

[6 December, 2004]

RAJYA SABHA

With these words, I conclude.

MR. DEPUTY CHAIRMAN: The House is adjourned for lunch for one hour.

(The House then adjourned for lunch at two minutes past one of the clock.)

The House re-assembled after lunch at two minutes past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

The Banking Regulation (Amendment) and Miscellaneous Bill, 2004 —
Contd.

MR. DEPUTY CHAIRMAN: Now, Shri C. Perumal.

SHRI C. PERUMAL (Tamil Nadu): Sir, I rise to express my views on the Banking Regulation (Amendment) and Miscellaneous Provisions Bill, 2004, on behalf of the AIADMK. I wish to make it very clear that the cooperative societies are within exclusive jurisdiction of the State Governments. As we all know, cooperative societies accept deposits and lend money to the members only. They do not accept money from the public and their transactions are limited to the members only. Whereas a cooperative bank accepts money from public and also lends money to the public. Though I welcome the provisions of the Bill that protect the depositors in the cooperative banks, I wonder what type of protection the depositors in the cooperative societies will get.

Sir, another important point I wish to raise is, if a private sector bank performs badly due to mismanagement or fraud or due to any reason, the nationalised banks are asked to take over the bank. Recently, it happened in the case of the Global Trust Bank, which collapsed, was taken over by the Oriental Bank of Commerce, a nationalised bank. In the case of cooperative banks, the depositors are poor farmers and workers and their hard-earned money is saved in those banks. But, due to poor administration, these banks collapse and depositors have to wait for a long time to get their money back and sometimes, they do not get anything. There should be some sort of regular inspection and audit in the cooperative banks also.

Sir, now the Reserve Bank of India is being vested with powers to issue licenses to cooperatives registered under the Multi-State Cooperative Act. The Reserve Bank of India should be liberal in granting licenses for starting cooperative banks. In rural areas, the nationalised banks are not encouraged to start operations, what to talk of private and foreign banks. In those areas, people solely depend on cooperative banks only.

Sir, another important aspect to which I wish to draw the attention of the House is the Multi-State Cooperatives. They carry on their business in more than one State. Generally, the public is not aware of their activities. The management takes undue advantage of the situation and indulges in illegal speculative activities with the help of the money deposited by the public. Therefore, their financial health is affected and they soon collapse.

Sir, the hon. Finance Minister keeps on talking about doubling of credit to farmers. In reality, when the farmer goes to a bank for getting a loan, he is made to run from pillar to post. He is asked to furnish innumerable information and follow unnecessary procedures. He is asked to furnish collateral security. The simple logic is, if he has enough money to furnish security, why should he go to a bank for getting a loan of a meagre amount? The bank passbook is of no use. I demand that the procedure should be simplified, collateral security should not be insisted upon and a farmer should get the loan at the earliest without any hassles at a simple interest of not more than 7 per cent.

The Government is boasting of providing education loan. But, in reality, how many students have been provided with the education loan? The students also have to face the same hardship faced by farmers. The same case is with the small traders, workers and labourers, etc. Even the recommendation of the people's representatives is not at all cared by banks.

If the Government is really serious in providing credit facilities to farmers, students, etc., I demand that procedures should be simplified and the prospective loan seekers should not be put to any hardship. When industrialists, big business parties, rich persons can get loan easily, which they don't actually require, the poor people are harassed by the banks which are owned by the Government. This attitude should be changed. Therefore, I demand that there should be some sort of control over multi-State cooperative banks.

In fact, I would suggest that a Joint Committee of Parliament, exclusively for banking system, should be in place and that Committee should be delinked from the Ministry of Finance to exercise adequate control over the banking system. If there is adequate supervision, I believe that incidents like the Global Trust Bank, and big shareholders cheating nationalised banks, will not happen.

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Now, Sir, I wish to draw your attention to some specific instances of refusal to grant loans by nationalised banks. The Indian Bank and the State Bank of India, located in Krishnagiri and Dharmapuri districts, for example, Bangur, Krishnagiri, Dharmapuri, Uttangarai, and Hosure, refuse to grant educational loans to poor students. Despite tall claims made by the hon. Finance Minister, collateral security is insisted upon before granting loans. Even the banks don't respond to letters from elected representatives.

Similar pathetic situation exists in case of unemployed youths seeking loan from nationalised banks. I urge upon the Government to look into the matter and take corrective steps immediately.

Now that the foreign direct investment has gone up to 74 per cent in Banks, caution should be taken in this matter as foreigners come to India only for the purpose of earning more money and they don't care for social sector. They may slowly eat up the private banks and damage the banking system, which is already fragile.

I conclude with the above remarks. Thank you, Sir.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Sir, I thank you for permitting me to speak on the Banking Regulation (Amendment) and Miscellaneous Provisions Bill, 2004. Sir, it would enable the RBI to grant licenses to the existing multi-State cooperative banks to get validated. Because of the Supreme Court's judgment, there was a necessity to bring this Bill, which we welcome and support.

Sir, as per this Bill, the RBI would be allowed to issue, in future, licences to cooperatives societies and the multi-State cooperative societies to carry on the activities. There is nothing to comment on this Bill except welcoming and supporting it. On this occasion I want to bring to the notice of the hon. Minister the cooperative structure that is functioning in this country because most of the rural credit and agricultural credit are being channelised through cooperative sector. This particular sector is beset with so many problems. The first I want to bring to his notice — he is also aware — the dual control. State Government has got control over the State Cooperative Registrar. He has got power to grant permission, award registration and ultimately when a society functions as a banker, the regulation will be of the RBI. Neither of the regulators is functioning effectively. There are a number of cases, which I know where the RBI guidelines and directions are not being implemented by the State Governments against the earning banks. So, this is the situation. Other than this, there is no professional

management of these institutions. As we have been seeing, a number of urban cooperative banks have become bankrupt particularly in Andhra Pradesh — Chaminar Bank, Krishi Bank, Vasavi Bank, Prudential Bank, etc. So we have been watching the performance of these banks, how undemocratically they have been functioning and how injudiciously loans are being granted. So, the need of the hour is to strengthen the delivery system because this you have been promising to the nation. In fact, you are going to double the agricultural credit within a span of three years. It is a very welcome statement, which the Finance Minister has made on the floor of the House. But now it is high time that you strengthen the delivery system. Most of the credit to the rural areas is going through the cooperative sector. My demand is that you bring them under one regulator, as far as cooperative societies are concerned. Let them be under the control of the State Governments. When a society starts functioning as a banker, it has to be brought under the control of the RBI. This is my suggestion. One more thing is that there is one more regulator, which has been created by the Government, that is, NABARD. The NABARD is not only a refinancing agency for agricultural and rural development operations, but it is also a regulator. Sir, as far as my experience goes, my suggestion is that it also has to be brought under the control of the RBI because as of today, the controlling and monitoring of the NABARD are not that effective. I come from that profession and I have been interacting with so many chartered accountants. They used to tell me that the framework which has been formulated and which is being implemented is not that effective. You should bring the entire banking structure under one regulator, that is, the RBI. Earlier the Cooperative Registrar used to control all these things. Since you passed the Banking Regulation Act in 1949, it came under the control of the RBI, as far as banking operations are concerned. It is high time that the entire banking sector had to be brought under the control of a single regulator. The second aspect is regarding urban cooperative banks. There were huge NPAs. For the past two years, they have been washing off their hands. I know most of the amount has been taken off in the account books because they cannot recover it. It is not by collection but by writing off these NPAs. So, an effective measure has to be initiated. It will be possible only when there is democratic functioning of the banks. What is happening in the urban cooperative banks is that once you enter into the management, it is very difficult to dislodge it because if you want to become a member of the bank, the present management has to approve it. If they feel any threat to their management, generally, they would not allow any member to join that bank. This is a very sorry state of affairs in

the country. There should be credit discipline also. It has to be addressed. The RBI itself has commented in one of its reports that there is no clear demarcation of regulatory powers between the State Government, NABARD and the RBI. It has resulted at times in cross directives from the controlling agency, thereby undermining the working of the cooperative societies! Sir, such a system of cooperative societies, which has been conceived, creates lot of interference either from the State Government or the politicians. I want to be frank with you. So this system has to be insulated in the interest of the nation, in the interest of the farmer. So I am very confident that a capable person like Mr. Chidambaram will definitely initiate measures to strengthen this system. One more thing which I want to bring to the notice of the Minister is that a level playing field has to be created. It is mandatory for the commercial banks to advance to the priority sector 40 per cent whereas in cooperative sector it is 60 per cent. So this level playing field has to be created in the rate of interest also. Cooperative societies are attracting deposits by offering some higher rate of interest of 0.5 per cent to one per cent. But at the same time, the deposits in cooperative banks are not insured whereas the deposits in commercial banks are insured. So the interest of the cooperative sector has to be protected. The third aspect is — I do not want to take much time because this is not a Bill which needs more time—the commercial banks *vis-a-vis* cooperative banks. As I stated earlier, to create a level playing field it is very difficult to ensure the effective functioning of the commercial banks. Sir, there were two committees which have been constituted, one by the Government and the other by the RBI. I do not know the fate of those committees, whether they have submitted their report with regard to the dual control of the banks or not. If the hon. Minister replies to this I will be much obliged. Sir, my last request is — this is for the consideration of the Minister — why can't there be a single institution to take care of the agricultural needs of the entire country? Cooperative banks are financing, cooperative societies are financing, commercial banks are financing, RRBs are financing. Multifarious institutions have been created to provide loans to agriculture. Why can't there be a single institution that can effectively monitor the channelising of funds to the rural development and agriculture, which is the need of the hour? Thank you Sir.

SHRI SANTOSH BAGRODIA (Rajasthan): Thank you Mr. Deputy Chairman, Sir. I rise to support The Banking Regulation (Amendment) and Miscellaneous Provisions Bill, 2004. It purports to amend the previous Banking Regulation Act 1949 and Deposit Insurance and Credit Guarantee Corporation Act, 1961. This will remove the doubts of legality of existing

multi-State cooperative banks. Sir, the hon. Supreme Court in its judgement on the Urban Bank of Maharashtra and Goa Limited versus Maharashtra State Cooperative Bank Limited and others had decided to remove the RBI's licence to such MSCBs on technical grounds that existing Banking Regulation Act, 1949 does not empower the RBI to grant licence to MSCBs and declaration under NABARD Act 1981 has to be obtained first. It is to update the laws, to meet new economic realities that this Bill is a necessity and hon. Supreme Court has only highlighted one thing that we shall have to create enabling legislative and legal provisions to make a conducive environment for economic reforms. The outdated Acts have to be comprehensively updated to meet the current economic realities. These will facilitate greater stability, and confidence and transparency. A unanimous approval of this Bill by this House will send out right signals that there exists broad consensus in Parliament over the need to update our economic and banking laws. In doing so, we have to make sufficient safeguards against any fraud or financial imprudence by such co-operative societies. As my earlier speakers have mentioned, the health of the co-operative societies is very, very poor. It is more so because there is hardly any accountability. I understand that most of the loans by these co-operative banks are given to their relations which never comes back. In that process, neither the members nor the depositors of the cooperative banks get anything in return. The poor people who are depositing their money in these banks locally facing the problem that their funds get locked in these banks and funds may also not come back. For them it is a very risky investment. Non-adherence to the principles of financial prudence and lack of professional management has been the major factors of sickness of the co-operative societies. The small investors have lost their lifetime savings in the process. So, something has to be done immediately for this sector.

The other problem is, credit is also not available. The whole purpose behind setting up of these banks is to make credit available to the small-scale industries, ARIs and other small traders. Particularly, in a country like ours, unless these small industries, village industries and small traders, which have spread all over the country, do not get enough funds, they will all migrate to towns. The result is, it will further create problems and imbalance between the development of rural and urban areas. If these co-operative banks are not handled properly, obviously, these people will not get enough funds at the right rates. In different meetings, which we have been having in the Standing Committee on Industry relating to small-scale

industries, every time we have been asking the bankers, "Why do you want to charge a higher rate of interest- much higher than the interest charged to larger industries?" Every time they mention that giving loans to small industries is risky. When we ask, Mr. Finance Minister, them to tell us the percentage of NPAs against these small-scale industries and what is the percentage of NPAs against large-scale industries, nobody gives us the correct reply. They talk about the volume. Volume does not make any difference. When we ask as to what is the percentage of loans they have given, you will be amazed to know that during the last six years the loans given to the priority sector, particularly small-scale sector, have come down from 17 per cent to 10 per cent. It seems there is something wrong in our system. What is the use of saying that 40 per cent of loans would be given to the priority sector if the bankers do not give the loans? Hence, I request the hon. Finance Minister to kindly look into the aspect that loan to the small-scale industries is raised to either 17 per cent or 18 per cent or 20 per cent as was there five or six years ago. But, it has come down suddenly. The result is the unemployment will increase all over the country. When we enquire about this rate system, they say, 'We have a system by which we will charge them 2 per cent above the PLR.' Now, there is no definite system in fixing the PLR. Every bank has got its own PLR. It is only indicative. When we ask them, 'Why don't you reduce interest for small-scale industries even in restructuring cases?' They say, 'We fear that the money will not come back.' If the money does not come back, don't give them the loans. This risk perception has to be understood. By increasing the rate of interest, will your risk come down? If it does not, this logic of risk perception is meaningless. This has to be very clearly understood. The mindset of the bankers has to be changed. I am not talking about cooperative banks only; I am taking this opportunity, Mr. Finance Minister, so that this can be taken up with other bankers also. You have appointed the Vaidyanathan Committee. I don't know how fast we can get a report from them. I hope they will also cover the short-term loans for the small-scale industries. Sir, the money is taken, the deposits have been made locally. If the deposits are taken locally, the money can be distributed locally, it will also help in a big way. They take it locally and transfer it to other areas. And, there is nobody to account for it. From this angle also the cooperative banks have to be seen-whether they are limiting their activity to their locality, where they will know which loanee, which small industry, which small trader, which ARI industries are really capable, what their background is. All these things they can know locally only. But they don't care for reasons known to them. They go elsewhere, where

they don't know much. And thus become NPAs. This angle has also to be seen. Sir, I fully agree with my predecessor's statement that the dual control should be completely abolished. We should have only one banking regulator, that is, the Reserve Bank of India. Ownership is not important, whether it is a public bank, or, it is a private bank, or, it is a cooperative bank. Whichever bank it is. It has to be regulated by one regulator only. Obviously, level playing field is also very important. I can't understand why cooperative banks should be made more difficult for them, and the large banks should have an easier time? And, I don't think there is a problem in it, Mr. Finance Minister. You can kindly look into this aspect also. This amendment will enable the RBI to issue licences to MSCBs—I fully support this — and will regularise the existing licences that were revoked by the Supreme Court judgement. Sir, the RBI will now supersede the Board of Directors under certain circumstances, in public interest, for a period of five years. But I would like to know whether the administrator or the members of the committee too would be entitled to join the new Board of Directors after the expiry of five years. I would also like to know whether the DICGC Act also put some conditionalities over extension of the credit to anybody. I reiterate that the full potential of the small-scale sector has not been realised. The forthcoming Bill on the SSIs will comprehensively address this issue. But that cannot be achieved unless the banking sector also takes it seriously and help the SSI and the ARI industries. With these words, I would, once more, like to support this Bill fully. I hope the hon. Finance Minister will take special interest in the case of small-scale industries.

THE DEPUTY CHAIRMAN: Shri Ajay Maroo.

SHRI AJAY MAROO (Jharkhand): Sir, I have come just now. I am not prepared.

THE DEPUTY CHAIRMAN: Okay. Shri Bimal Jalan.

SHRI BIMAL JALAN (Nominated): Thank you very much, Sir. There are three sets of issues that have been raised here — one is about the Act itself, relating to amendments; the second is about the urban cooperative banks; and the third is about the banking, in general. I, with your permission, would like to confine myself to two sets of issues only. First, on the Amendment Bill, then, I would like to make a few observations on the urban cooperative banks. I would not touch upon the third point, that is, the general banking or the general sets of issues, which deserve consideration, but, perhaps, this is not the time.

Sir, obviously, everybody supports the Amendment Bill. And, I see a reason for it because there are licences, there are multi-state cooperative banks in operation and that has to be regularised because of the Supreme Court's judgement. So, obviously, there can be no dissent and there has to be unanimity. Therefore, I am very happy to support it. But the point made by Shri Jairam Ramesh about the duality of control is right, but only partially so. In fact, so far as multi-State cooperatives are concerned, there is a triple control. There is also a Central Registrar. There is the Central Registrar, State Registrar, the Reserve Bank, not to speak of the courts and so on. So, there is duality or triplicity, or, whatever you call, of control.

Also, the second issue, which he raised, which was about the Administrator and the five-year period for Administrator is also valid. It is much too long. The reason, Sir, is essentially this that under our practices, Board of Directors will not be superseded until things have come to a point where they cannot be revived. More or less, I am definite that the system will not allow the institution of an Administrator as long as there is hope of revival. So, you would impose an Administrator at a point where the prospect of recovery, as has been the case in previous cases, is not likely to be there. So, we will just drift along. The depositors will not be there. They will drift along, so, I believe—this is not the time because the Act has to go through, and this has to be gone through—that the Finance Minister, should, give some thought to the circumstances under which he expects the Administrator to be appointed and exactly what the Administrator or an adviser is expected to do because they cannot generate money. If the bank has gone bankrupt, it has gone bankrupt. After that, either there should be provision for closure or something else has to be done. This is a fact which requires some consideration because, otherwise, I think, you will be imparting hope to the Cooperative Movement or to the people, but not provide a solution because the Administrator cannot do very much if the bank is bankrupt. So, these are the two comments. These are by way of just elucidation and I support the Bill.

On the Cooperative Banking System itself, that is, on the urban cooperative banks, there are one or two general observations that I wanted to make before the House. One is that, I think, we have to be absolutely sure that you regard the cooperative banks to be different from, say, the commercial banks. I think there is a feeling that they should be different. They are more local and they are more self-governed. The prudential regime, the owned capital to asset-capital ratio is much softer. The whole idea is that in the cooperative banking structure, the approach should be softer,

approach should be local, the approach should be much more oriented towards the smaller man and so on and so forth. It is exactly right and it is what they are supposed to do. If that be so, Sir, it will surprise you to know that I feel that, perhaps, the Reserve Bank of India is not the right institution to be the Regulator for this agency. The Reserve Bank of India, all said and done, is a technical institution. It is a central bank. It goes by certain rules, laws and so on. It is not the kind of institution which can intermediate between political interests and we have to recognise that the Cooperative Movement in our country has been a political movement. This point was made by me. It is not in a wrong sense, it is in the right sense because we are dealing with local people, we are dealing with local issues and we are dealing with local banking needs. And, therefore, some time ago, the Reserve Bank had actually proposed—given the different interests, both at the State level and at the Central level, given the political implications, given the fact that all of us collectively want a soft approach towards the Cooperative Movement, that we do not want this to be a bank with Rs. 200 crores of capital, Rs. 300 crores of capital and we want this bank with Rs. One lakh or Rs. 5 lakh or Rs. 6 lakh of capital and be able to attract deposit—that it is much better to give the responsibility for regulating this institution, supervising this institution, to those who are actually managing it or running it, which is, maybe, the State Government representatives, State Registrar, Central Registrar or membership of kinds of people who are elected by the cooperatives; they can also manage it/Supervising guidelines can be laid down, but the actual inspection, supervision etc., should be entrusted with some other apex institution, which takes the responsibility. Otherwise, what you see is that it is neither fish nor foul. You have the Reserve Bank of India which will do the inspection and which will be very soft. The largest number of applications are received from political sources for setting new cooperative banks. The largest number of interventionist letters are received from political sources, whenever something goes wrong. These are not the kinds of issues which the Reserve Bank of India is competent to help. Therefore, Sir, I would urge the Finance Minister again to re-examine this issue. I can also tell him what he would find after re-examination that this is not acceptable. The suggestion of having a separate apex bank is not acceptable to the political institutions in our country. And the reason is simply this. That the confidence of the depositors is greater in the Reserve Bank of India than in anything else. So, how do we resolve this dilemma? If you want to resolve this dilemma, I feel that the Parliament or the Standing Finance Committees— all of us—have to agree that the depositors' interest are as important—depositors

are small—as the borrowers' interest. At the moment, the entire focus is on the borrowers' interest; that they are local, that they are cooperative, that they should give loans, that they should give loans strictly, they should "spread it around. When things go wrong, then the depositors' interest will emerge that how are the depositors to be paid? If we want the cooperative movement to work, then the responsibility of the protection of the depositors should be of paramount interest. It should be prescribed in the law. Prudential standards, prudential norms should be as strong in the case of cooperative banking sector as they are in the commercial banking sectors. The NPA norms should be as strict, as narrow as they are in the commercial sector. Just there should be no, what you call forbearance of the type that we have exhibited in the past with the cooperative sector simply because it is a nice sounding term 'cooperative'. It gives an impression as if we are all cooperative with each other which is not true. So, I am sorry to make this point, but I felt that we can't just drift along. If you want to resolve the problem, it can be. Let us take a year or two for the Standing Committee to discuss the whole set of issues, but something has got to be done because the largest amount of sickness is in the cooperative banking sector. I wanted to make this general point for the consideration of the Finance Minister. It is a very difficult issue, very difficult problem and let us not look for easy answers. This will be my advice. Thank you.

SHRI R. SHUNMUGASUNDARAM (Tamil Nadu): Sir, I welcome the Banking Regulation (Amendment) and Miscellaneous Provisions Bill, 2004 though it appears to be an emergency measure after the hon. Supreme court pointed out certain lacunae in a case where a multi-state cooperative bank was involved. In order to stop that particular bank crashing or to prevent other banks from crashing, this Ordinance was promulgated and now the Finance Minister has moved this Bill. But I have certain doubts which I would request the hon. Finance Minister, through you, to clarify. That the cooperative movement which touches the everyday life of a citizen in this country, particularly, in the rural areas, it will certainly pose a grave danger if, Sir, a provision like 36 AAA is implemented. I apprehend that five year period is too long, leave alone the supersession of a democratic movement. A cooperative movement is highly democratic movement and it ensures participation of its members. We have bitter experience in certain areas where the cooperative societies are put under the administration of Registrars. The Registrar's regime has done more harm to the cooperative movement than some of their own inbuilt failures. Sir, in the State of Tamil Nadu, we have a very well run cooperative movement; the societies are very

well-run. In some of the areas, some societies like the Weavers' Societies and the Silk Weavers' Societies are doing very well. But, sometimes, it so happens that some of these cooperative societies in Tamil Nadu, in certain areas, due to the greedy attempts of the powers that be, impose special officers to take over the boards of the cooperative societies and also enrol their own persons as members, their own stooges. In this way, they indirectly take over the movement. That happens sometimes. And, one such provision was also brought in the Tamil Nadu Cooperative Societies Act under Section 89A which is under challenge now in the High Court, and the High Court has also granted stay. That is the case, and that is the background. That is the experience we have. I would only caution the hon. Finance Minister that this particular provision, namely, 36AAA should not lead to one such situation where like the special officers' regime in the cooperative societies, the RBI would take over and run the banks according to its whims and fancies.

Sir, I also caution the hon. Minister that these take-overs by the RBI should not be a sort of provision for employment of retired officials of the RBI or the Finance Ministry. That should not be the approach. The hon. Minister should take sufficient care of such things.

Sir, the cooperative banks and societies, as Mr. Bagrodia has just now pointed out, encourage the small businessmen traders. They are very vital in our society, and we have seen that the agricultural credits are properly distributed through the cooperative societies and the banks. Now, in our State of Tamil Nadu, in Thanjavur and Nagapattinam districts, we have experienced excessive rains which damaged the crops. The standing crops are submerged in water, and most of the crops are lost. These farmers look upon these cooperative societies only for help.

Sir, the other sector in which the cooperative societies can concentrate and which they have not done so far is the education area. Sir, nobody was more pleased than me when the hon. Finance Minister announced in Tamil Nadu that whenever educational loans are disbursed by the banks, the Branch Managers and other officials of those banks won't be taken to task if some mishap takes place, if the student and his parents had signed for educational loan. Sir, I would like to quote here a very, very recent case of which I had a personal experience, wherein a first-ranking student of a village school in a place called Kadappakkam in Kancheepuram district, who scored nearly 95 per cent, could not join an engineering college. Though he had been selected but he could not pay his fees within the

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stipulated time. This came to the notice of the school teachers at a time when that boy turned out to receive his prize when the School authorities were giving away the prizes for the previous year. On enquiring as to which course he had joined, the boy informed that he could not take admission in any of the courses. A teacher of that school referred that boy to me, and I sent him to one of the institutions, but still as the payment of fees was not made in time, the boy could not be admitted in an engineering course. So, this is one particular case which came to my knowledge. I take this opportunity to apprise the Finance Minister of the situation that even such brilliant students are not aware of the educational loans.

I, therefore, request the hon. Minister to advise the officers of the various banks to conduct regular counselling courses for the plus one level students in Government schools so that they become aware of the educational loans which are available. I think that will be very helpful. I thank you for having given me an opportunity, Sir, and I welcome the Bill. Thank you.

SHRI SHARAD ANANTRAO JOSHI (Maharashtra): Mr. Deputy Chairman, Sir, the learned Finance Minister recommended the Bill for approval of this House. One of the great think-tanks, Shri Jairam Ramesh, has supported it and Shri Bimal Jalan, who is one of the more knowledgeable persons here, has broadly supported it. So, it is with great hesitation and considerable humility that I rise to raise some basic questions about the whole Bill.

The story is like this: We had the Banking Regulation Act, 1949, which gave the Reserve Bank certain powers. Then, in a particular case, the Supreme Court decided that that power did not cover the multi-State Cooperative Societies, and ordered the Reserve Bank of India forthwith to revoke the licence that was granted to that particular society. Then, the reaction, the knee-jerk reaction, of the Government of India, was to undo or negate whatever was done by the Supreme Court, the highest court in the land in respect of a certain provision, and presume that the Supreme Court had not exercised its mind properly about the full consequences of its decision, and the Ordinance was promulgated clearly with the objective of negating what the Supreme Court had decided. And this Bill completes the work on a more permanent basis by saying that what the Supreme Court had decided was possibly wrong and the Reserve Bank ought to have the powers that the Supreme Court had said it did not have.

The speeches made here made it very clear that the Reserve Bank of India is not the best authority for exercising this power, as Mr. Jalan had

also said. In the country, as a whole, the cooperative movement and various organizations of the cooperative bodies have been making it very clear that governmental intervention in the affairs of the cooperative societies ought to be reduced and that powers of this type ought to be given to some kind of an organization of the cooperative bodies. In any case, the Reserve Bank is not necessarily the best authority for exercising this power.

What I am particularly hurt about, is every time the Supreme Court or some courts in the land sets aside a particular provision of a legislation, there is a bureaucratic hurry to negate it somehow, if necessary, by an Ordinance, without waiting for the Parliament to convene for session. They try to negate immediately what the Supreme Court decides, and therefore, I think in this particular case, the Supreme Court had good reason; it was not a mere technical flaw. The Supreme Court possibly had correctly thought that the Government needs to exercise its mind about what should be the proper authority for making decisions about the multi-State Cooperative Societies, while the Government of India has taken it as if it was a technical error and rushed into an Ordinance to give the Reserve Bank the powers which the Supreme Court had thought it was not possibly correct to give powers to the Reserve Bank.

I would say that the Ministry of Finance and the Government of India ought to be more respectful to the highest court in the land and not just rush into negating the decision of the Supreme Court, but have a clear, *in situ* inquiry into the whole business and decide what should be the correct procedure that should replace the provisions of the Act of 1949. Thank you.

SHRI FALI S. NARIMAN (Nominated): Thank you, Sir. I have a word which, perhaps follows up on the points, which my learned colleague, Mr. Joshi, has just, made. It is not so much the negating of the Supreme Court judgement because, I think, Parliament had power to do so. I am only wondering as to whether the basis of the decision, that was given, has been removed. Because, without that, the mere validating provision 22A would not render invalid the judgement of the Supreme Court. This is a technical point and I do not want to be the devil's advocate. But, I do not find in the Bill any provision which removes the basis on which the Supreme Court decided that the Reserve Bank had no power. Because if that is done, then there is ample jurisdiction to set aside the judgement of the Supreme Court by legislation, not otherwise. I would only request the hon.

Finance Minister—He must have applied his mind to it—to kindly enlighten us as to which is that provision which removes the basis of the judgement. I only find Section 22A which says that notwithstanding the judgement of any court, no licence, etc., shall be invalid or deemed to be invalid merely by reason of such judgement. That, I think, would be a non-starter in legislation unless the basis is removed. That is all that I wish to say.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I am grateful to the hon. Members. Barring one hon. Member, all of them have extended support to this Bill. Let me begin with what my distinguished friend, Mr. Nariman, has said. He is absolutely right; the basis has to be removed and that is in page 2 of the Bill, clause 2 of the amending Bill. If hon. Members will kindly look at (I), "in section 5 of the principal Act, as amended by sub-clause (i) of clause (c) of the said section 56,—", where we have A, B and C, three amendments — one inserting the phrase "cooperative society": the other inserting two phrases "multi-State co-operative Bank" and "multi-State co-operative society"; and the third omitting the word "co-operative society". All these have been inserted or removed with effect from the first day of March, 1966. Therefore, these definitions are deemed to be in the Act from the first day of March, 1966. And, therefore, all licences, granted after the first day of March, 1966, are validated by virtue of Section 22A. I think, the Law Ministry has done its home-work and has done it correctly. But, if anything is wrong, I will ask Mr. Nariman to defend us. Sir, there are only two or three general questions, which I need to reply. First, after this amendment, do we have one regulator, or do we have more than one regulator, or as Dr. Jalan said, do we have three regulators? Well, in the case of multi-State co-operative societies, there are only two regulators—one is the Central Government, the Central Registrar, and the other is the RBI. In the case of single State co-operative banks, again, there are two regulators—one would be the State Registrar of co-operative societies and the other is the RBI. I am not happy with this dual control nor is the RBI happy. The RBI was not happy when Mr. Jalan was the Governor and the RBI is not happy even now. The point is that these require more comprehensive amendments. Comprehensive amendments were indeed proposed by the previous Government. A Bill was introduced in the Parliament on 13th August, 2003. That Bill lapsed. The RBI is reconsidering its earlier recommendations. I am in consultation with the RBI. The RBI is expected to finalise its recommendations in the next few weeks and I will bring a comprehensive amending Bill in the Budget session of the Parliament to amend the Banking Regulation Act.

We will, of course, keep in mind the various suggestions made about who should be the regulator. I am very clear in my mind that there should be one regulator, and not two. There are arguments in favour of RBI being the sole regulator of co-operative banks; there are arguments against RBI being the sole regulator in the case of co-operative banks. But we have not made up our mind, and, when we make up our mind, we will certainly consider all the valuable suggestions made on the floor of the House today, and I will bring a comprehensive amending Bill.

The second issue is about section 36 AAA. I agree that five years appears too long. But, if you read the section carefully, there is no obligation to supersede the Board of Directors for a period of five years. In fact, I expect that the Board will be superseded only for a shorter period, namely, for a year or two, and, only if it becomes necessary, that period will be extended but the outer limit can only be five years.

I think when the RBI exercises its power, I expect it to exercise it reasonably and fairly, and that it will not, in the first instance, supersede the Board for five years. Sometimes, I think, it takes, five years to clean up a bank. Now when does the RBI act? The RBI, under section 36 AAA, can act "if it is satisfied in the public interest; for preventing the affairs of a multi-State co-operative bank being conducted in a manner detrimental to the interest of the depositors, or, for securing the proper management of the bank," it may supersede.

Now, I would expect that audit reports, when they come every year, alarm bells will ring in the RBI, and that they will act at an early stage rather than allow the wound to fester, and when they act, they will act prudently and wisely. Therefore, I think only in extreme cases where it is required to have five years to clean up the affairs of the bank, RBI will supersede the bank for a period of five years.

Sir, questions were raised about the RBI itself. This is not the place to discuss the role of the RBI. I think the RBI has served this country very well. We can have differences on policy but I think it is unfair to call the role of the RBI in question. What would you do without the RBI? Every Country must have a Central Bank. It must also have a banking regulator. In many countries, the Central Bank is not the banking regulator. Here, I think, because we were not able to put in place a separate banking regulator, we have entrusted this function to the Central Bank, and, I think the Central Bank, over the years, has done yeoman service in advancing the interest of the country, and in regulating the affairs of the banking sector.

[6 December, 2004]

RAJYA SABHA

Yes, there may have been one or two cases where one could have expected better control and better action. I do't think that it is correct to say that RBI may not have played any role in the development of the banking sector in this country.

Sir, co-operative bank are causing me great anguish. I have travelled extensively. I have visited primary co-operative banks, I have visited regional rural banks; i have visited commercial bank branches. Our farm credit delivery system stands on three legs. One leg is the scheduled commercial banks; the other leg is the regional rural banks, and, the third leg is the co-operative banks. I may be allowed to say that over the years, the scheduled commercial banks, or, at least, the public sector banks have become stronger. In the last two years, no public sector bank or has made a loss. Most public sector banks today have a very high capital adequacy ratio. They are getting stronger every day, and, we will do everything possible to make them stronger. Most of the RRBs are strong today. There are some weak RRBs, but, over the years, thanks to re-capitalisation and, now, thanks to making the sponsor banks squarely responsible, RRBs are becoming stronger. The weakest leg is the cooperative bank. Now, we can look back with a sense of nostalgia on the cooperative movement. But let me say, many cooperative institutions have been taken over by predators. I think they have no attachment to the principles of cooperation and no concern for the functions of the bank. It is because predators have taken over cooperative banks that many of them have collapsed. In fact, in the last three calendar years, we have cancelled the licences of nearly 90 or 93 urban cooperative banks and other cooperative banks. The state of affairs in cooperative banks is appalling. As a nation, as Parliament, I think, we must pay serious attention to the extremely poor state of cooperative banking. The Vaidyanathan Committee is attempting to make a quick study of one aspect of cooperative banking, namely, Short-term Agricultural Credit. We need to deliver credit, and one of the arms for delivery is the cooperative banking institutions. But the larger question of restoring cooperative banks to health, retrieving them from the hands of predators, putting them in the hands of sound cooperators, and ensuring that they function in accordance with the principles of cooperation, requires a total effort in which all political parties and all State Governments must join hands. Today, many cooperative banks lend to their Directors, to the Director's families, to their spouses, and there is virtually no money to be lent to the farmer. Depositors cannot get back their money. I know depositors who have put their money in a cooperative bank, and when

they go to the bank after a year or two, when their time-deposit matures, the bank says, "We have no money and when we have money, we will return it to you." This is the situation in every State. This is nothing to do with this Government or that Government. So, let me not be understood as blaming 'A' Government or 'B' Government. In virtually every State, a depositor cannot get his money back. Imagine, if a depositor goes to a scheduled Commercial bank and says, "give me back my money" and the bank says, "no", there will be a run on the bank the next day. If a depositor whose time-deposit has matured asks for his money, the bank must give his money across the counter. A public sector bank cannot get away with saying, "no, I do not have money."

SHRI LALITBHAI MEHTA: In the past, you have supported public sector banks by giving large sums and making budgetary provisions to the tune of thousands of crores of rupees.

SHRI P. CHIDAMBARAM: You are mistaken. There was no cash flow in the recapitalisation. The money was given and the money was taken back as bonds. The only advantage which the banks got was the interest that they earned on those bonds, and then they could show on their balance-sheet that they have got new capital. There is no cash flow in it. It is a credit entry and a debit entry. So money was not actually given; it is a wrong perception. The money was made available as capital, but the money was deposited in the bonds of the Government of India. RRBs also have been re-capitalised.

SHRI LALITBHAI MEHTA: That facility has not been given to the urban cooperative banks at all.

SHRI P. CHIDAMBARAM: Urban Cooperative Banks do not come under the Central Government. The State Governments can do what they have to do in order to recapitalise urban cooperative banks. The Central Government is not running all these urban cooperative banks. These are under the State Registrar of Cooperative Societies, and they have administrative control over urban cooperative banks. I am pointing out a very serious problem, and you are digressing into some other non-issue. I am pointing out a problem irrespective of political parties. I think we must retrieve the cooperative movement, especially cooperative banks from the hands of usurpers and predators. Otherwise, this arm for delivering credit to the people will simply fail. That's the problem I am pointing out.

Sir, some doubt was raised whether we will achieve our targets of credit. Let me tell you, "We will". We will not only achieve the targets, we will

exceed the targets. Please wait for the end of the year and I will come back to this House with figures, but for the time being, let me tell you, against the target of Rs. 1,05,000 crores, by the end of October, banks have already disbursed Rs. 63,000 crores. We will not only reach the targets, but we will exceed the targets. Similarly, the target of adding 50 lakh new agricultural borrowers will also be achieved in the current year. Similarly, more education loans will be given in the current fiscal than every before. I am not saying that every student has got the loan. For the first time, we have made it a mass campaign. Banks are giving loans. More loans will be given this year than ever before. But that doesn't mean that every student will get it. Next year, we will try to do better and next year, we will try to do better. But I do not want a situation as Mr. Shunmugasundaram pointed out, no student in this country, boy or girl, must be in a situation where he or she has to say, "I was qualified to be admitted to a college, I got admission, I could not study because I did not have the money to pay the fees". That situation must be abolished and believe me, I will do my very best to see that that situation is abolished.

Sir, I don't think I need to dwell more on many of the issues that were raised. Mr. Sharad Joshi pointed out, this is just a knee-jerk reaction. Hardly. This judgement came in October, 2003. So, this is hardly a knee-jerk reaction. This is a necessary amendment. The judgement of the Supreme court—I am sure he must have read it; it may have escaped his attention—dealt with the question whether the State Government, one of the two State Governments, had the authority to declare the apex bank which was a multi-State cooperative society as a cooperative bank. Since that power is not available to the State Government, on that technical ground, the Supreme Court said, if that power was not there with the State Government, it could not have declared the apex bank as a cooperative bank and because it could not have declared it as a cooperative bank, RBI could not have issued a licence to that bank. It is, in fact, in my view as a lawyer, I would say a judgement on a technical ground. We are trying to get over the technical ground by empowering RBI to grant licences to multi-State cooperative societies. There are 34 such societies which are functioning under a RBI licence and if that judgement stood, all 34 societies must be wound up and I can hardly accept such a situation. I don't think anyone can accept such a situation. This Bill, I think, was in the drafting even by the previous Government. But may be they did not have the time to move it before elections were called. I think this is necessary. I have brought an ordinance; and I am replacing it by my Bill and I ask hon. Members to pass this Bill unanimously. Thank you.

MR. DEPUTY CHAIRMAN: I shall now put the motion moved by Shri P. Chidambaram to vote. The question is:

That the Bill further to amend the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

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

Clauses 2 to 4 were added to the Bill

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

SHRI P. CHIDAMBRAM: Sir I beg to move that the Bill be passed.

The question was proposed.

MR. DEPUTY CHAIRMAN: Shri Jairam Ramesh, do you want to say something?

SHRI JAIRAM RAMESH: Sir, regarding new section 36AAA in clause 2 of this Bill, Dr. Bimal Jalan had mentioned a point. Although in the new section 36AAA, as the hon. Finance Minister has mentioned, the grounds for supersession have been indicated, the actual reality is that there is no pre-emptive supersession that takes place. Supersession takes place at a very advanced state of failure. So, in effect, what happens is that when the patient is under the intensive care, the RBI comes in, appoints an administrator, supersedes the Board, and then, the whole procedure gets triggered. The suggestion I have is that in 36(AAA), in order to give it a little better teeth rather than make the trigger so general, to bring in specific trigger points to enable pre-emptive supersession. Although SICA is not a good example to take, in the case of SICA, the hon. Finance Minister will recall that companies get referred to BIFR with the specific trigger of 50 per cent of the net worth being eroded. A similar quantitative provision will enable supersession, rather than supersession at an advance stage, which is what Dr. Jalan was saying that supersession takes place at a stage when there is complete failure, and then no meaningful intervention becomes possible. In 36 (AAA), Sir, if there is a provision for pre-emptive supersession, I believe, many of the issues raised by the hon. Members today would get taken care of.

[6 December, 2004]

RAJYA SABHA

SHRI P. CHIDAMBARAM: Sir, there are two ways to look at it. If you make such very definite grounds, the Reserve Banks' powers get limited to the grounds which are mentioned with such specificity. I think, the safer approach is to have broad heads, but ensure that, within the Reserve Bank, there is a system which alerts the Reserve Bank to take action at an early stage. I think, the heads are very broad. The first head is public interest, the second head is preventing the affairs of a banks from being conducted in a manner detrimental to the interest of depositors, and the third head is proper management of the bank. These are broad heads. I think, this gives a much greater degree of latitude to the RBI, and any order passed by the RBI, cannot easily be challenged if the heads are broad. If the heads are limited, then one will be left with the situation where you cannot take action, except on that very specific head. I think, the point as well taken. Given this broad power, we must have a system within the RBI which acts early, rather than late, which strikes it incipient delinquency rather than terminal illness. But I will ensure that the RBI is apprised of this fact, and the RBI should act at an early stage rather than at a late stage.

MR. DEPUTY CHAIRMAN: Now, the question is:

That the Bill be passed.

The motion was adopted.

THE CUSTOMS AND CENTRAL EXCISE LAWS

(REPEAL) BILL, 2004.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I move:

That the Bill to repeal certain Customs and Central Excise enactments, as passed by Lok Sabha, be taken into consideration.

These Acts have become obsolete. These are irrelevant They are remaining on the statute book and cluttering the statute book, and I think, they should be repealed. I earnestly request all hon. Members to pass this Bill.

The question was proposed.

MR. DEPUTY CHAIRMAN: The question is:

That the Bill to repeal certain Customs and Central Excise enactments, as passed by Lok Sabha, be taken into consideration.