि यह धारा 323(ए) और (बी) में नहीं आता है बल्कि जो मैंने यहाँ शैड्यूल बताए हैं, यह उनके अन्दर आता है। उसके अनुसार किसी भी प्रकार से संवैधानिक प्रावधानों का उल्लंघन नहीं किया गया है। संवैधानिक प्रावधानों को ध्यान में रख कर ही यह बनाया गया है।

DR. JINENDRA KUMAR JAIN:
 Mr. Minister, will you yield for a minute? I want to raise a point—only on this.

डा० अबरार अहमद : पहले मैं कम्प्लीट कर लूँ। एक माननीय सदस्य ने यह भी पूछा था कि कश्मीर के अन्दर यह क्यों लागू नहीं होता है। तो उस संदर्भ में मैं यह बताना चाहूँगा कि प्रस्तावित बिल संविधान की कनक्रेट लिस्ट की सातवीं प्रविष्टि 11(ए), 12 और 13(ए) में आता है, अतः जम्मू और कश्मीर में यह लागू नहीं होगा क्योंकि प्रविष्टि 11(ए), 12 और 13(ए) जम्मू कश्मीर पर लागू नहीं होती है। बाकी करीब-करीब अन्य माननीय सदस्यों ने जो सवाल पूछे हैं वह वही हैं मैंने जिनका पूर्व में उत्तर दे दिया है। मैं इसके साथ-साथ माननीय सदस्यों से... (व्यवधान)

SHRI CHIMANBHAI MEHTA: My question was not replied.

DR. YELAMANCHILI SIVAJI: My question was also not replied.

SHRI CHIMANBHAI MEHTA: There was a crucial question about the exposure of the defaulters of bank debts and whether there is any nexus between the banks and the defaulters. Here I am asking for a departmental inquiry. These two are major issues connected with the whole thing and you are saying that you have replied to the whole thing.

डा० अबरार अहमद : आपने जो 10 नाम पूछे हैं (व्यवधान)

श्री चिमनभाई मेहता : इन दो प्वाइंट्स के बारे में आप जवाब दे दीजिए (व्यवधान)

डा० अबरार अहमद : आपने जो 10 नाम पूछे हैं यह 10 ऐसे... (व्यवधान)

श्री चिमनभाई मेहता : इसमें बैंकिंग रूलेज एंड रेगुलेशंस की बात नहीं आती है (व्यवधान)

डा० अबरार अहमद : इसके अन्दर वित्तीय संस्था, बैंक के अपने-अपने रूल्स रेगुलेशंस और उसके तहत उनकी अपनी मर्यादाएँ हैं, उन मर्यादाओं का उल्लंघन करके उसके तहत उसके बाहर कोई भी बात डिसक्लोज नहीं कर सकते हैं।

SHRI CHIMANBHAI MEHTA: These names have come before the courts. They are defaulters. Therefore, I am asking you to collect those ten names. I cannot collect those names. Kindly give those ten names. ... (Interruptions)

That will show his intention. Let him give an assurance.

DR. YELAMANCHILI SIVAJI: Let the hon. Minister reply to it.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: One question is very important.

SHRI V. NARAYANASAMY: He may not be having the names now.

SHRI CHIMANBHAI MEHTA: Tomorrow.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Narayanasamy, let the Minister reply. He is capable enough. Let him reply.

SHRI V. NARAYANASAMY: He may not be having the names now.

SHRI CHIMANBHAI MEHTA: I am not asking him to give them immediately. Let him give them within a week. Give me some assurance.

DR. ABRAR AHMED: Sorry, Sir. I cannot give this type of assurance without going into the legal aspect.

SHRI CHIMANBHAI MEHTA: Those names are there. You have to collect those names and give them to us. Where is the question of legal aspect?

He is a sincere man. I do not doubt his *bona fides*. Perhaps he is confused. Let Mr. Bhandare help him. Let him see the whole thing. Otherwise, unnecessarily aspersions will be cast on him.

डा० अब्दुल अहमद : महोदय, माननीय शिवाजी ने दो बातें मुख्य रूप से कहीं थीं। एक तो उन्होंने शोध्य ऋणों के बारे में कहा था कि वे और अधिक हैं। तो मैंने जो फिगर्स यहां दिये हैं वे 31 मार्च, 1991 तक दिये हैं। निश्चित रूप से वे ज्यादा होंगे। यही जो भी आंकड़े रखे गये हैं उनका मन्तव्य ट्रेड बताना है कि किस प्रकार के लोगों के पास कितना पैसा बकाया है। एक, माननीय शिवाजी ने यह बात कही कि उद्योग तो रुग्ण होते नहीं हैं बल्कि उद्योग रुग्ण बना दिये जाते हैं। मैं इस बात में काफी हद तक माननीय भाई शिवाजी से सहमत हूं क्योंकि बहुत-सी बार इस प्रकार की चीजें देखने और सुनने में आई हैं कि पैसा वित्तीय संस्थाओं से और बैंकों से लिया जाता है उसके बाद इकाइयां लगायी जाती हैं और वे इकाइयां बीमार हो जाती हैं। इकाइयां तो लगाने वाले की बीमार होती हैं लेकिन जिसने उस इकाई को लगाया उसका स्वास्थ्य बढ़ता जाता है, उसकी प्रासपैरिटी बढ़ती जाती है तो उन दोनों के अन्दर कोई कोन्फ्लिक्शन नहीं है। इस प्रकार के बिल को लाने, इस प्रकार के ट्रिब्यूनल को बनाने का मकसद ऐसे लोगों से जो बेईमानी करें पैसा लें और न दें और इकाइयों को बीमार करने के बहाने से वित्तीय संस्थाओं और बैंकों का पैसा खा जायें, उनसे पैसा वसूल करना है। यही इस बिल का लक्ष्य है। तो मैं इन बातों के साथ माननीय सदस्यों से आग्रह करूंगा कि इस बिल को पास करें।

DR. YELAMANCHILI SIVAJI:
Hon. Minister, Sir, I made a very specified suggestion ... (Interruptions)

Mr. Bhandare, just one minute.

A specific suggestion was made by me that as in the case of recovery of

co-operative loans as well as the State Finance Corporations' loans, the Revenue Recovery Act may be made applicable for the recovery of loans from banks also. It is only a two-minutes' job. They can straight-away go and recover the same. They need not approach the Tribunal, they need not approach the court of law, etc., etc., why are you making it so complicated. Will the Minister respond to this?

SHRI MANMOHAN SINGH: If you look at the recovery by the State Finance Corporations, it is far worse than that of the banks.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Only one thing I want to know because this is a matter which is agitating our mind. I want a categorical statement that the scam-related cases which are pending before the Special Court, will not be disturbed.

SHRI V. NARAYANASAMY: This is very important... (Interruptions)

SHRI ASHIS SEN: In spite of all the clarifications that have been given...

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I want an assurance. He must say "yes or No"

डा० अब्दुल अहमद : जो माननीय भंडारेजी ने कहा है...

They will be covered by the Special Court.

SHRI ASHIS SEN: I want to point out that if by a special notification some other financial institutions can be covered...

उपसभाध्यक्ष (श्री मोहम्मद सलीम) :
क्या प्रश्न है ?

SHRI ASHIS SEN: I was trying to draw the attention of the Minister to this. He said that many of the institutions which had not been named, could be brought under the

purview of this law by a special notification. Institutions like the IDBI and the ICICI are big empires. If they are not covered by this immediately, it means that the borrowers of loans from these institutions will be given a lease to life to continue with whatever nonsense they have been doing with their finances.

That is why they should be included here itself instead of by a subsequent notification. The second point is that there are four tribunals to be set up at four metropolis Appellate Tribunal also will have to be in Bombay. Why? It will be better to have the seat of the appellate tribunal at a place away from any of the primary tribunals. Why not in Nagpur, who not in Hyderabad? ... (*Interruptions*) It has nothing to do with Bombay in particular. Bombay is chosen because everything connected with banking and financial institutions has got to be in that particular city. Why so? I am only saying because one tribunal will be there, to a primary... (*Interruptions*)... I am not chauvinistic that way. What I am saying in this way is why not have it in Nagpur or Hyderabad, because it will be ideal for another seat of judgment. Instead of having both the primary and the appellate tribunals at one place, is it not better to have the Appellate tribunal away from the seat where the primary tribunal will be located? (*Interruptions*)

डा० अबरार अहमद : महोदय, मैंने एक बात का बहुत स्पष्ट उत्तर दिया था । शायद सेन साहब उसको सुन नहीं पाये, या समझ नहीं पाये । आई०डी०बी०आई०, आई०सी०आई०सी० आई० के बारे में दुबारा उन्होंने सबाल पूछा है । यह दोनों इनमें शामिल हैं और मैंने तो बल्कि और ब्राडर एस्पेक्ट्स के अन्दर इनकी परिभाषा बता दी थी कि किस प्रकार की संस्थाएँ, बैंक इसके अन्दर शामिल होंगे । वह दोनों इसके अन्दर सम्मिलित हैं ।

दूसरी बात, जो माननीय सदस्य ने कही है कि बम्बई में ही क्यों रखा, या चार मेट्रोपालिटन सिटीज में ही क्यों रखा । हम खुद... (*व्यवधान*)

उपसभाध्यक्ष (श्री मोहम्मद सलीम) : नहीं, उनका प्रश्न है कि चार मेट्रोपालिटन सिटीज में जो चार प्राइमरी ट्रिब्यूनल्ज हैं, उसके अलावा चार एपीलेट ट्रिब्यूनल्ज और जगह... (*व्यवधान*)

डा० अबरार अहमद : मैं माननीय सदस्य को बताना चाहता हूँ कि हम खुद रिकवरी के प्रति चिंतित हैं और इसलिये ट्रिब्यूनल अगर चार से ज्यादा की जरूरत पड़ी, जैसा मैंने कहा, आवश्यकतानुसार उनको बढ़ा दिया जायेगा । वे चार ही नहीं रहने वाले हैं ।
That will not be enough.

SHRI ASHIS SEN: Sir, my friend Abrar Ahmed is trying to derail me. I am not saying that. I am saying why not locate the appellate tribunal at a place other than the places where the primary tribunals are located. I am not for any particular place, but away from the places where the primary tribunals are there, may be Nagpur or Hyderabad, which are central places. I do not want him to distort what I want to say.

उपसभाध्यक्ष (श्री मोहम्मद सलीम) : उनका मशिवरा यह है कि इन चारों मेट्रोपोलिटन सिटीज में चार ट्रिब्यूनल्ज के साथ एपीलेट ट्रिब्यूनल्ज अलग जगह बनें ।

SHRI ASHIS SEN: No Sir, I said it is possible. I have nothing against Bombay, Madras, Calcutta or Delhi. I have said primary tribunals and appellate tribunals...

DR. JINENDRA KUMAR JAIN: Just one minute, Mr. Vice-Chairman.

SHRI V. NARAYANASAMY: What is this? Once, twice, thrice, fourth time, it is unfair.

DR. JINENDRA KUMAR JAIN:
 With your cooperation we have been doing the business very seriously. If hon. Members just let me say this, we will finish the business much earlier. The points relating to constitutional impropriety and the legislative competence and the reference to the chapter... (Interruptions).. Just a minute, please.

THE VICE-CHAIRMAN (SHRI MD. SALIM): He has answered that.

DR. JINENDRA KUMAR JAIN:
 I will finish early if you let me speak. He has said that this legislation is being introduced under VII Schedule. If VII Schedule was valid, what was the need in 1976 to bring in the 42nd Amendment? Obviously the VII Schedule could not have covered the setting up of tribunals. Now, after the insertion of the Chapter, this part 14 and the specific article 323(A) and (B); where the provisions are there specifically for the creation of tribunals, how can you bypass an independent statute by quoting the VII Schedule? This is my humble contention. You may have powers to over rule, but in view of the assurances given by the hon. Minister, I withdraw my motion of disapproval.

The Resolution was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI MD. SALIM): I shall now put the

motion moved by Dr. Abrar Ahmed to vote.

The question is:

"That the Bill to provide for the establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions and for matters connected therewith or incidental there, as passed by the Lok Sabha be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 37 were added to the Bill.

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

DR. ABRAR AHMED: Sir, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now, the House stands adjourned till 11 a.m. tomorrow.

The House then adjourned at forty-six minutes past seven of the clock till eleven of the clock on Wednesday, the 18th August, 1993.