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14.21 hrs.

Title: Combined discussion on the statutory resolution regarding disapproval of Securitisation and Reconstruction of Financial Assets and enforcement of Security Interest (Second) Ordinance, 2002 moved by Shri Basudeb Acharia **and** Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002 moved by Shri Jaswant Singh. (Resolution withdrawn and Bill passed)

MR. CHAIRMAN : Now, the House will take up Item Nos. 23 and 24 together.

SHRI BASU DEB ACHARIA (BANKURA): Sir, I beg to move:

"That this House disapproves of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002 (No.3 of 2002) promulgated by the President on 21 August, 2002. "

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): Sir, I beg to move:**

"That the Bill to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto, be taken into consideration."

SHRI BASU DEB ACHARIA : Sir, this Government has now taken the path of Ordinance for avoiding Parliament and evading the Standing Committees.

The Standing Committees were set up to scrutinise the important Bills. I am not saying that all the Bills should be sent to the Standing Committee, but important Bills like this should be sent to the Standing Committee. Without any scrutiny by the Standing Committee, this Ordinance was first promulgated in June and the Bill was also introduced. But that Bill could not be passed. Then again, it

* The Bill was Introduced on 19.7.2002

** Moved with the recommendation of the President

was promulgated on 22nd August because the Ordinance was not replaced by an Act within two months of its promulgation.

Five Ordinances have been promulgated during the inter-Session period. Even on the day of summoning the House, one Ordinance was promulgated. The House was summoned in the evening and the Ordinance was issued in the morning. Thus, gradually this Government is avoiding Parliament as well as the Standing Committees.

The main purpose of bringing this Ordinance was to curb the menace of Non Performing Assets. I do not understand why it is called an asset, if it cannot perform. This had been promulgated first in the month of June. Already five months have elapsed. In spite of having an Ordinance for five months, in spite of having an institution in place, there has not been any curb in the increase of Non Performing Assets.

In the current year the increase in the Non Performing Assets is about 11 per cent. Now it stands at Rs.70,904 crore. The borrowers have defaulted in the current year in spite of having an Ordinance that had been promulgated. After promulgation of the Ordinance, the Government has already started taking action. But what is the result? How could the Government not curb or reduce or take any stringent measure against the defaulters?

In this very House we have been demanding and asking that some stringent measures should be taken against the defaulters. We have also been demanding that the names of those defaulters should be placed on the Table of the House. Their names should be disclosed. You know this better than I do.

I raised the issue of the Indian Bank in this House. In one year that particular Bank earned a profit of about Rs.500 crore, but in the very next year, that is, in 1996-97, that Bank incurred a loss of about Rs.450 crore. Why did it happen? I read out a list of companies which took loans of huge amounts of Rs.10 crore, Rs.15 crore and Rs.20

crore. You know who are the owners of those companies which defaulted. That is the reason why that particular Bank incurred such a loss. This is not the case of one particular Bank; this is the case of almost all the nationalised banks.

Very recently, the Reserve Bank of India has come out with a report particularly on Non Performing Assets of nationalised banks and other financial institutions. If you go through that report, you will be able to know how this menace has been increasing. In 1992-93, the total amount of NPA was Rs.39,253.14 crore.

In 1993-94, the amount was Rs.41,000 crore. How is it increasing every year? But in the next year, 1994-95, there has been a reduction. Again, it increased in 1996-97 and again, there was an increase in 1997-98 when the figure rose to Rs. 45,652 crore. In 1998-99, it was Rs.51,000 crore and then it went up to Rs.53,000 crore and then to Rs.54,000 crore. Now it stands at Rs.70,904 crore. If you see the NPAs of nationalised banks in non-priority sector, it is 56.90 per cent in the case of Allahabad Bank. I am not talking of the priority sector nor of the small scale sector nor of the agricultural sector, I am talking of non-priority sector. In agricultural sector, it is only Rs. 10.04 crore. In non-priority sector, the figure against Andhra Bank is Rs. 50.68 crore. In the case of all the nationalised banks, the percentage of NPAs in non-priority sector is more than 50. In the case of State Bank of India, it is Rs. 48.51 crore, and Rs.62.85 crore in the case of the State Bank of Travancore. It is alarming to see how it is gradually increasing.

In the case of development and financial institutions, particularly of IDBI, in March, 1988, the amount was Rs.5,101 crore. In March 2001, it increased to Rs.10,880 crore. In March, 1998, the figure for ICICI was Rs.2,811 crore which increased to Rs.5,988 crore in March, 2001. Similarly, in the case of IFCI, it was Rs. 2,663 crore which increased to Rs.6,077 crore. It is more than double. The same is with the case of IIBI and SIDBI. The current figure of SIDBI is not available but the figure of 2001 is available. However, in the case of all financial institutions, there has been an increase in the percentage of NPAs. The percentage of IDBI is 14.8. It is 21 per cent for IFCI and 16.1 per cent in the case of IIBI. This is the situation in regard to the Non-Performing Assets.

I would like to know from the hon. Minister on one point. We also feel that there is an urgency to look into it because in this very House, he described the NPAs as loots and not bad debts. It is correct. He has realised now that these are not bad debts. If these are loots, then how are the nationalised banks permitted to write off a certain amount of this bad debt? I have the figure of the amount written off last year. An amount of more than Rs. 450 crore has been written off regarding the State Bank.

The Minister has correctly described it as 'loot' and not 'bad debts'. If it is loot, then how had the Bank been permitted to write off a certain percentage of NPAs? Whose debt has been written off? I would also like to know from the Minister as to what action has been taken against them; as to how many have been prosecuted; and as to how many have been arrested for looting the money. If it is loot, then some legal action should have been taken. How much money has been recovered since the promulgation of this Ordinance? It is because the main purpose of promulgation of this Ordinance was to recover the money from the defaulters. How much has been recovered?

The Minister had stated that the total amount of NPA of SBI as on 1st April, 2002 was Rs. 15,485.85 crore. The total amount recovered was Rs. 4,137 crore. It is because we had the Debt Recovery Tribunal. The Act was enacted a few years back. What is the amount recovered after setting up the Debt Recovery Tribunal? There was a lacuna in that. The Debt Recovery Tribunal was not able to tackle the situation. That is why the Government felt that there should be another organisation and there should be another Act for the securitisation of assets. The

main purpose of this Bill is to reduce the NPAs and to recover the amount which is lying as NPAs.

The total amount recovered by the State Bank of India from 1999 to 2002 was only Rs. 4,137 crore, out of Rs. 15485.85 crore. It is just more than one-fourth. The amount which was written off in 1999 was Rs. 414 crore, in 2000 it was Rs. 414 crore and in 2001 it was Rs. 984 crore. Why was there a sudden jump? It has jumped to Rs. 984 crore from Rs. 414 crore. Then, during the year 2002, an amount of Rs. 2,492 crore was written off. What is the criteria for writing off bad debt?

If this is not bad debt, then how was the State Bank of India allowed to write off the bad debt? These are the questions on which we would like the Minister of Finance to enlighten us

He will apprise us of that. What was the urgency in promulgating the Ordinance? Why was the Ordinance not replaced in the last Session? Who prevented the hon. Minister from passing the Bill to replace the Ordinance in the last Session if there was any urgency? It was re-promulgated. Why was the Session adjourned earlier?

...(Interruptions) We did not want that the Session should be adjourned. Who was responsible for that? We, in the Opposition, are not responsible for that. My friends, you are responsible for that. So, why was it not replaced? What action has been taken since the promulgation of the first Ordinance? This is not a good convention. One Ordinance was promulgated and it could not be replaced. Then, it was re-promulgated when the first one was not replaced in

that Session. We have the example here that one Ordinance was promulgated thrice.

Now I come to the practice of avoiding the Standing Committee. The Standing Committee is here to scrutinise such an important Bill. This is an important Bill. But the Standing Committee has not got any opportunity to scrutinise such an important Bill. Then, what is the use of having the Standing Committee on Finance if that Committee has no power to scrutinise such an important Bill? So, I am not against taking stringent measures. I want more stringent measures should be taken because this is the demand of the House. For the last several years, we have always been asking that those who are defaulters, should be punished. They should be arrested. How many of them have been arrested? Their list should also be laid on the Table of the House so that the people will be able to know about those who have looted the money. As the hon. Minister has stated about it on the floor of the House, those defaulters have looted the public money, the money of the people of our country.

I hope the hon. Finance Minister will answer these questions. With these words, I conclude.

MR. CHAIRMAN: Motions moved:

"That this House disapproves of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002 (No.3 of 2002) promulgated by the President on 21 August, 2002 "

"That the Bill to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto, be taken into consideration. "

श्री किरीट सोमैया (मुम्बई उत्तर पूर्व) : सभापति महोदय, माननीय बसुदेव आचार्य जी ने जो भावना व्यक्त की है, मैं उससे सहमत हूँ। उन्होंने चिंता व्यक्त की है कि देश में विभिन्न बैंक्स और फाइनेन्शियल इंस्टीट्यूशंस ने कितना एन.पी.ए. जनरेट किया। उन्होंने इसका बहुत सुंदर और सही वर्णन किया है। अगर श्री बसुदेव आचार्य जी की स्पीच की पिछले दस सालों के विभिन्न समय पर, विभिन्न पार्टियों के विभिन्न वक्ताओं की स्पीचेज से की जाए, चाहे वे इस साइड के हों, उस साइड के हो या थर्ड फ्रंट के हों, अगर उनके भागों से उनके भाग की तुलना की जाए तो हमारे ध्यान में आयेगा कि कभी श्री बसुदेव आचार्य जी यह भाषा बोल रहे हैं, कभी बी.जे.पी. का व्यक्ति यही भाषा बोल रहा था और कभी कांग्रेस के लोगों ने भी यही भावनाएं व्यक्त की है। रोज हमारे सबके ध्यान में यह आया है कि हमारे यहां जो फाइनेन्शियल सिस्टम है, वह फाइनेन्शियल सिस्टम नये-नये रोजगार उपलब्ध कराने के लिए इंडस्ट्रियल इकोनोमी ग्रोथ के लिए, हमारी इकोनोमी ग्रोथ टोटल जी.डी.पी. छः परसेन्ट के ऊपर जाए, इस दृष्टि से, इस भावना से हमने इस सदन में इस प्रकार का सिस्टम तैयार किया। लेकिन हममें से हर एक व्यक्ति ने कभी न कभी, कहीं न कहीं यह चिंता व्यक्त की हमारी भावना तो अच्छी थी, लेकिन उसका इम्प्लीमेंटेशन क्या हो रहा है।

आज परिस्थिति क्या है? बसुदेव जी ने कहा और विभिन्न समय पर वक्ताओं ने भी कहा कि लगभग 10 हजार करोड़ रुपये का, 25 हजार करोड़ रुपये का, 50 हजार करोड़ रुपये का या एक लाख करोड़ रुपये का एन.पी.ए. है। मैं मानता हूँ कि यह एक लाख करोड़ रुपये का एन.पी.ए. कोई दो-तीन साल की पैदाइश नहीं है। माननीय जसवंत जी जब वित्त मंत्री बने, उसके कारण यह नहीं हो गया या जसवंत सिन्हा जी के कारण यह नहीं हुआ। मैं आपके सामने कुछ आंकड़े रखना चाहूँगा। इसी विषय पर इसी प्रकार की चर्चा 15 साल पहले भी हुई थी और उस समय बी.आई.एफ.आर. की रचना की गई थी। बी.आई.एफ.आर. की परिस्थिति देखें। यदि कोई उसका या डैट रिकवरी ट्रिब्यूनल का पोस्टमार्टम करे तो पता चलेगा और हमारे यहां मराठी में एक कहावत है कि - 'रोगापेक्षा उपचार महात।' यानी, रोग के ऊपर जो उपचार करें, वह तो रोग से ज्यादा उपचार निकला। हमने बी.आई.एफ.आर. बनाया, डैट रिकवरी ट्रिब्यूनल बनाया। बी.आई.एफ.आर. का मतलब था सिक कंपनी है या बीमार कंपनी है उनको पुनर्जीवित करना है, और उसके इन्फ्लॉइज़ की रक्षा करनी पड़ेगी, उसके ऐसेट्स को स्ट्रैथेन करेंगे, लेकिन क्या परिस्थिति निकली? मैं कुछ आंकड़े आपके सामने रखना चाहूँगा। The position of the bank at BIFR as on 31st March, 2002 is this. Schemes implemented are 11. I am referring to one particular unit. The amount involved is Rs. 14 crore. Average time taken for approval of scheme is around seven years. यह इलाहाबाद बैंक का मैं बता रहा हूँ। Winding up orders has been issued in 41 cases. The amount involved is Rs. 173 crore. Average time taken to conclude the case by BIFR, that is, the unit is not viable and eligible for winding up is around eight years. By the time security took charge of the bank, assets get deteriorated. Hearing is in progress in 59 cases and the amount involved is Rs. 294 crore. It took about 10 to 12 years for completion of the process. The reference has been rejected in three cases and the amount involved is Rs. 10 crore. यानी बैंक ऑफ इलाहाबाद ने 491 करोड़ के 114 यूनिट्स की जानकारी दी, यह परिस्थिति है।

मैं मानता हूँ कि रोग भयानक है लेकिन रोग के ऊपर उपचार कोई बताए कि 15-20 साल की इकोनोमी में हमने एक बार प्रयत्न किया बी.आई.एफ.आर. का which is almost a total failure. I will give you the total figures for that also subsequently कि डैट रिकवरी ट्रिब्यूनल उसको मज़बूत करें। That is also almost a non-starter. अभी सरकार ने एक प्रयत्न किया कि चलो हम एक और प्रयत्न करें, प्रयोग करें। मैं मानता हूँ कि यह प्रयोग फूलपूफ नहीं हो सकता। Let us come out concretely and positively as to what are the corrections we can suggest कि यह पार्टिकुलर क्लॉज़ हैं सात, उसमें ये करैक्शन्स करने की आवश्यकता है। स्टैन्डिंग कमेटी में यह बिल नहीं गया, उचित नहीं हुआ यह मैं मानता हूँ, लेकिन मुझे ऐसा लगता है कि

कभी इस सदन को यह भी सोचना पड़ेगा कि अगर हमें कोई अच्छा और त्वरित कदम उठाना है तो उसके लिए क्या करें। कितने महीने में कोई बिल या प्रस्ताव वित्त मंत्री या सरकार सदन के सामने रखती है तो तत्कालीन परिस्थिति की अर्जेंन्सी को ध्यान में रखते हुए ऐसा करती है। उसको कितने महीने में डिस्पोज़ ऑफ करना चाहिए? Either we can reject fully or we can make some corrections, but there has to be some time limit. अगर दो या तीन साल तक वह ऐसे ही पेन्डिंग रहेगा तो रोग का दर्द एक बार नहीं, पुनः जन्म लेकर दूसरी बार भी उसकी मृत्यु हो जाएगी। ऐसा भी कहीं हो सकता है?

So, there could certainly be an Ordinance. But the correction is to be made. I do not know about that. The hon. Minister of Finance may correct me subsequently in his concluding speech. यह जो बिल आया है, उसके बारे में कहा गया कि क्या यह साल, दो साल तक स्टडी करके लाया गया है? इसके ऊपर वेरीयस कमेटियां एप्वाइंट हुई थीं और कौन-कौन से कमीशन ने, कौन-कौन सी पार्लियामेंटी कमेटी ने इसके बारे में क्या-क्या रिकमेंडेशन दी? I have gone through a Report, perhaps of the Estimates Committee, 1997-98. उन्होंने भी इस रोग के प्रति ध्यान दिया। उन्होंने कहा कि एन.पी.ए.इस स्पीड में बढ़ रहे हैं, विलफुली डिफाल्टर्स बढ़ रहे हैं। कोई करैक्शन नहीं है, कोई रिक्वरी पॉसीबल नहीं है। एक जगह बहुत सुंदर वर्णन किया है। उन्होंने कहा कि जो सोया है, उसे आप उठा सकते हैं लेकिन जो सोने का ढोंग करता है, उसको कोई नहीं उठा सकता। If the industrial unit itself is sick, you can correct it. You can put some more input. आप उसको वर्किंग कैपिटल दे सकते हो or you can restructure the whole credit portfolio. जो बीमार है, उसको आप जरूर अच्छा कर सकते हो, आप उसे नया रक्त दे सकते हो लेकिन जो बीमार होने का ढोंग करता है, तो मुझे लगता है कि उस उद्योगपति को, उस इंडस्ट्री को करैक्ट करना हमारी ताकत के बाहर है। जो रोग हिन्दुस्तान की इंडस्ट्री में पैदा हुआ है, मैं माननीय सदस्यों से यह भी कहना चाहूंगा कि जो एन.पी.ए. है, If we want a list of defaulters, it is available everywhere. It is available with me. It is available with the Reserve Bank of India. It is also available on the website. आप जब वेबसाइट में जाओगे, वह लिस्ट अभी भी उपलब्ध है। यदि आप उसे चैक करोगे तो आपके ध्यान में आयेगा कि बड़ी-बड़ी कम्पनियां हैं, अच्छे-अच्छे को-आपरेटिव ग्रुप्स हैं या जो अच्छी कम्पनियां चलती हैं, उनमें से एक आध भी सिक कम्पनी नजर नहीं आयेगी। जो उद्योगपति, जो कापरेट हाउस या जो पी.एस.यूज. दो, चार या सात कम्पनियां चलाती हैं, यानी 100 करोड़ रुपये का टर्नओवर करती हैं, उसकी आपको एक आध कम्पनी भी इस लिस्ट में नहीं दिखाई देगी because they want to perform. They want to contribute for the industrial development of the country. लेकिन आपको इसमें कौन सी कम्पनी दिखाई देगी - जिसकी मेनटेलिटी यही है, जिसकी मानसिकता यही है। वह आपके पास आता है, हमारे पास आता है, अलग-अलग माध्यमों के पास जाता है और इस प्रकार का एक वातावरण तैयार करता है। I cannot understand it at my level. लोग आकर यहां बोलते हैं कि सर, जिन्होंने हमें लॉग टर्म लोन दिया था, उन्होंने वर्किंग कैपिटल समय पर नहीं दी थी। We are debating on that argument. उन्होंने वर्किंग कैपिटल दी थी लेकिन बाद में मैंने और 25 करोड़ रुपये मांगे, तो उन्होंने दिये नहीं। इस कारण मैं सिक बन गया। People are giving that sort of explanation. If you go through this list, you would find all such people there only. उनका एक मानस बन गया, एक टैंडेंसी बन गयी है और ये लॉ मेकर को इस प्रकार से गुमराह करने का प्रयत्न कर रहे हैं। I do not understand in which country all such types of legal provisions exist. मैं आपको लोन देता हूँ, मैं आपको कर्जा देता हूँ, अगर मैं आपको कर्जा देता हूँ, अगर मैं व्यक्तिगत स्तर पर देता हूँ तो मैं पर्सनल गारंटी लेता हूँ। मैं हरेक प्रकार की गारंटी लेता हूँ। मैं आपका फ्लैट अपने नाम पर लिखवा लेता हूँ। अगर पैसे वापिस नहीं मिले, I should recover the money immediately or I should take over the possession of the asset. In the case of large public sector banks or financial institutions, there is no such provision. What is the reason? इस प्रकार का कोई प्रावधान ही नहीं है। अगर उस प्रकार का प्रावधान माननीय मंत्री जी करना चाहते हैं तो फिर हम कहेंगे कि यह उचित नहीं है। इस बिल में क्या लिखा है? वही लिखा है कि अगर कोई कम्पनी विलफुली डिफाल्टर है, तो वह सिक्युरिटीडिजेसन करें, एक नया सिस्टम एस्टेबलिश करे। उस कम्पनी को ऐसेट्स हम रिक्वायर करें और वह रिक्वायर करके उससे अच्छी कम्पनी चलाने वाली किसी कम्पनी के हाथ में दें। There is a provision. इसमें क्या लिखा है? अगर कोई कम्पनी हमारे ध्यान में आती है कि उसके जो ऐसेट्स हैं, उसको डायवर्ट करने का, साइफन करने का प्रयत्न हो रहा है तो ऐसी कम्पनी को हम अपने पास लेने का प्रयत्न करें। यह जो बी.आई.एफ.आर. में जाने या बीमार होने का कारण क्या है, एन.पी.ए. होने का कारण क्या है? There may be some reason.

Due to that if a particular unit becomes sick, certainly we can consider, पर हम यह प्रयत्न करेंगे तो हमारे ध्यान में आयेगा कि Hardly there may be ten per cent companies. और एन.पी.ए., जो गवर्नमेंट की पॉलिसीज या कोई नैचुरल कैलेमिटी के कारण बीमार हुई हैं, लेकिन बाई एण्ड लार्ज हमें इस प्रकार की जो कम्पनियां हैं, मैं एक बात और माननीय मंत्री जी से कहूंगा, जिसके बारे में चिन्ता व्यक्त होती है और वह चिन्ता दो व्यक्तियों के बारे में होती है। एक एम्पलाई के प्रति होती है, I would urge the hon. Finance Minister कि क्या इस प्रकार का करैक्शन, प्रोवीजन या गाइडलाइंस हम बाद में इश्यू कर सकते हैं कि एक कम्पनी के जो असेट्स हैं, अगर कोई फाइनेंशियल इंस्टीट्यूशन दूसरी कम्पनी को बेचता है तो एम्पलाइज की सिक्योरिटी का हम कहां तक ध्यान रख सकते हैं। If that company is to wound up permanently, तो हम वहां के जो एम्पलाइज हैं, उनको अच्छी वी.आर.एस. की स्कीम दे सकते हैं, उनके भविष्य का हम ध्यान रख सकते हैं। मेरा दूसरा सजेशन है कि उन कम्पनीज का क्या होगा, आपने तो सिर्फ एन.पी.ए. पर ध्यान दिया है, लेकिन मैं स्माल इन्वैस्टर्स की बात बताता हूँ कि उन कम्पनियों में, जिनके शेयर्स में छोटे-छोटे इन्वैस्टर्स ने इन्वैस्ट किया, उनकी हालत क्या है। जिन्होंने डिबेंचर्स में इन्वैस्ट किया, उनकी हालत क्या है। लिस्टिड कम्पनियों में आज स्माल इन्वैस्टर्स के चार हजार करोड़ रुपये से ज्यादा फंस गये तो उनके बारे में हम क्या कर सकते हैं, उसका भी माननीय वित्त मंत्री जी विचार करें।

इसी प्रकार मैं उनसे एक और विषय पर प्रार्थना करना चाहूंगा और माननीय वित्त मंत्री जी का ध्यान आकर्षित करना चाहूंगा। We must think about the other side of the system that the authority must go with accountability कि जो लोन देते हैं, उनमें से कितने अधिकारियों की स्क्रुटिनी की गई है। उसमें कोई एकाउण्टेबिलिटी नाम की चीज है क्या? कोई इस प्रकार की व्यवस्था अस्तित्व में है क्या कि फाइनेंशियल, लोन्स या एडवांसेज देते समय अगर प्रोजेक्ट फाइनेंस के नाम पर हम छोटी-छोटी वर्किंग कैपिटल देते जाएंगे तो End use of funds के ऊपर हम कोई चैक नहीं करेंगे। Whether this Bill or another Bill, कानून में यह त्रुटि रह जायेगी। इसलिए मैं आपसे यह भी प्रार्थना करना चाहूंगा कि कभी हम यह भी सोचें कि पिछले दो, पांच या सात साल में कितने बेल आउट किये, यू.टी.आई., आई.एफ.सी.आई., आई.डी.बी.आई., वैरियस पब्लिक सैक्टर बैंक्स में टोटल अगर हम एमाउण्ट करने जाएंगे तो गये तीन साल में, अगर उसके पहले का भी काउण्ट करेंगे तो More than Rs.40,000 crore we have contributed through bail-out. यह 40 हजार करोड़ रुपया कहां से आया, बजट में से आया। अगर बजट में से आया तो यह 40 हजार करोड़ रुपया अगर फाइनेंशियल इंस्टीट्यूशंस को हम नहीं दे रहे हैं, हम उस कारपोरेट को दे रहे हैं, हम मिसचीफ करने वाले लोगों को दे रहे हैं, क्योंकि यह पैसा उनके पास जाता है, इन पैसे के बदले में हम अधिक अस्पताल खोल सकते थे, हम ज्यादा रास्ते का काम कर सकते थे, हम अनेक समाज कल्याण की योजना लागू कर सकते थे। I would request one more thing that when you pass another bail-out to some other institution, you say this is the last, this is the end और उसके साथ मैं एकाउण्टेबिलिटी क्लाज भी इन्क्लूड होना चाहिए। आज भी फाइनेंशियल इंस्टीट्यूशंस में और म्यूचुअल फंड्स में इस प्रकार की स्थिति है कि नोमिनी डायरेक्टर्स हैं।

मैं यह भी कहना चाहूंगा कि यहां पर ही स्थिति ऐसी नहीं है। स्टेट फाइनेंशियल कारपोरेशन की अगर मैं स्थिति बताऊं, माननीय वित्त मंत्री जी से मैं यह भी जानकारी लेना चाहूंगा कि आप जो करैक्शन लाना चाहते हो, वह क्या स्टेट फाइनेंशियल कारपोरेशंस पर लागू होगा क्या ? स्टेट फाइनेंशियल कारपोरेशंस की परिस्थिति क्या है ? Out of a total of Rs.11,084 crore loans and advances Rs.5777 crore are NPAs. यह स्टेट फाइनेंशियल कारपोरेशंस की स्थिति है।

अन्त में मैं इतना ही कहना चाहूंगा कि मेरे पास एन.पी.ए. के और दूसरे बहुत सारे आंकड़े हैं, लेकिन मैं उन्हें पढ़ने का प्रयत्न नहीं कर रहा। मैं यही कहूंगा कि Let us come together. एक लूट मचाने की आर्ट यहां पर डवलप हुई है, उसे कहीं जाने-अनजाने में समर्थन न कर बैठें। उसके बदले में जो लुटेरों ने पैसा लूटकर चले गये हैं, उन्हें रिकवर करने के लिए हम किस प्रकार से मार्ग अपनायें, यही मैं सदन से अपील करना चाहूंगा।

यह जो आर्डिनेंस या बिल आप लाये हैं, हम उसे सर्वसम्मति से मंजूर करें, यही मैं प्रार्थना करूंगा।

15.00 hrs

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Chairman, Sir, the problem of mounting Non Performing Assets, a euphemism for bad debts of banks and financial institutions has bedevilled, rather ravaged our financial system and economy for long. The rise in NPAs was contained for some time – I would like to remind Shri Kirit Somaiya – after the prudential norms were implemented in the year 1992-93. But of late, there has been a consistent increase in the level of NPAs, which is a matter of grave concern for us as it renders the very financial system vulnerable.

Sir, despite the tendency of some banks to understate their NPAs – Shri Basu Deb Acharia gave us the figures – there has been a tremendous increase in the level of NPAs in the last few years. Only in the last year, it rose from – if my figures are right – Rs.63,741 crore as on 31st March 2001 to Rs. 70,904 crore as on 31st March, 2002, a whopping increase of Rs. 7,163 crore, which is a 11 per cent increase in one year, and represents as much as 11 per cent advances by the banks.

Sir, bank credit is a veritable catalyst for economic growth - we all realise - and NPAs of a staggering magnitude, an impediment in the free flow of such credit as these restrict the recycling of funds to the new borrowers, besides, of course, causing losses on account of non accrual of interest, which by the present level goes to as much as Rs. 5,000 crore a year, high servicing and litigation costs. An economy can least afford this because economy grows only when the bank credit is easily available to the enterprises.

Sir, given the enormity of the problem, any genuine effort to protect the interest of lender banks, restore the health and cut down on the scale of NPAs will have our support. We believe that in the present scenario of globalised economy, the banking system cannot be deprived of the necessary reform system and the processes. Accordingly, we accept the concept of turning financial assets into securities tradable in smaller sizes as also we recognise the need to realise immediate liquidity in the hands of the banks for further lending to new borrowers. And we also do realise and feel the need to make a statutory provision for enforcement of security interest in case of default.

15.03 hrs (Shri Devendra Prasad Yadav in the Chair)

Sir, while we, in principle, support the need to set up Asset Reconstruction Companies to negotiate with banks and financial institutions for acquiring distressed assets and develop markets for such assets, we support the provision for providing for such companies, where the banks will offload their bad assets for converting into cash through a sustained recovery technique.

Sir, however, after a study of this Bill, that is the present Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill and two Ordinances on this subject, I am sorry to say that one does not get a proof of a well-considered comprehensive approach of the Government to the issue of lowering the NPAs.

There is rather, what discernible, a simplistic approach to a very intractable, to a complicated problem. And if one were to go through the provisions, one again feels as if the courts had been made the whipping boy.

One gets a feeling that, perhaps, it is the diagnosis of the Government that it is only because of the courts that the NPAs have risen to this alarming proportion, and the remedy they have thought of is to shut the door of the courts. That is not appropriate. If there have been occasions where the judicial process has been found wanting in understanding the financial implications of various things, the need was not to oust the jurisdiction of the court, not to oust the jurisdiction of even the Debt Recovery Tribunal, but to reform this. Here, we find a new jurisprudence. The securitisation companies, stepping into the shoes of the bank, would request the Chief Metropolitan Magistrate and the District Magistrate to take action. I do not find this word 'request' anywhere in the legal jurisprudence, and you have not provided it. Rather, this word 'request' you have used as a synonym for directing the Chief Metropolitan Magistrate as also the District Magistrate to take action as per the whims of the securitisation

company. As I have said, we want that the institution of securitisation companies to develop. Very briefly, sharing the sentiments of the hon. Minister and other Members, I have said we have got to move forward. We have got even to bring about a little more stringent law. I am using that word. But, at the same time, we must really weigh the pros and cons of our objective. Are we able to or will we be able to achieve that objective through the provisions of this Bill?

This Ordinance was introduced. The first Ordinance was promulgated on 21st of June. It is five months down the line. I would like the hon. Minister to tell us what has the Government achieved during this period. Have you constituted the Asset Reconstruction Company of India Limited which you had announced? I think all that you have really achieved is a challenge to the provisions of this Bill in the Supreme Court. That is our fear. Our concern is, our desire is that when you frame a law like this, you need not really hush through the provisions. That is exactly the point I would like to reiterate. That was the point which was raised by Shri Basu Deb Acharia also.

It was with a purpose that we had set up the institute of having the Departmentally related Committees because we felt that in the plenary, we are not in a position, at times, to debate at length about the various provisions of the pieces of legislative measures which come before this House. Therefore, it was after many, many years of protracted thought and discussion, a decision was taken that we have Departmentally related Committees where these Bills go for discussion in-depth. The Standing Committee would, on the basis of the informed opinion elicited from the public, come out with its recommendations. But, of late, what do we see? One can understand and I do acknowledge the right, prerogative of the Government to issue Ordinances. Wherever there is an emergent need of an Ordinance, yes you need an Ordinance. Then, the provisions require the Parliament to pass those Ordinances within the stipulated period. We never come in the way.

But, of late, what has happened? This particular Ordinance was there. Just two days back, and even on the day the House was summoned, you issue more Ordinances. You force the President also to sign on the recital. The recital says that since the House is not in Session and emergent provisions are required, we are promulgating this Ordinance. I would say that it is a fraud with the Constitutional provisions. Rather, you are taking that route to keep the Parliament off from discussion.

Well, since this Ordinance is before us, we do not really want to restrict or want to come in the way of the Government in the passage of this Bill. As I said, we would even support it. But for many months now, I would say, the amendments were there. Yes, I would say that some of the amendments suggested by me may not be acceptable to the Government. But, where is the forum to discuss those amendments? If I am not mistaken, I recall a statement by the hon. Finance Minister also at one of the meetings of the Chamber of Commerce, which he attended. I do not remember whether it was CII or FICCI or ASSOCHAM. But at one of those meetings, he said, 'well certain provisions, which warrant an amendment, have come to our notice and we would do that.' Where are those amendments?

Again, I would say, the Government is taking advantage of the fact that the Bill is before the plenary of the House, it is being passed and since we are not obstructing the passage of the Bill, they would want us to forget what they have said.

There is a provision here that the provisions of this Bill shall not apply to matters where the debt is below Rs.1 lakh. I would like the hon. Minister to tell us whether he really wants to look at people only at that level or the big fishes who have taken the major part of bank credits and have not repaid them. I do not know if Shri Kirit Somaiya is much informed than me about this matter. He would have gone through the entire list but has he really gone into the causes on the NPAs? Even the advanced countries do have this problem but here it is a problem that is acquiring menacing proportions. Therefore, we have to think differently. At the same time, I would like to ask whether we are really concerned and whether we have given a thought to say that these are the causes.

I have an objection to the proposition that you are barring the jurisdiction of the courts. Is that what a civilised society's response should be like? If the courts have not delivered the results, bring about reforms in the judicial process. That is what we are repeatedly asking for Session after Session. What is being done? You are doing away with the Courts? You are doing away with even the Debt Recovery Tribunals. That is what my objection is. Why do you have to place the securitisation companies and the asset reconstruction companies on a par with the banks or the financial institutions whose assets you acquire? If the banks could not achieve something, you want the private companies to achieve that using an extra-constitutional provision. That is my objection. My objection is not to the basis of it but to what you want to do. I for one cannot just accept that a private company directs a court to attach a property and hand it over to itself. Why do you at all have to have that? If those were the powers you would delegate to somebody, why do you not delegate them to the banks? There may be a little contradiction in what I am saying but I am conscious of what I am saying.

I would say, if this is how you go for an overkill – if that is the right use of the word, why do you bring in an agency like this whom you pay an additional amount to the extent that it is negotiable. I am sure, with all my sense of

appreciation, I know, none can influence our hon. Minister of Finance but I know that the Government is not free from all sorts of cases. With this Government, scam after scam has come to our notice. Hypothetically, I would say, if you choose a favourite of yours and delegate him the authority of an asset reconstruction company and if an NPA worth Rs.100 crore were procured at even Rs.10 lakh – I am deliberately giving the figure – what are we doing, whom are we fooling and whom do we want to impress that the balance sheets of these banks are all right and we can overcome the insurmountable problem of NPAs? Is that the way of doing it? This is my serious reservation and I doubt about it. More than a reservation, it is a very serious doubt I have in mind. I would certainly urge the hon. Minister to clear it and assure this House that these are the guidelines.

If I remember correctly, there is a recommendation of the Committee on Subordinate Legislation that whenever the Government comes out with a piece of legislation to the House, it must also be ready with the rules thereunder. I would like the hon. Minister to tell us that the rules are ready, the guidelines that would be issued by the Reserve Bank are ready, that the day the Bill is passed, the guidelines and those rules would be promulgated and right from that day onwards action would be taken.

There are one or two submissions that I would like to make about the causes. As I said, there might be a little repetition but for the sake of emphasis I would like to say this. I do admit that one of the major causes of NPAs is the tendency amongst borrowers, perhaps, particularly the ones with the mentality that my friend from the other side referred to, not to repay the loans.

Then, there is the instance of diversion of funds to other projects. There is siphoning of the funds, misappropriation and fraud. In this category, it is not just the borrower alone, invariably, it is the officials of the banks who connive therein and it is because of that that this problem has acquired the menacing proportion that it has and stares at us threateningly.

People have talked sarcastically about the success of the Debt Recovery Tribunal. As I said, maybe there is a need to sensitise the Presiding Officers and others about the financial matters, but the situation does not warrant that you cut them down to size. Have you ever considered a very stark reality that it is because of the non-cooperation of the officials of the banks, who go to represent the cause of the banks in the Tribunals, that the matters take time, that the 22 Debt Recovery Tribunals and the 5 Appellate Tribunals have not been able to give us the results that we expected of them; that there are over 40,000 cases pending involving an amount of over Rs. 50,000 crore? Have you ever tried to go into that matter? All that we are told here is: 'no, no, do away with the courts and the matters will be solved'. I would say that it is a very complacent approach and that would not bring about the results that we really want to.

Besides these, the other causes for the NPAs are the external ones and that is where I would like to deviate a little from the other hon. Members so that we must distinct between the two. Where the borrower is the guilty person, where there is a deliberate attempt on his part to gobble up the funds of the banks, be strict against him to the extent possible. My hon. friend from the BJP had referred to the change in the policy of the Government and that is the point I would like to stress. There may be a very few cases – I know a very few cases – but there are cases like this and there is always the likelihood of cases like this. I will give you the example. Take for example the small-scale industries. I want to know whether we were not really happy with the achievements of the small-scale industries. I want to know whether they were able to generate revenue for the country the way we really wanted from them when we extended certain benefits to them. But in this globalised economy, we all know what is the fate of the small-scale sector. So, with the sudden change in the policy, if those small scale industries have suffered because of the policy ...*(Interruptions)*

MR. CHAIRMAN : Please conclude.

SHRI PAWAN KUMAR BANSAL : Sir, I have to make some more points. Sir, I do not want to refer to the Business Advisory Committee. I suppose, you too were there in that meeting. At the Business Advisory Committee meeting we said that more time is required for this Bill and we were told that we need not change the allocation of the time, but full time has to be given for this discussion. ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): The allotted time maybe there, but even then if there are substances, then you can increase the time.

SHRI PAWAN KUMAR BANSAL : Sir, I am the first speaker from my Party and others are yet to speak. I suppose, you will give us the indulgence of really having the detailed discussion today. That is the point that I began with. ...*(Interruptions)*

Sir, in the policy I gave the latest example from the place from where I come. Just by the fiat of one executive order, the Government of India told the Chandigarh Administration that though you do not have the power to repeal the East Punjab Urban Rent Restriction Act, because that power lies with the Parliament, there are non-descript

provisions where you could exempt certain buildings from the provisions of this Act, apply that *en bloc*. You apply that in wholesale and declare that all the properties where the monthly rental is above Rs. 1500, they shall not come within the purview of the Act.

Now, what happens to those companies? A young entrepreneur may have taken some building on rent for Rs. 10,000 and he sets up an establishment there. Today, he is asked to go out because of the change in the policy of the Government. He has taken some loan from the bank. Since his production will stop, he will be of the road. Your prudential norms say that -- I do not dispute those -- if there is a default even in the payment of the instalment or in the interests for 90 days, you call it doubtful.

After 12 months the classification under clause 2 is called sub-standard. If there is a default in payment of even interest for 90 days it is sub-standard. After 12 months if you cannot pay it is doubtful and then comes loss effect. The utmost concern that we should really have is loss effect. This is just a hypothetical example which I am giving; then you will have large number of such examples in the next few days in Chandigarh. They will all be declared defaulters and you will give those absolutely arbitrary and whimsical powers to a reconstruction company to take over the management, to do away with the Managing Director and appoint a Managing Director of their own; to do away with the Director and appoint a Director of their own and to do away with the Manager and appoint a Manager of their own and sell it off. Just 60 days' notice is enough. That is where I say this. If we have chosen the system of rule of law, the rule of law just does not mean that you frame a law, how stringent and how unreasonable it may be, and you enforce it. The rule of law encapsulates respect for law, respect for the principles of natural justice. You hear the person, you give an opportunity to the person.

Where do we find those things? I will refer to those provisions, Sir, with your permission very briefly because you have checked me once. But this is the point I want to make and that is what I am missing in this Bill and that is where I have my apprehensions and my concerns that in your anxiety to mop up those Rs. 75,000 crore, which anxiety we should really demonstrate -- but, we on the other hand should not lose on the fringe towards the gains in the roundabout, you took this step.

SHRI PRIYA RANJAN DASMUNSI : Sir, in fact the NPA recovery should not be NDA recovery. ...(*Interruptions*)

SHRI PAWAN KUMAR BANSAL : And then, besides external factors that I was citing, business failures beyond your control are there. There can be earthquakes, natural calamities, labour strikes etc. I am not wanting to refer to the labour matter, at the moment. But those provisions, those matters all come in your way.

Then there is product obsolescence and also technology obsolescence. When I talk of technology, I would again like to give a very homely example. C-DOT was a premier organisation of the Government of India. People were using the technology of C-DOT and we were feeling proud about it that here is one organisation, a public sector undertaking which is producing these telephone switches and exchanges of such a marvellous quality. But what is happening of late? Because of the shift in the policy of the Government, C-DOT is at sea. The technology of C-DOT was being used by various people and well, I am sure, this House knows as to what predicament those people are in now. Whose fault would it be? If a person using the technology of C-DOT, had taken some loan from the Government and then because of that shift in the policy of the Government, that man suffers and you will declare his loan to be NPA and take action against him and deprive him of everything and sell his property. By whom they are sold -- they are by a private securitisation company. Similarly the case of interest of third parties has not been taken care of.

I will again give the example of telecommunications in that way. A company has the licence from the Government of India to start cellular service and who are all involved in it? That company may have taken some loan from a bank and they just default and that becomes NPA. It is alright that we must take some measures to arrest that increase. But who would all be affected if you just come with that stick to close the factory or that take-over? He is not only a licensee of the Government of India but the Government of India is the licensor; the question of spectrum would be involved. The bandwidth would then lie idle if that industry, if that enterprise is closed and that would come into effect. And also lakhs and lakhs of subscribers who are having their telephone connections -- whether land lines or mobile phones through that company -- will be affected. Have we taken care of such instances, such possibilities that could arise?

When I say that I would like to come to the other point thereon. If we have these points what is the role of banks in this? I agree that the Narasimham Committee and the Anthiyarjunia Committee gave their reports which reports did merit discussion and consideration. They did an excellent work. But they also talked - besides saying you do away with the courts - of financial reforms and the reforms in the banking system. What reforms have you brought about? That is what I would like to know from you.

Sir, I would like the hon. Minister to tell us what directions he has issued and what results he has achieved thereon for the efficient management of credit portfolio by the banks and for the sanctioning process. I said it earlier and we

all know what all goes in to get a loan from the bank. Has he put a stop to those practices? I am not taking a partisan line. I know that it has been going on for years and years and for decades. But has he been able to put a stop to it? Or, it has rather increased. Our experience in many fields here is that things have gone from bad to worse. The magnitude of the problem has widened. It has increased.

Sir, what steps have been taken to verify the antecedents and credentials of the borrowers? Has he set in place an information system amongst banks to provide them information about the previous defaulters? There are instances where one man takes loan from one bank and on the basis of the same property, he takes loan from another bank. Has he put in place some information system for the banks and the financial institutions, where both are also involved in various cases, in various projects, to exchange their information with each other and their opinions about the borrowers with each other? I know that they lay emphasis on collateral security. Here again, you want to just thrash the person who provides collateral security, but I feel that is no panacea. It rather leads to a long-drawn legal battle only.

Now, I come to post-sanction responsibilities of the bank. Has he improved about the needs to have close monitoring of accounts, to put in place a system of quick identification of the non-performing advances and timely action to arrest that and to combat NPAs? That is what I would like to know from the hon. Minister. What about the effective control, the monitoring by the banks and supervision by the Board of the NPAs? In this connection, if I am not mistaken, there was a recommendation some time back to separate the CEO from the Chairman. Has he taken some action in that regard or would he still continue to have the Managing Director-cum-Chairman of those Boards? Are we going to bifurcate those powers and make it more professional so that the banks really become an important vehicle of the developmental processes that we have set in place in our country?

Then, if the banks still default, what action does he take against those banks? We all say that banks do connive. What action does he take against them? Has he taken action against some of the – I will not use the word 'delinquent' – banks whose practices border on delinquency? Has he restricted their opening of new branches or expansion of their business if he has found them guilty of those practices?

Sir, I understand that the corporate debt restructuring mechanism is already in place for a year. I would like to know from the hon. Minister what success we have achieved therein. What is the level of progress? How does it augur well for the future? What are the portends thereof? With what confidence do we move forward in our present legislative measures?

With this, I will just refer to some provisions because we were deprived of the right to raise these matters in the Standing Committee on Finance. I would like to refer to some clauses. The first thing I would refer to is complete freedom to the asset reconstruction companies to enter into any negotiation, into any terms for taking over the loan. In principle, I do not object to it, but as I gave the example that a loan or an NPA worth a thousand crores of rupees could be disposed of even for a pittance. It is in that regard that I have suggested an amendment. I do not stick to that amendment as such, but I gave that to highlight the point. You have to have a cap thereon that if you were to act as an agency for the bank, this is the amount of commission that you could get on it. I had suggested four per cent. I know that it could be found very low in many cases and no person could come for that, but at the same time, I just do not want only four per cent to go to the bank and 96 per cent to go to the person who is forming that company. So, somewhere you have to strike a balance on that.

Sir, I am skipping over many things which I really wanted to speak on at length.

I am coming to clause 6. They say, "That the Bank or financial institution may, if it considers appropriate, give a notice of acquisition of financial asset." Why should you say, "If it considers appropriate", and why should it not give a notice to the borrower saying that it has taken over their assets and what the position is? Then the other consequential changes thereafter, let me say, are not very major ones -- it is only more of procedural, more of introducing that element of fairness in the entire process. This should not be made contingent to the notice.

Clause 7 (3) provides:

"In the event of non-realisation under sub-section (2) of financial assets, the qualified institutional buyers of a securitisation company or reconstruction company, holding security receipts of not less than seventy-five per cent, of the total value of the security receipts issued by such company, shall be entitled to call a meeting"

That is almost impossible. If you really mean something, reduce that from 75 per cent to 51 per cent. That is what I have suggested.

I have spoken about the courts. I would not like to again refer to the provisions thereon. That is a very, very major part.

Coming to clause 13 (4), you are giving sweeping powers to them, and that has to be taken care of. The role of the Debt Recovery Tribunal should not be minimised. As I have suggested in one of the amendments, you can proceed provided the Debt Recovery Tribunal has not really stopped you from doing it.

When you issue a notice for 60 days, the person should, at that stage, have the right and not after the event is over. The person, the borrower or the aggrieved person should have the right at that stage to go to the Debt Recovery Tribunal and say, "Well, I am being proceeded against unfairly. Please protect my interest." Let the Debt Recovery Tribunal fix any small time. I am not saying that you should fix some years. I do not want more time to lap. You can fix three months time, and within the three months period, the Debt Recovery Tribunal should reply saying, "Well, in this case, you can proceed against him; in this case, you cannot proceed against him." If that be so, well, then the normal course has to follow. If you are providing a special provision, at the same time, you must provide for special safeguards thereon. That has not been taken care of. That is my grouse thereon.

I am now coming to appeals. The appeals are provided for only after the damage is done. What meaning that appeal would have? I am not coming on the question of that whether you have to deposit 75 per cent or not because you have given the power to the Debt Recovery Tribunal to waive it, and that is good enough. A provision like that may stay on, but do not be pre-emptive in your approach. Let the person have some right. There can be a legitimate grouse for somebody to have defaulted for a period of 90 days. Therefore, just do not declare it as an NPA and do away with his entire business and takeover everything.

The only role that you have given to the Debt Recovery Tribunals is, after the securitisation company or asset reconstruction company has taken action, if still some amount is overdue, if the entire thing has not been satisfactory, then you can still go to the Debt Recovery Tribunal. That is the position that we have reduced the Debt Recovery Tribunals to. That, in my submission or in my humble opinion, is a very unfair provision.

मगर मैं उसमें कहना चाहता था इस विषय में प्रावधान अच्छा है। जरूरत इसलिये है लेकिन जिस जल्दबाजी के साथ संशोधन कानून आज तक चलता रहा है, उसमें संशोधन लाने की कोशिश की गई है, यह लोगों के हित में नहीं है। आपने एक लाख रुपये की लोन की सीमा रखी है जिस पर कानून नहीं लगेगा - क्या वह काफी है? मैं समझता हूँ और कहना चाहूँगा कि क्यों नहीं आप स्माल स्केल इंडस्ट्रीज के लिये करते? आप कहां डालते हैं, क्या समस्याएँ हैं, उन्हें देखिये। आपने एग्रीकल्चरल लैंड के लिये कर दिया, यह अच्छी बात है। रिजर्व बैंक को पॉलिसी मैटर्स में कुछ अधिकार दिया है और अपने हाथों में नहीं लिया। लेकिन इन चीजों को देखिये। आप हिदायत कर रहे हैं लेकिन मैं क्लॉज़ 9. 13, 14 और 15 का जिक्क़ खासतौर पर करना चाहता हूँ। मैं इसमें कुछ खामियाँ महसूस करता हूँ। समय के साथ वे खामियाँ आयेंगी। इन खामियों के कारण शायद सुप्रीम कोर्ट में मसला गया तो उसने इसको ले लिया। वह एडमिट हो गया लेकिन,

उसमें उन्होंने क्या डायरेक्शन्स दी हैं और हमारे फैसले के बाद क्या वहां मसला फिर जाएगा। लेकिन इसकी जरूरत क्यों पड़नी चाहिए थी? इसकी जरूरत इसलिए पड़ी क्योंकि आपने एक तरफ कह दिया कि कोर्ट के आगे अबेट नहीं करेंगे इसमें ऐसी कई समस्याएँ हैं। आप कह रहे हैं, मैं उन पर ज्यादा नहीं जाना चाहूँगा क्योंकि और सदस्यों को भी बोलना है। वैसे मुझे मालूम है कि समय बहुत है, हम आठ बजे तक भी इस पर चर्चा कर सकते थे।

समापति महोदय : आपकी पार्टी के और भी माननीय सदस्य बोलने वाले हैं। 35 मिनट आप बोल चुके हैं जबकि आपका 25 मिनट का समय था।

श्री पवन कुमार बंसल : मैं विस्तार से उन बातों में नहीं जाना चाहूँगा लेकिन यही गुज़ारिश करना चाहूँगा कि चाहिए तो यह था कि स्टैंडिंग कमेटी में यह बिल जाता। इतने दिन में कह देते कि 15 दिन में समिति इस पर अपनी रिपोर्ट दे। वहां इस पर और गौर से बातें होतीं। वहां से संशोधन सुझाए जाते और उन पर बात होती। हम लोगों ने दे रखा है, बनातवाला जी ने दे रखा है, आपने माना हुआ है, अखबार की रिपोर्ट है, मैं खुद उस मीटिंग में नहीं था कि आप इसमें कुछ संशोधन लाएंगे, इसको ठीक करेंगे। उसके लिए मैं आज भी यह कहूँगा कि 15 दिन का समय और लेना चाहते हैं तो ले आइए, फिर इस पर बहस हो जाए। चाहे आप आज भी कह दीजिए। नॉर्मली यह होता है कि मंत्री महोदय जब बिल पायलट करते हैं तो उस वक्त अपनी बात कहते हैं। उसमें बता देते हैं कि क्या चीजें वह मानने वाले हैं और क्या उन्होंने मानी हैं। वह नहीं किया। अब अंत में जवाब देते वक्त कहते हैं। इससे तो पहले ही कह दें। उससे हमारा विश्वास बढ़ेगा कि जम्हूरियत की जो भावनाएँ होती हैं, उसके हिसाब से जो लोग कहते हैं, उसको मानते हैं। इस बिल को पास करने के लिए सब एकजुट हैं। सब इस समस्या से चिन्तित हैं और सब एक होकर इसका समाधान करना चाहते हैं। ऐसा नहीं कि हम पर कल यह इल्ज़ाम लगे कि एक समस्या को दूर करने के लिए 20 समस्याएँ हमने और खड़ी कर दीं। ऐसा नहीं होना चाहिए।

इन्हीं शब्दों के साथ मैं धन्यवाद करता हूँ कि आपने मुझे बोलने का मौका दिया।

DR. B.B. RAMAIAH (ELURU): Mr. Chairman, Sir, thank you very much for giving me this opportunity to speak on this Bill. This Securitisation and reconstruction of Financial assets and enforcement of security interest Bill, 2002 has come before this House for discussion and passing to replace an Ordinance promulgated by the Government earlier.

Sir, the main issue here is the NPA. But I feel, NPA is only a part of the whole thing. The Government should have tackled the larger issues, I had been repeatedly telling the hon. Finance Minister about it, like the sickness of industries and how those could be revived and reconstructed. This phenomena of sickness is not typical to this country alone. All the developing countries of the world are passing through this phase. There are sickness of industries in those countries and as well there are consequent NPAs also. But they are able to solve the problem with the help of a proper expertise and by a particular method of operation.

Sir, here I find the Government has pumped in a sum of Rs. 20,446 crore till the end of March, 1999 in the banks in order to maintain the Capital Adequacy Ratio of the banks. The Government also has pumped in a sum of Rs. 2500 crore in the Indian Bank, the UCO bank and in the United Bank of India in view of the recommendations of the

Verma Commission. But what has happened today? Let us look at the UTI. UTI is an organisation which is meant to help the small investors who do not have enough money to invest in the stock market. But today we do not know how much more money the Government would have to pump into the UTI in order that this organisation regains its financial health. The same is the case with IFCI. Today we can see very well as to what has happened to IDBI. So one cannot simply blame the borrower alone without holding responsible the lender.

Shri Somaiya and Shri Bansal have dealt with a number of issues. We should have tackled this issue by holding both the borrower as well as the lender responsible for this state of affairs. There are a number of units that are getting sick. Now the experts that we have in the banks and in the boards of various other organisations should have been able to foresee the position and should have told the authorities accordingly. I also know of a number of cases in other countries where the experts are able to guide the people, the small investors about certain things like quality, packaging and marketing of products and about what was lacking in them.

If something is required, they go out of the way and help in order to see that the industry improves and survives. On the contrary, the people who are put on the Boards of these companies here simply go without giving any assistance which results in the companies becoming liabilities and not assets. So, unless we improve these things, we will not be able to solve this problem.

In Japan, about two or three years ago I was there, more than ten thousand units had become sick due to change of technology, and various other problems the like of which we are now facing in the country today. But the system there is that they allowed amalgamation and mergers and they took quick action. The banks and financial institutions have been able to do it there. However, nothing of that sort is in place here and once a company slips into sickness, it will become permanently sick.

Today I can say that more than Rs.75,000 crore are lying idle. It is the money of the banks and financial institutions. The equipment is lying idle and there is this problem of unemployment. All these factors are the causes of sickness. Unless we take some remedial measures and work out some methodology, we cannot tackle these issues and help them. In some of the cases, it has also been mentioned as to how people have been made to face problems by not doing enough planning and not giving enough resources, and stopping them in the middle and creating problems. In some cases we can also examine various reasons. Probably the investor may not have enough capabilities, maybe the financial support has not been enough and maybe the technological changes and – as Shri Bansal has said - natural calamities have also had their effects. Of late you have seen so much of drought, floods and earthquakes in the country and these are causing a lot of problems.

In addition to that, in the last two or three years we have been facing different types of problems which have been a result of the process of globalisation. We are exposed to international conditions which has led to a lot of problems, and they have not been able to take proper care of that. We are giving high interest rates. We are now trying to reduce them step by step. Still, we are nowhere compared to them. Your exposure has to be comparatively in smaller units. You have to ensure that competitiveness goes up by merging entities together, or by giving additional support, or by doing different things. There are some remedies under WTO, but we have not taken those measures.

At the time of borrowing, one knows what type of protection he has got. At the same time, the Government support has already been reduced and he is faced with other types of problems. There are remedies like anti-dumping. You can take other measures to support them but those things have not been effectively worked out. They have been exposed to these cyclonic types of conditions. That is why in these times you cannot simply say that action should be taken against these people.

As some of our friends have said, we have to identify the willful defaulters. You cannot take a universal view. Without going into things you cannot ask them to go ahead and do it. You have to create certain conditions, and make certain suggestions. We have to see that these things are not implemented unless they take proper care of these things. This is an important thing that I hope will be taken into consideration.

There are a number of cases today in which you can see that project evaluation has not been done by lenders and the borrower is made to face the consequences of that. Also, the time given for those people is not sufficient to take care of that. That also they have to take into account. Today BIFR is there but I think it is not sufficient. We have a large number of cases which require help and sufficient support. You have to see as to how you could give them competitive strength in order to maintain international levels. For that you have to work out a method.

NPAs for developing countries vary between two to three or four per cent whereas we have about 6.74 per cent of NPAs. This has to come down. More importantly, we must be able to reduce industrial sickness by resorting to different types of measures. If some institution is lending money in agriculture, it must have an expert in agriculture who knows how things work in that field. Somebody lending money in some other sector must have with him an expert in that field. These experts should be able to guide the institutions at the right time so that the levels of

sickness do not go out of hand. If necessary they have to pump in some more money in order to support the company, and see that it gets revived and starts working in the right direction.

So I feel the more important thing is that you should have experts. The financial institutions should have proper people who could really run and guide these institutions well. They should not simply look at interest and lending rates. That is not the criteria on which we should be able to have these people. They should also reduce their expenses. Now-a-days, we are giving a lot of retirement benefits and other things.

As regards agriculture and small scale sector, Rs.1 lakh which you have provided is not sufficient. You should be able to give special provision for agriculture which is passing through various levels. There should be some sort of provision through which we could take care of them. Same is the case with the small scale sector. This sector gives the biggest employment. This sector is exporting so many items. We need to give them some support and sympathy. Today, the small scale sector is one of the biggest exporters. It has the employment potentiality.

In view of all these things, I feel that the financial institutions and the banks should be strengthened with proper expertise. We should give them proper support in order to see that they perform well. They should not be discriminated against.

Another important thing is that the Asset Reconstruction Corporation requires some liquidators. They should appoint proper receivers who should have proper knowledge and experience. The banks cannot simply go and take over each company and run it. I know one of the State Finance Corporations had financed a number of lorries. Within a couple of years, they got back all the lorries in damaged condition. They were not suitable for use. They did not know what to do with them. That is the stage which will come. If they go on taking over all the companies, they cannot run them because they do not know what to do with them. They do not have the expertise. Therefore, the Asset Reconstruction Corporation should be properly planned. It would require a lot of support and expertise. We should have proper type of people. We cannot simply give them weapons when they do not know where to use them, how to use them, and when to use them.

With these things, I think that we should proceed with proper precaution and see that they utilise it carefully. This is my request.

SHRI KHARABELA SWAIN (BALASORE): Sir, I rise to support the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002.

Sir, the debate was started by Shri Basu Deb Acharia. He basically pin-pointed two aspects – arrest wilful defaulters and take a very stringent action against them. As a Member of the Standing Committee on Finance, I had asked a very pertinent question to the Chairman of the Union Bank of India. The question was what percentage of his NPA is stuck up with wilful defaulters and what percentage is stuck up with BIFR.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, कमेटी की भीतरी बात का जिक्र माननीय सदस्य कर रहे हैं, यह गलत है। (व्यवधान)

सभापति महोदय : आप बिना किसी का रैफरेंस दिये अपनी बात कहिये।

SHRI KHARABELA SWAIN: Sir, this is not a matter pertaining to the Committee. I had asked him just as a Member of the Committee. His reply was very surprising to me. He said that 70 per cent of his NPA is stuck up with BIFR and only less than 30 per cent is with the wilful defaulters. Sir, I will give you the report given by the Government. The amount of accumulated losses of all the registered cases as on 31.7.02 with the BIFR is Rs.80283 crore.

This is the accumulated loss stuck up with the BIFR. If you take the number of cases or references registered, in the private sector the number of cases registered with BIFR is 3838 and in the public sector, it is 185. Therefore, totally there are 4023 cases pending with the BIFR. Then, the period of pendency starts from less than one year to less than fifteen years. You will be surprised to know that there are 23 cases which are pending with the BIFR for more than 15 years; 12 cases for more than 14 years; 20 cases for more than 13 years; 12 cases for more than 12 years; 15 cases for more than 11 years; and 24 cases for more than 10 years.

I fully agree with the hon. Member Shri B.B. Ramaiah when he mentioned that basically the sick industries are the main cause of this NPA. With regard to the NPA, now the credit accounts for about 40 per cent of the GDP. If you assume that the gross NPA is 15 per cent, the NPA affecting the GDP is less than four per cent. It is 69 per cent in Thailand and 34 per cent in Malaysia. So, it is not true to say that the NPA is going to bring in a catastrophe to the country. Not only in India, the NPA aspect is affecting countries like Japan also. You will be surprised to know that the real level of NPA in China is 50 per cent. In India it is less than 20 per cent. But I do not say that it is a very comfortable level. It is not at all. I do not say that it is a very good thing to happen. But I mean to say that because of certain procedural defects the level of NPA is increasing every year.

As you know, in India you will find that there are so many sick companies, but you will never find a sick promoter.

Whenever a promoter thinks that he is not supposed to pay, naturally what he will do is that he will lock up his industry, he will bring it to the BIFR and he will see to it that it is stuck up there permanently.

So, I fully agree with the Government that a very positive step has been taken by way of introducing this Bill because without this Bill the banks do not have a level playing field at the international level. This is not a problem pertaining to India alone. Everywhere in the world this problem exists and every country has taken certain measures. India should also take those internationally accepted measures which have been taken by other countries. But, unfortunately, the Indian banks do not have a level playing field to recover these loans. I do not say that any method is a perfect method. No method is one hundred per cent perfect. Just like that, the Bill introduced by this Government also may not be a hundred per cent perfect measure. But it is definitely an improvement upon the previous Acts and rules.

I would like to briefly dwell upon the point of what impact the NPA has already had or is going to have on the economy of this country. They erode the current profits through provisioning requirements, they reduce the interest rate; and they limit the recycling of funds and set in asset liability mismatch.

So, these are the three basic things. But when these are the three basic things, what is wrong in allowing the banks to have an Asset Reconstruction Company and to realise their dues? I know that these Asset Reconstruction Companies are not a new phenomenon in India. This is a phenomenon which is there in the United States. This is a phenomenon which has started in the 1980s. In the 1980s, it started in the Scandinavian countries also. In Mexico, it started in 1995. In the Asian countries like Korea, Thailand, Malaysia and Indonesia, they introduced the ARCs after the banking industries in those countries collapsed after 1997-98. At the same time, I do not say that this system has achieved a phenomenal success. But it has achieved a certain level of success. If we introduce this measure, we will definitely have a minimum level of success.

I will give one example here. We have asked so many bank Managers, General Managers or the Chairmen. They said that once they in sent the notice of acquiring their asset, those industrialists, who never showed their face to the bank people for the last ten to twenty years, are running up to the bank people and they are asking for a negotiated settlement. They are coming for negotiations. At least, on the basis of a one-time settlement, some money is being realised. A hundred per cent NPA has now turned into a profitable asset. A hundred per cent NPA is now becoming 20 per cent NPA, 50 per cent NPA or even 70 per cent NPA. Is it not an improvement in having a recovery of 20 per cent or 50 per cent of the NPA? Only by issuing such a notice, the banks have been able to recover a lot of amount.

I fully agree with the hon. Member Shri Bansal when he raised certain points with regard to the attachment procedure etc. I also raise the same points. With regard to the attachment procedure, the procedure followed is this. The attachment procedure is this that when it is attached, it is to be attached by the District Magistrate. But my point is this. As per clause 14, it is the District Magistrate or the Chief Metropolitan Magistrate who will actually take possession of these assets. Is there any possibility to get back those assets from the hands of the District Magistrate or the Chief Metropolitan Magistrate? Will it be possible easily? So, I appeal to the hon. Minister to consider this aspect.

15.58 hrs (Dr. Laxminarayan Pandeya *in the Chair*)

Next, Shri Bansal has accused us with regard to one thing. He said in a manner as if ours is the only political party which is beset with the scandal and the country does not have any faith in us; theirs is a political party which did not have any scandal during their time and people had all faith in them and so they kicked them out of power in the last two elections. He said in this manner. I am just asking this question. When there are political parties, will there be no pressure on the District Magistrate not to release the asset? So, this problem might be there. So, I appeal to the Government that it should just think over the matter.

The second point is this. I also fully agree with Shri Bansal with regard to provision of 75 per cent payment of the dues before going for an appeal. Why should anybody, who is having 75 per cent of the money as arrears with him, who can pay it back, give that industry to the banks? Why should he do it? The banks will very gladly accept 75 per cent money. They will release it. They will very gladly accept even 50 per cent money. So, what is the point in just having such a provision that unless he is having 75 per cent money, he cannot go on an appeal. I do not think that this clause is perfect.

16.00 hrs.

It is because anybody who is having 75 per cent of the money with him is the person who is going to lose his industry. This has to be reduced. I think 25 per cent will be very reasonable if he pays it. Then, he should go on an appeal.

Then, anybody can say that this is a draconian law because it is possible to remove the Board of Directors and the

Chairman immediately. I have very strong reservations about this provision. So, as Shri Pawan Kumar Bansal said, they should also be given an opportunity to make an appeal because in a democracy, this sort of draconian provision should not be used.

I again agree with Shri Pawan Kumar Bansal regarding the question of wilful and non-wilful defaulters. This should be reconsidered.

Sir, I would not like to repeat all those points that have been raised by other hon. Members. If there is a change in the policy of the Government and if there is some natural calamity or if some foreign countries do not meet their obligations and do not make the payment, the industry should not be punished for that. So, I appeal to the hon. Minister that he should reconsider this clause also and there should be a distinction between wilful and non-wilful defaulters.

Now, I would like to make two or three suggestions. The Sick Industrial Companies Act provided a lot of support to sick industries. This law should be repealed immediately. Of course, the Government has already brought a Bill for this and so, it should be repealed at the earliest.

By this way, another provision has been made through the Companies (Second Amendment) Act. I would request the Government that the National Company Law Tribunal should be constituted immediately. It should have the powers of the Board of Industrial and Financial Reconstruction, Company Law Board and High Court. The basic aim is to reduce the time taken to decide a case. If any industry has been referred to BIFR, the NCLT should be able to dispose it of quickly. It should not be struck up in any court for 20 to 30 years. If that is the case, what will happen to workers? I thank the Government for bringing in a corpus of Rs. 100 crore through SICA Bill which will provide some compensation to workers. This amount of Rs. 100 crore is very small and I appeal that this should be increased.

Then, the banks are sitting over heaps of money. They are thoroughly demoralised now and their only activity is to recover the debt. They are totally unwilling to give loan to anybody. Sometimes they do not even want to have more deposits because they are unable to pay the loan.

Then, we are reducing the rate of interest every year on deposits. I would like to know as to why the lending rate is not being reduced in the same way. The banks are taking more interest from the persons who take loan from the banks, but at the same time, I would like to know why they are not paying more to depositors. The intention should be to lend money at a cheap rate to the industry so that globally our industry will be competitive. But the lending rate is not being reduced. So, this point needs to be considered by the Government.

Then, there should be a Credit Exchange Rating System. I would like to suggest that one bank should know what a person is doing with the other bank.

The bank should be given full responsibility and autonomy to decide to whom they should give loan and to whom they should not give. There should be no pressure on them in this regard. They should have full autonomy in this regard.

With these words, I support this Bill and appeal to the hon. Minister to bring forward minimal changes here for improving it.

SHRI RUPCHAND PAL (HOOGLY): Mr. Chairman, Sir, my first objection is to the Ordinance route. I remember when Shri Atal Bihari Vajpayee was sitting on this side, he once described the Congress Government as the 'Ordinance Raj'. Now, what has happened to this Government, I do not know. Even when the Standing Committees have been set up, not only this one, but also so many other important Bills like the Unit Trust Privatisation Bill and SEBI Bill came through the Ordinance route. Neither can we discuss this in the Standing Committee nor time is given here. There are only two hours and I have 20 points to make. I think, all the points are very important.

What is it that this Bill is going to serve? I am just quoting the first reaction of the Chairman of the Indian Banks' Association, Shri Dalbir Singh:

"This mode of dealing with NPAs would not benefit the banks as delinquent assets will only be transferred to the ARC. But they have to wait till such time as the company disposes of these sticky assets."

This is an objection of the Chairman of the Indian Banks' Association. There are very many economists and others. They hold the opinion that this Bill is not going to serve any purpose. Rather it would complicate the situation further. I feel that this Bill needs to be judged in the backdrop of other reforms. What are the other reforms? Take

the Banking Reforms Bill. When the Government is trying to bring down its stake, the Banks will have to go to the capital market and that has already started happening. And we are making a reference to a particular incident only. The defaulters try to take over the bank. The defaulter himself is trying to take over the bank. Perhaps it is one of the most important problem that of the NPA being faced by banks and financial institutions. A wilful defaulter is actually planning to take over the bank. He owes the money to the Bank.

Ultimately, we raised this issue publicly. The employees had raised this issue and the RBI had to intervene. This is going to happen because what I suspect about is the will of the Government. There has not been any dearth of provisions of law. Who will do the evaluation? We have seen that the Government appointed somebody to evaluate the Centaur Hotel. They evaluated it. It was sold at Rs. 85 crore. After about three or four months, it was sold to Sahara. A profit of Rs. 30 crore was made by this company.

When the Computer Maintenance Corporation was handed over to the Tatas, the price in the capital market was manipulated and brought down. We know other stories about how the companies were taken over and all these things. An absolutely wrong impression is being created by telling 'BIFR', 'BIFR', 'BIFR'. The BIFR referred companies account had less than 10 per cent of the NPAs. I put it on record. This is the evidence of the Chairman of the BIFR. At the end, they say that if we take into account the public sector banks, the private banks, the old private banks, the new private banks, the financial institutions, it can again go to anywhere around Rs one lakh thirty crores to one lakh fifty crores.

BIFR referred companies account for about Rs.10,000 crore. The BIFR is not eating up. Who are eating this up?

I am referring to a Rajya Sabha debate. That debate was somehow raised about a particular group that it had been defaulting to the tune of Rs.11,000 crore. This is the debate of 23rd July in the other House. I can name that company; it was Essar Group. It was a corporate war between two groups of people and the Finance Minister said that the IDBI had classified the accounts of Essar Power as non-performing as on 31st March 2001. But it was upgraded as performing assets as on 31st March 2002. Rs.11,000 crore have been made to be shown as Rs.7,000 crore. This is about one group. There are some hundreds of such groups, which owe to the banks hundreds of crores. Who will evaluate a company taken over by the lender? We know the evaluation process. There is no transparency. There is no uniformity. It is only selective.

I have mentioned only about Centaur Hotels, CMC, etc. I can mention about CAG's observation on BALCO. There are many others. Who will evaluate? Can the House be assured that no company, directly or indirectly related to this particular NPA, should be allowed to participate or have any relations with ARC? Can the assurance be given? No. That is the loophole. There, the will of the Government is suspected that after the Bank Reforms Bill, the dilution is made in respect of the Government stake and the defaulters themselves from behind the scene will operate and try to catch hold of the management of these particular banks.

The hon. Finance Minister described the NPA menace not as a debt but as a loot. If a loot takes place in the society, what is done? Criminal punishment is given. Is this Government prepared to punish these offenders as criminals? Even in Pakistan, you can say there is no democracy, the defaulters had not been allowed to participate in the elections. There are many countries in the world where such loots are never allowed. There is a deterrence. What is the deterrence here?

Till today, one company is taking loan from one bank, goes to the other, and the same defaulter commits a fraud to the banking system. They are put on the Board of Directors. The same people are put on the Board of Directors of the financial institutions, who have never been paying to the Banks. Is it the sincerity of this Government that the same people instead of being punished, are being rewarded, are being promoted to higher positions, promoted politically, encouraged and patronised? So, the point is that there are so many loopholes. This Bill is not going to serve any purpose. This is not my feeling but this is the feeling of the bankers' community, the feeling of the IBA Chief, the feeling of the eminent economists.

There is a reaction to this Bill. The IBA Chief says that they have submitted another Bill. I am trying to draw the attention of the hon. Finance Minister.

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): He is also drawing my attention.

SHRI RUPCHAND PAL: You may please finish with him first.

The IBA Chief has stated at one place that the bankers have submitted a proposal as a foreclosure law.

Is it a different one? What has happened to the suggestion made by the bankers? They believe that the Debt Recovery Tribunal is to be strengthened in terms of infrastructure, in terms of providing necessary number of

judges and in terms of some changes in the legal system. IBA says that a separate recovery cell, which is taking away the responsibility from the branches and undivided attention on losses, is helpful instead of the proposed legislative measure. So, what we want to know is whether the banking community, particularly IBA, had made any alternative proposal about foreclosure. They had suggested that the present system is working well and rather it should be strengthened, instead of going in for new provisions.

What is the experience of ARC throughout the world? In China it has failed. It is failing in most of the countries. It has failed in respect of the State Financial Corporation because the banks do not have the expertise. Even if that can be taken over, when will it be taken over? It all depends on the market, the perception of the market. Everything will show on discount. Who will calculate the quantum of recovery? The apprehension of the banking community is that this is not going to be helpful at all and whatever can be obtained is only a junk. Ultimately the banks will continue to suffer these losses. It may be that, this way or that way, such provisions, deterrence may be helpful in future but what will happen to the past NPAs? During this time, what has happened is that the public sector banks have been improved both in terms of gross NPAs and in terms of net NPAs. Kindly look at the private sector banks, which have opened with a clean slate. In the case of both the new private sector banks and the old private sector banks, NPAs are rising. Virtually, loot is taking place. Those who have some knowledge about the scam will understand the cases of the Global Trust Bank, UTI Bank, the proposed merger and how RBI has intervened, ICICI and Madura Bank. These are cases of serious corruption and the private sector banks are continuing with these NPAs because of the corrupt practices and scams continuing.

The core of this Bill was prepared on the basis of the recommendation of the Expert Committee – Andhyarujina Committee – which actually worked on certain Chapters of the recommendations of the Narasimham Committee, particularly the second one. But there was a suggestion, not about the ARC but about the ARC Fund. Now, it has been repeatedly said that the ARC will be private in character. ICICI is being assigned as the nodal agency and a pilot project is being worked out. A small one has started operating with Rs. 10 crore or something like that. Even Shri Narasimham himself, who has prepared this Report, was simply amazed by this meagre amount and said that this is not going to serve any purpose at all.

So, there is a serious reservation not only on my part but also on the part of many of those who know that this is not going to serve any purpose. I want an assurance about the valuation. Is it transparent, authentic, suitable and acceptable to the secured creditors?

How is the Government going to assure this House about such a provision regarding the valuation acceptable to the secured creditors? Had there been an occasion to interact with the IBA chief and to interact with all those who are having reservations about these provisions, we could have done it in the Standing Committee and made appropriate recommendations. Had it been so, the court could not have or would not have intervened in the way it was done. But we are being deprived of the opportunity to lay before this House our viewpoints and the collective viewpoints of important people who matter.

Can this Government assure that no person associated with any company or unit, who had been a defaulter, will be allowed to have any relation in the Asset Reconstruction Company? I have reservation about this. Suppose the Asset Reconstruction Company is working well and it never dupes, what will happen to those proceeds? Electricity company's obligation and such other obligations will have to be fulfilled. What about the workers' dues? I find there are dues to the workers of the companies, which, wilfully or otherwise, default. Although the RBI has demarcated it, any such demarcation between the wilful defaulter and the non-wilful defaulter is not going to be helpful. Rather it would be misused. I suspect the Government's intention whether they will ensure uniformity in the matter of application of several provisions. Will it be non-arbitrary? How is the Government going to assure about the misuse that may take place? Misuse is taking place in respect of evaluation in the Public Sector Undertakings. There should be some uniformity with independent companies.

MR. CHAIRMAN : Please conclude.

SHRI RUPCHAND PAL : I am concluding.

We have the experience of classification of assets, prudential regulations and income regulations. I remember, once the RBI had come out with a 17-point format for transparency and for greater disclosure of the banks in the balance-sheet. But it was never accepted. Why? Is the Government prepared to look at that 17-point format of RBI, which, according to the RBI, would have ensured better transparency in the balance-sheet because there is fudging in the balance-sheet. Whatever profit is made by putting huge amount of deposit in the Government securities and in the Government fund and whatever property remains, are shown as profits. Now, the banks are not properly working.

About the application of recovery procedure, will it apply equally or selectively? I think there should be a categorisation in the matter of recovery. Say, for example, A, B, C, D & E. Those who have defaulted with more

than Rs.50 crore and above should come under category 'A'. That should be the first target. Those with an amount between Rs.10 crore and Rs.50 crore should come under category 'B'; those with an amount between Rs.5 crore and 10 crore should come under category 'C'; those with an amount between Rs.1 crore and Rs.5 crore should come under category 'D'; and those below Rs.1 crore should come under category 'E'. But I suspect that it will be just the other way round. The small fish, the more weak, the more helpless will be targeted. Those who have their people or their corporate friends representing the political arena will not be touched at all. They will not be touched at all because they are helpful in getting election fund. They are helpful for various other purposes.

MR. CHAIRMAN: Please conclude.

SHRI RUPCHAND PAL: I am concluding. I would not take a long time.

MR. CHAIRMAN: It is because on this Bill, the time allotted is only two hours. So many Members are there to speak.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : यह लाखों करोड़ों रुपये का बिल है इसलिए इतने कम समय में कैसे जस्टिस होगा। इस पर काफी बहस होनी चाहिए।

सभापति महोदय : बहस तो हो रही है। अभी इस पर काफी बोलने वाले हैं। उनको भी तो बोलने का मौका मिलना चाहिए।

SHRI RUPCHAND PAL : The private sector banks are not fulfilling their obligations but still their NPAs are rising. We do find that in such a situation most of the banks have become risk averse. They are not providing anything to agriculture. I had occasion to interact as a Member of a Committee with agriculturists in certain parts of our country and the 18 per cent lending obligation is not being fulfilled by any of the private sector banks. In the case of some private sector banks, they are failing in this totally.

There would be need for amendments in respect of several other laws like the Contract Act, the Transfer of Properties Act, the Stamp Act, etc. I have some apprehensions and there is a piece of news that after this piece of legislation with so much of loopholes and with lack of sincerity on the part of the Government to punish the offender, there is a move to bring in a Bill on lender's liabilities. Let there be some lender's liabilities to balance whatever is proposed there. What will happen to the cases pending in the DRT? That is my specific question to the hon. Minister. The CBI had made a study. It says that the NPAs and frauds are almost the same, where wilfully or otherwise money is taken and siphoned off, where a car is purchased or a house is purchased somewhere and it is not the person who is going bankrupt. The companies have become bankrupt but no promoter has ever become sick. They are the friends of the Ruling Party – I am not saying whether of this side or that side. They are always found to rub shoulders with the powers that be. They are patronised and protected. There is no intention in this Bill to punish them. So, I propose that all the offenders should be punished appropriately. Those who are defaulters and do not comply with the provisions of the law should be punished appropriately. Those who have taken money and siphoned it off should be put behind the bars. One who has taken money and has not paid back should never be allowed to have any further loan. In order to ensure this, credit information bureaux should be set up.

This Bill should not be seen in isolation. My apprehension is that if you look at the Banking Reforms Bill along with this Bill, there lies the suspicion that this Government is out to leave these defaulters scot-free and absolve them. This is the apprehension. This apprehension is not in my mind alone. I had occasion to speak to many chiefs of banks. ...(*Interruptions*)

MR. CHAIRMAN: Please conclude now. You have taken half-an-hour.

SHRI RUPCHAND PAL : I am concluding.

With this apprehension in mind, I believe that appropriate amendments should be accepted. I had once made a suggestion to the hon. Minister of Parliamentary Affairs that some time be given for us to sit together and prepare the necessary amendments so that this Bill could be made more purposeful, more meaningful and more effective. If you do not do that, we shall think that you have no sincerity of purpose in bringing this Bill.

श्री मोहन रावले (मुम्बई दक्षिण मध्य) : सभापति जी, आपने मुझे बोलने का मौका दिया, इसके लिए मैं आपका आभारी हूँ। मैं अपनी पार्टी शिव सेना की तरफ से इस बिल का समर्थन करता हूँ। मैं मंत्री जी से प्रार्थना करना चाहता हूँ कि इसे आप नेशनलाइज्ड बैंक तक ही सीमित न रखकर को-आपरेटिव बैंक्स पर भी लागू करें। जब से यह कानून बना है या आप यह आर्डिनेंस लाये हैं तब से एन.पी.ए. की कतार लगी हुई है। मैं इसका भी समर्थन करता हूँ। जनरल मुशरफ के साथ बेशक हमारे मतभेद होंगे लेकिन उन्होंने ऐलान किया था कि जो एन.पी.ए. के लिए जिम्मेदार होंगे उनको हम बिहाइंड द बार कर देंगे। वह हमारा दुश्मन है। उसको हम छोड़ नहीं देंगे। यदि उसके कुछ अच्छे विचार हैं तो उसे हमें लेना चाहिए। मैं कह रहा था कि एन.पी.ए. की कतार लगी हुई है।

एन.पी.ए. वालों ने अब पैसा देना शुरू कर दिया है, यह कानून कुछ गलत नहीं है। This is the mutual understanding between the bank and the borrower. तो बोरोअर को कार्ट में जाने की क्या जरूरत है। अगर बोरोअर और बैंक के बीच में कुछ सैटिलमेंट होता है तो वह करना चाहिए। सब की ऐसी भावना होनी चाहिए। कुछ दिन पहले हमारे यहां जो मिनिस्टर बैठे हुए हैं, जसवन्त सिंह जी, जिनके प्रति हमारे दिल में बहुत आदर है और हमें पूरी उम्मीद है कि उनके नेतृत्व में एन.पी.ए. में और बैंक्स में कुछ सुधार होगा। उनके साथ में जूनियर मिनिस्टर श्री आनन्द अडसुल जी भी हैं, वे भी बैंक क्षेत्र से हैं, मुझे उम्मीद है कि बैंक में सुधार हो जायेगा। **डॉ. रघुवंश प्रसाद सिंह (व्यवधान)** जो घोटाला बैंक में होता है, उसके ऊपर तो कार्रवाई होनी चाहिए। जो लोन "आउट ऑफ दि वे" लोगों को दिया हुआ है, जो आर.बी.आई. के रूल्स वायलेट करके दिया हुआ है, उनके ऊपर भी कार्रवाई होनी चाहिए। मंत्री महोदय ने कहा था, मैंने सुना था कि 83 हजार करोड़ रुपया एन.पी.ए. में

है। यह कोई डेट नहीं है, बल्कि एक लूट है। मैं आपको बताना चाहता हूँ कि जो बड़े उद्योगपति हैं, जिनके बारे में ऑकार कमेटी की रिपोर्ट में भी कहा गया है:

"There are sick banks and unpaid workers, but there are hardly sick promoters. There lies the heart of the matter. "

इसमें 89 से ज्यादा लोग ऐसे उद्योगपति हैं, जिन्होंने यह सारा रुपया डुबाया हुआ है। मेरे पास जो आंकड़े हैं, उसमें इण्डस्ट्रियल क्रेडिट एंड इन्वैस्टमेंट कारपोरेशन ऑफ इंडिया का एन.पी.ए. 10,880 करोड़ रुपये है। इण्डस्ट्रियल फाइनेंस कारपोरेशन ऑफ इंडिया का 5988 करोड़ रुपये है, इण्डस्ट्रियल डवलपमेंट बैंक ऑफ इंडिया का 6077 करोड़ रुपये है, स्माल स्केल इण्डस्ट्रियल डवलपमेंट बैंक का 1021 करोड़ रुपये और सिडबी का 179 करोड़ रुपये है। मैं मंत्री महोदय से विनती करना चाहता हूँ कि जो लोग एन.पी.ए. में चले जाते हैं, ऐसा कभी-कभी बैंक के डायरेक्टर भी करके चले जाते हैं, उस पर भी आप रोकथाम करिये।

श्री (व्यवधान) मिनिस्टर भी बैठे हैं, आप भी बैठे हैं।

समापति महोदय : आप उनका ध्यान जरूर खींचिए, लेकिन चेयर को एड्रेस करिये।

श्री मोहन रावले : ठीक है, मैं आपको एड्रेस करूंगा। लेकिन जिन्होंने घोटाला किया है, जैसे महाराष्ट्र में हुआ है, मैं मंत्री महोदय से विनती भी करता हूँ कि एक एंगल से सब को आप देख रहे हैं, यह ठीक है, लेकिन कुछ लोगों ने घोटाला भी किया होगा तो जिन्होंने घोटाला किया है, उनके खिलाफ आपकी कार्रवाई होनी चाहिए। जो ओ.डी. दिया जाता है, ओवरड्राफ्ट दिया जाता है, उसमें एक साजिश होती है, बैंक मैनेजर और टॉप लेवल के आफिसर्स मिलकर एक साजिश करते हैं। उसका पैसा कभी-कभी बैंक को नहीं मिलता है। इस तरह से लाखों करोड़ों रुपया डूबा हुआ है, इसलिए उसकी भी जांच होनी चाहिए। मेरी जानकारी के मुताबिक, मैं नाम नहीं लेना चाहता, एक इतनी बड़ी कम्पनी है, मेरे ख्याल से मिनिस्टर साहब को भी उसका पता होगा। वह कम्पनी क्या करती है कि बैंक से 900 करोड़ रुपये, एक हजार करोड़ रुपये का लोन लेती है, उसमें से 5-6 सौ करोड़ रुपये तो अपने दूसरे खाते में डाल देती है और उसके बाद वह एन.पी.ए. हो जाता है। उसके बाद वह उसे एन.पी.ए. बताता है, सिक यूनिट बताता है। आप रियलिटी में जांचिये कि वह सिक यूनिट है या नहीं है। कोई कम्पनी सिक यूनिट हुई है या नहीं, इसकी भी जांच होनी चाहिए, इसकी डायरेक्ट सी.बी.आई. से इन्क्वायरी होनी चाहिए। बाकी का पैसा एन.पी.ए. में, सैटलमेंट में केस होता है तो ओ.डी.एस. में वन टाइम सैटलमेंट में थोड़ा पैसा वे लोग देकर बैंक का काम निकाल देते हैं, इसके बारे में भी जांच होनी चाहिए, यह मैं विनती करता हूँ।

कम्पनी क्यों सिक होती है - उसकी भी जांच होनी चाहिए। अभी इंडस्ट्रीज में रिसेशन शुरू है, उसके बारे में ऐसा नहीं होना चाहिए कि सिक यूनिट होगी तो सिक यूनिट को रिवाइव करने के लिए हमारी तरफ से मदद भी होनी चाहिए, अगर रियलिटी में सिक यूनिट हुई होगी तो उसका अच्छी तरह से अध्ययन होना चाहिए, नहीं तो इस तरह से वे बोलेंगे। आज एन.पी.ए. होने के कारण हमारे बैंक की ब्याज की दर कम हो रही है, हमारा इण्टरैस्ट रेट कम हो रहा है, डिपॉजिटर्स का इण्टरैस्ट रेट कम हो रहा है।

डिपॉजिट डूबने जा रहे हैं। सामान्यजन अपनी मेहनत की कमाई बैंकों में जमा कराते हैं। जो मजदूर हैं, रोज पैसा कमाते हैं या कर्मचारी हैं, छोटे-छोटे दुकानदार हैं, वे सब अपना पैसा बैंकों में जमा कराते हैं। इसी तरह से स्माल स्केल पर काम करने वाले भी अपना पैसा बैंकों में रखते हैं। लेकिन कभी-कभी बैंक डूब जाते हैं। बैंकों का इंशोरेंस होता है, लेकिन वह कुल एक लाख रुपए का होता है। अगर किसी व्यक्ति के बैंक में पांच लाख रुपए या दस लाख रुपए जमा हैं और बैंक डूब जाता है, तो उसे केवल एक लाख रुपया ही मिलता है। इसलिए मेरी वित्त मंत्री जी से प्रार्थना है कि इंशोरेंस की सीमा को बढ़ाकर पांच लाख रुपए या दस लाख रुपए तक किया जाए। इसी तरह से अगर बैंक डूब जाए तो इंशोरेंस का पैसा जमाकर्ता को चार-पांच साल में मिलता है। अगर वह बैंक मर्ज हो जाए तो बात अलग है। मेरे क्षेत्र में यह हुआ है। वहां वसंत राव सहकारी बैंक के साथ ऐसा ही हुआ था, लेकिन समय रहते वह बच गया। इसलिए मेरा कहना यह है कि बैंक के डूबने पर लोगों को जो समय पर इंशोरेंस का पैसा नहीं मिलता, उस तरफ ध्यान दिया जाए और बैंक के जमाकर्ताओं को तुरंत छः महीने के अंदर वह रकम मिल जानी चाहिए।

बैंकों में अगर लोन लेने के लिए सामान्यजन जाते हैं तो बहुत सारी क्वैरीज की जाती हैं। लेकिन जो बड़े-बड़े उद्योगपति हैं, जो आई.डी.बी.आई., आई.सी.आई.सी.आई. वगैरह बैंकों से लोन के लिए जाते हैं और प्रपोजल देते हैं, तो उन्हें तुरंत लोन मिल जाता है, भले ही बाद में वे खुद को दिवालिया घोषित कर दें। लेकिन छोटे-छोटे दुकानदार या बिजनेसमैन जब लोन के लिए बैंकों में जाते हैं तो वहां के अधिकारी क्वैरीज निकालते हैं। कभी-कभी तो बैंक इम्प्लाइज रिश्त भी उनसे मांगते हैं। लेकिन उनके पास कुछ प्रूफ नहीं होता। इसलिए मैं वित्त मंत्री जी से प्रार्थना करता हूँ कि आप बैंकों को ऐसा निर्देश दें कि ऐसा नहीं होना चाहिए।

1969 में हिन्दुस्तान में 8232 ब्रांचेज बैंकों की थीं, लेकिन आज इनकी संख्या बढ़कर 45,800 हो गई है। आज बैंकों में 969889 करोड़ रुपए जमा हैं। इससे आप अंदाजा लगा सकते हैं कि कितनी प्रगति हुई है। 1969 में बैंकों द्वारा 3607 करोड़ रुपए दिए गए थे, लेकिन 31 मार्च, 2002 तक 480681 करोड़ रुपए लोन के रूप में दिए जा चुके हैं। बैंकों का लोगों पर बकाया के जो सरकारी आंकड़े हैं, उसके अनुसार 80,000 करोड़ से लेकर 1 लाख 30 हजार करोड़ रुपए है, लेकिन हमारा अनुमान है कि यह 1 लाख 50 हजार करोड़ रुपए तक हो सकता है।

मैं अंत में एक बात और कहना चाहता हूँ। अभी बैंकों का रेट आफ इंटरेस्ट कम हुआ है। सामान्यजन बैंकों में पैसा रखते हैं, उनको ज्यादा इंटरेस्ट मिलना चाहिए। दूसरी बात यह है कि हमारे देश में यह कौन सा कानून है कि कोई व्यक्ति इनकम टैक्स देता है, फिर बैंक में पैसा जमा कराता है, तो वहां भी उसको ब्याज पर टैक्स देना पड़ता है। इस तरह दो बार उसको टैक्स देना पड़ता है। यह अंधा कानून है। शायद हिन्दुस्तान में ही ऐसा होता होगा।

समापति जी, आपने मुझे समय दिया, उसके लिए मैं आपको धन्यवाद देता हूँ और उम्मीद करता हूँ कि मैंने जो सुझाव मंत्री जी को दिए हैं, वे उस पर गौर करेंगे।

SHRI P.H. PANDIAN (TIRUNELVELI): Sir, I would like to express my views on Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002. We all know that for banking, money is the raw material. This raw material has been disbursed by the banks on the false pretence, by influence and on so many considerations.

Sir, my colleagues, Shri Basu Deb Acharia, Shri Rupchand Pal and Shri Pawan Kumar Bansal expressed the view that the list of defaulters should be published by the Government. Though the list was not published by the Government, I have a list of defaulters published by the All India Bank Employees Association. Sir, it is a book containing 1,100 pages of defaulters' list. In the back cover page, it is mentioned that there are 110 accounts over

and above Rs. 100 crore; there are 254 accounts over and above Rs. 50 crore; and there are 12,090 accounts above Rs. 1 crore. ...*(Interruptions)* They are from all over the country. Sir, I was examining some of the names. They were penniless before obtaining loan. What I saw is that defaulters to the tune of Rs. 200 crore, to the tune of Rs. 300 crore, to the tune of Rs. 400 crore have become rich due to their wilful default.

I would suggest that the secrecy clause should be removed from the Statute Book and the defaulting borrowers should not be allowed to hold any public office. This is a suggestion of the All India Bank Employees Association. Wilful default should be declared as a criminal offence. Before obtaining loan, the capacity to repay should be assessed by the bank. When there is no capacity to repay at the time of obtaining loan, is it not the intention to cheat the bank? You know that you will not be able to pay Rs. 100 crore. You know that you will not be able to pay Rs. 200 crore. So, that is a criminal intention to cheat. They fall squarely under section 420 of the Indian Penal Code.

Sir, they have acquired such assets out of these loans. There is a provision in the Prevention of Corruption Act regarding acquisition of wealth disproportionate to income. Why do you not amend the law to include acquisition of asset proportionate to the loan so that you can charge them criminally and get all the assets? That is acquisition of wealth disproportionate to income and this is acquisition of assets proportionate to the loan.

Sir, in the list of defaulters is a person who has a Rover car and a dozen Benz cars. He was penniless. He could be examined for the whole day.

As has been stated in the Statement of Objects and Reasons, now, at least, through this legislation, we will be able to confiscate or take possession of the assets, whatever is available, proportionate to the loan.

I know about these banking cases because I was handling them before I came to Parliament. The Finance Minister is here, and I would like to refer to my last case. One individual, who was doing cashew-nuts export business, got a loan of Rs. 228 crore from the Indian Bank. He got the loan not only from the Indian Bank, but also from a bank in Singapore. With interest, the total loan comes to Rs. 348 crore. He filed a petition before the Debt Recovery Tribunal saying that the judge was not duly qualified to handle his case and he got a stay order. That was the day before I filed my nomination papers. The Indian Bank asked me as to what they could do. I told them, "Please wait. I will appear, on behalf of the Indian Bank, in this last case, before I go to Parliament." When it came up before the Bench headed by the Chief Justice, I told the Judge, "Here is a man who defaulted to the tune of Rs. 348 crore and he obtained a stay order. My Lord! You should hear it with aggression because I am arguing this case with aggression." I get only Rs. 50,000 as fees, whether it is a case involving Rs. 300 crore or Rs. 1,000 crore, and a lawyer does not get more than that. The bank gives Rs. 50,000 as fees. The Judge vacated the stay. The person concerned was arrested in France last year. The Government was not able to bring him back to India because there was no treaty between India and France for exchange of these offenders.

I will say that banks should take serious steps through the Debt Recovery Tribunals. We know that the Debt Recovery Tribunal puts a proposal in front of the party concerned and the bank saying, "The one-time settlement is this much. If you accept the proposal, we will waive the interest." That is how, they escape and they do not pay any interest. After five or seven years, they do not pay any interest to the bank. Now, it has to be made a criminal offence under the banking laws or under the relevant provisions of penal laws, like the Prevention of Corruption Act. Recently, a cricketer was charged for having acquired wealth disproportionate to his known sources of income. Though he was not a public servant, the cricketer concerned was charged for it. Then, why do you not charge all these fellows and put them behind bars? Why do you not charge and confiscate all their properties? With that money, let the Government give aid to all the States for tackling problems arising out of drought and flood. These fellows are sitting coolly. They are sitting coolly because some parties go to them and get donations from them. They should not be allowed to live coolly and they should be disturbed. If an ordinary official or an ordinary citizen commits theft or act of bribery, he is immediately arrested, his house is searched and recovery is made under clause 27 of this Bill. Similarly, under a criminal case, they must be arrested, recovery should be made under clause 27, and they must be produced under the Indian Evidence Act. These persons should be intimidated. To tackle the demonstrators, you direct the paramilitary forces to intimidate them. Here, in their case, nobody goes to intimidate them. He engages a lawyer and he sits coolly; in the court, there is an adjournment after adjournment and they forget about it. Now, I do not get the same spirit that I had about two years back because it does not yield results.

Sir, I have spoken on a number of occasions on this subject. I am not envious about their unhealthy and filthy richness. What I would like to say is that the provisions of this Securitisation Bill and some other provisions, that may enable the banks to handle the defaulters on a criminal law, will not be sufficient. There is nothing in this Bill to terrify the defaulters. If you allow such things to continue, then such people will contest elections and get elected to the Parliament...*(Interruptions)*

As per the Employees' Association of the Indian Bank, they were handling the accounts and they would have been disturbed and affected by these accounts. They are not getting their pay. They are being offered VRS schemes.

So, I would say that though this Bill is a welcome measure, yet it is not sufficient. If a criminal law is coupled with this Bill, then the provisions of this Bill would yield results.

Wilful default is a crime. The person beforehand only knows that he would not be able to pay. Now, if a person gets a loan of Rs. 1,000 to buy a cow, he will repay the money; if he gets a loan of Rs. 10,000/- to buy a motor pump, he will repay it; if he gets a loan of Rs. 1,00,000 to buy something, he will repay it, but if he gets a loan of Rs.10,00,000, he will not repay. I have handled a number of such bank-related cases. The person concerned will feel as to why should he pay. He would sit coolly and pay some Rs. 40,000/- to a lawyer who would prolong his case for years to follow. So, I would say that this Bill should be coupled with a criminal law. I would like to request the hon. Finance Minister to pilot a criminal legislation in order to enable him to implement the provisions of the Bill and get back the money that is due to the country.

Sir, we should take a vow, the Parliament should take a vow to recover all that is due to the Government. Shri Rupchand Pal said that a company owes Rs.11,000 crore to the Government. Is such a company a privileged one to get a loan? Are persons in the management of that company citizens of this country? The company has looted public money. A public servant, an ordinary citizen is arrested and put behind bars for a sum of Rs. 1,000/-. Now, if a person who has looted Rs. 11,000 crore worth of public is allowed to live freely in the society, then we are not running a Government. They must feel the existence of a Government. They must feel the pinch of law.

I would like to say that the hon. Finance Minister might tackle this problem by piloting a legislation where there would be provisions for punishment to the defaulters.

श्री रामजीलाल सुमन (फिरोजाबाद) : सभापति महोदय, हम वित्तीय आस्तियों का प्रतिभूतिकरण और पुनर्गठन तथा प्रतिभूति हित का प्रवर्तन विधेयक, 2002 पर चर्चा कर रहे हैं। जैसा कि मेरे काबिल दोस्तों ने कहा और मैं भी आपके माध्यम से सरकार से विनम्र आग्रह करना चाहूंगा कि बगैर संसद को विश्वास में लिये, हम जो अध्यादेश राष्ट्रपति जी से जारी करवाते हैं, यह परम्परा ठीक नहीं है। यह संसदीय जनतंत्र का उपहास है और इसे किसी भी कीमत पर न्यायसंगत नहीं कहा जा सकता।

बैंकों से जो लोग कर्जा लेते हैं उस कर्जे की वापसी हो - निश्चित रूप से यह एक अच्छा प्रयास है। मेरी जानकारी के अनुसार मार्च 2001 तक 63 हजार करोड़ रुपए का कर्जा था जो अब बढ़ कर लगभग 70 हजार करोड़ रुपए हो गया है। यदि कर्जदार की दौलत वापस आ जाती और देश के उत्पादन कार्यों में लगती तो मैं समझ सकता हूँ कि उससे निश्चित रूप से देश के हालात को सुधारने में अच्छा काम हो सकता था।

आज सबसे बड़ा सवाल यह है कि बैंकों से ऋण लेने वाले लोगों का एक कॉकस बन गया है। यदि कोई कुटीर उद्योगों के लिए बैंक से ऋण लेना चाहेगा या कृषि कार्यों के लिए ऋण लेना चाहेगा, उसे ऋण नहीं मिलेगा। जो सही मायने में ऋण लेने के पात्र हैं, जसवन्त सिंह जी मुझे माफ करें, आम आदमी को इसमें बहुत परेशानी होती है। हमें जिन संस्थाओं पर विश्वास था कि वहां से इन्साफ मिलेगा, उनकी विश्वसनीयता पर भी प्रश्न चिन्ह लग गया है। मेहरबानी करके आप इस तरफ जरूर ध्यान देने का काम करें।

आज ऋण प्राप्त करने वाले लोगों को दो भागों में बांट दिया गया है - एक वर्ग जानबूझ कर ऋण का भुगतान नहीं करता है और दूसरा वर्ग ऋण चुकाने में असमर्थ है। इस विधेयक में सरकार चाहती है कि जो ऋण चुका नहीं पाते हैं, उस स्थिति में उद्योगों के प्रबन्ध तंत्र पर बैंकों को हस्तक्षेप करने का अधिकार होगा लेकिन आज बैंक खुद करण में शामिल हैं। इससे तानाशाही और भ्रष्टाचार को और ज्यादा बढ़ावा मिलेगा। इसके लिए एक स्वतंत्र एजेंसी बनाने की आवश्यकता है। बैंकों के काम करने के जो तौर-तरीके हैं, मुझे माफ करें, उनसे बैंकों की विश्वसनीयता पर प्रश्न चिन्ह लग रहा है। इस पर भी ध्यान देने की आवश्यकता है।

सभापति महोदय, मैं लम्बी बात नहीं करना चाहता लेकिन एक बात जरूर कहना चाहूंगा। आज एक ही उद्योग समूह विभिन्न नाम बदल कर बैंकों से कर्जा लेते हैं। इसकी गोपनीयता रखी जाती है। एक ही परिवार और एक ही उद्योग समूह विभिन्न नामों से कर्जा लेता है और उनका भुगतान नहीं करता है जो बिल्कुल ठीक बात नहीं है। बैंकों से कर्जा लेने के नियमों में जब तक पारदर्शिता नहीं होगी तब तक आप कोई काम नहीं कर पाएंगे। मेरा आग्रह है कि आप बैंकों के काम करने के तौर-तरीके को पारदर्शी बनाएं। उद्योगों के प्रबन्ध तंत्र में बैंकों का इतना हस्तक्षेप न हो जाए कि ये लोग तानाशाह हो जाएं। एक ही उद्योग समूह विभिन्न नामों से जो ऋण लेता है, वह बंद होना चाहिए। आप इस बारे में सख्त कानून बनाएं। जिन्होंने बैंकों से ऋण लेने का कॉकस बना लिया है और जिन के पास कर्जे के रूप में बेशुमार दौलत है, यदि उन्हें निकालने के मामले में कड़ाई बरतेंगे तो निश्चित रूप से देश के गरीबों का भला हो सकता है। मुझे यही निवेदन करना था।

17.00 hrs [Shri P.H. Pandian in the Chair]

SHRI ADHI SANKAR (CUDDALORE): Sir, I support this Bill. This Bill is a welcome measure. Sir, now-a-days, people collude with banks and get loans. The poor people and the retired Government employees deposit the money for getting some interest. But the banks misuse their money as they give loans to the defaulters.

Sir, in Tamil Nadu, nearly Rs.9000 crore are looted by the defaulters. In my Constituency, two persons, namely, Shri Ethiraja and his brother, Shri Nandagopal got loans amounting to nearly Rs.500 crore. They have a company called Binny Limited which got a loan of Rs.2 crore from the Indian Bank. The same people and the same company got a loan of Rs.70 crore in the year 2000. In the same year, the Indian Bank gave a loan to Shri Ethiraja of nearly Rs.3 crore. In the same year, the same persons - Shri Ethiraja and Nandagopal - got a loan of Rs.10 crore from ICICI Bank. Again the same persons got a loan of Rs.6 crore in the name of Binny Textile Limited in the year 1999. In the year 1992, the same persons got a loan of Rs.20 crore from IDBI in the name of Binny Limited. Again, Shri Ethiraja got a loan of Rs.50 crore from State Bank of India. So, like this they got loans worth nearly Rs.500 crore.

SHRI PAWAN KUMAR BANSAL : This is very revealing.

SHRI PRIYA RANJAN DASMUNSI : You are giving very interesting report.

SHRI ADHI SANKAR : So, these particular persons have looted the Government money. Around 10 to 15 years ago, they were just lorry drivers and now they are big business people.

Sir, whoever is the defaulter, he should be put behind the bars. This is my request. The hon. Minister should take action against the defaulting persons.

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Mr. Chairman, Sir, this Bill is a part of the initiation made by the Government for facing the situation arising due to globalisation and the World Trade Organisation commitments. By having a vision of the future, late Rajiv Gandhi during his tenure as the Prime Minister had brought forward various Acts. Various Acts were enacted to protect the industries which may become sick due to the globalisation. One such Act is the Sick Industrial Companies (Special Provisions) Act, 1985. That Act was enacted knowing that there will be some sickness due to the globalisation and new financial situation. But subsequently that enactment was not properly implemented by the Governments which were governing subsequent to 1996. During the Congress regime, Recovery of Debt Due to the Banks and Financial Institutions Act, 1993 was also enacted. This was also a successful enactment but the implementation was very shabby because subsequent Governments did not create enough Benches. Therefore, there was accumulation of many cases pertaining to NPAs. But we were continuously having the international commitment of UNCITRAL and also laws to be made on the basis of cross border insolvency as we are party to the Resolution of United Nations passed on 15th December, 1997 and the International Monetary Fund Orderly and Effective Insolvency Procedure. These are all commitments which we have made. Now, we have got the knowledge of the problems we are facing when we are coming forward with this type of legislation.

We were having the commitment to pass laws under the Directive Principles of the State Policy, article 39 (b) and (c). On the recommendation of the Expert Committee of the Reserve Bank of India under the Chairmanship of Shri P. Tiwari, this SICA was enacted. But, subsequently, we find that the Government started allowing a lot of lifting of the quantitative restriction. Therefore, many companies have fallen sick. The final result is that there are more number of cases from the private companies. Public sector companies are having 268 references and the private sector, 5181 references. Totally, 5449 cases have been referred to the BIFR. In the same way, the number of references registered is 3838 in the case of private sector and 185 in the case of public sector. The accumulated loss of registered cases as on 31.7.2002 comes to Rs.80,283 crore.

The enactment is made properly, but the implementation is not done properly. The talisman for stopping the accumulation of cases is to create more Benches and to appoint more Judges. ...(*Interruptions*)

By appointing an appropriate number of judges and creating more Benches in various sectors as per the legislation, the problem of accumulation of cases can be very easily tackled.

As regards the banking cases, the Act says that everything should be properly dealt with between twelve and fifteen months. But it takes about seven years because an appropriate number of Judges has not been appointed in various forums. Now, the same situation is going to continue after this Act also. With this Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, I can very simply say that we are creating new forums. It is just like putting old wine in the new bottle. In no way it is going to help us in certain areas. In certain other areas it will be helpful.

Now I would like to draw the attention of the hon. Finance Minister to the definition part which defines the terms secured creditor, defaulter and non-performing asset. These are the three definitions which are to be dealt with very carefully. I will just read out the definition of 'default'. It means:

"non-payment of any principal debt or interest thereon or any other amount payable by a borrower to any secured creditor consequent upon which the account of such borrower is classified as non-performing asset in the books of account of the secured creditor in accordance with the directions or guidelines issued by the Reserve Bank;"

This means the total power is in the hands of the secured creditor.

Similarly, the definition for 'non performing asset' was not there in the previous Acts. But, here it is given as:

"an asset or account of a borrower, which has been classified by a bank or financial institution as sub-standard, doubtful or loss asset, in accordance with the directions or under guidelines relating to assets classifications issued by the Reserve Bank;"

This means the entire power is now in the hands of the executive and also the Reserve Bank, so that they can fluctuate between what is doubtful, what is a loss asset and what is sub-standard. This type of ambiguity should not be there in the legislation. The legislation should come out very clearly whether you are going to take it as a non-performing asset if it goes beyond 50 per cent of the total asset and also what is the percentage of the debt that they should have.

This sort of a clarity should be there in this type of a legislation while giving powers to the Executive, especially to the Reserve Bank. Under the compulsion of the political situation, anything can happen.

There is a creation of two new companies. Who is going to handle that company? Clause 3 (b) says:

"having the owned fund of not less than two crore rupees or such other amount not exceeding fifteen per cent of total assets acquired or to be acquired"

It means that a person, a wilful defaulter can very easily create a company and then transfer the asset in the name of the company by taking advantage of this particular clause. This type of a loophole should not be there. The company which is created for the purpose of securitisation and reconstruction of companies should have something, some experience in that aspect to see that the securitisation company acts totally dynamically to bring forth the company back to the normal position.

In this connection, I just quote a portion of the law of the United Kingdom. It is called the U.K. Insolvency Act, 1986 – Administration Order Procedure. Section 8 (3) (d) says:

"A more advantageous realisation of the companies assets than would be effected on a winding up"

This should be the purpose. The purpose of this enactment should protect the company from going in for a winding up or insolvency. It should bring forth revival to the company. I would like to know whether that aspect is taken into consideration or not. This is the question that has to be answered now.

I would like to show another clause.

MR. CHAIRMAN : Please wind up.

SHRI E.M. SUDARSANA NATCHIAPPAN : It is a very important point that I am making.

MR. CHAIRMAN: You have already taken ten minutes.

SHRI E.M. SUDARSANA NATCHIAPPAN : I will take a few more minutes only.

Coming to the point, I would like to say that the secured creditor has got two choices. One is that he can use clause 13 and transfer the assets to the two companies or either of the two. The other choice is clause 14. He can move the Chief Metropolitan Magistrate and take over the assets for himself. And, according to clause 15, he can take over the management for himself. Clauses 14 and 15 will be published in the newspapers. Clause 13 is also known to us. What will be the position of well-run companies which are incurring losses due to fluctuation of the market? Every company is functioning according to the sentiment of the market. Suppose a company could not fulfil the obligations within the short period. A banker or a financial institution, who or which has got some motive, can immediately apply clause 13 and issue a notice prescribing the period of 60 days and take over the company for himself/itself. Will it not be an authoritarian law in the hands of a few people? They can sabotage a good risk-taking company which is taking money from the open market.

Next, I would like to draw your attention to the exemption clauses to show how the exemption clauses are drawn up. This will expose how the legislation is made. About exemption, clause 31 (i) says:

"any security interest created in agricultural land "

This is sufficient. Many hon. Members have mentioned that many companies have given agricultural land as security. Such people are exempted from this enactment. In the same way, exemption will apply to any security interest for securing the repayment of any financial asset not exceeding one lakh rupees. What will happen for the ordinary, small companies? It should be more than rupees one crore. This type of a default will make every small companies, small entrepreneurs insolvent or winding up will be there. In the same way, clause (j) says:

"any case in which the amount due is less than twenty per cent of the principal amount and interest

thereonâ€" "

There is also a conflict. The same Government is bringing forth another law which says that if there is 50 per cent net default, then that company will be treated as an NPA. In the same way, I would like to draw the attention of the House to the fact that the companies, which can just make some book-keeping, can very easily escape from the clutches of the law.

They can just shift the burden. Now we see that many banks are earning profit, but it is only book-keeping. They are transferring the debt to another company and in that way they show that they are earning profit. Therefore, this Bill should be properly looked into and small companies which are coming up well by taking risks and goodwill and which are having good share value in the share market should not be penalised by some people sitting in banks. They can very easily apply Clause 13 of this Bill and see that those small companies, which are competitive to another big company, are closed.

With these words, I thank you very much for giving me this opportunity to participate in the debate.

MR. CHAIRMAN: The Minister wants the debate to be concluded in another 15 minutes. So, I request the remaining five Members to take only five minutes each.

SHRI PRIYA RANJAN DASMUNSI : Mr. Chairman, Sir, does the Minister desire so or you?

MR. CHAIRMAN: The Minister desires that, not me.

SHRI PRIYA RANJAN DASMUNSI : Sir, in the meeting of the Business Advisory Committee we agreed to complete the discussion today, but since this is an important Bill, we will cooperate with the Government. As more hon. Members want to express their views, kindly allow them. You are also a party to the decision of the BAC.

MR. CHAIRMAN: I spoke only for eight minutes.

Shri Priya Ranjan Dasmunsi, you are always speaking. You should not talk too much.

SHRI PRIYA RANJAN DASMUNSI : Sir, it is my duty to defend the Opposition and express our views forcefully. We want to help the Government not to fall into any trap. If they do not want it, then that is a different matter. So, you should cooperate with us.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, जो अध्यादेश आया है, उसके संबंध में सब लोग सरकार की आलोचना कर चुके हैं। यह पहले 21 जून फिर 21 अगस्त और अब आज आया है लेकिन ऐसा लगता है कि यह आज पास हो जायेगा। मेरी आपत्ति इसके नाम पर है। क्या किसी विधेयक का ऐसा नाम होना चाहिए ? विधेयक का नाम ऐसा होना चाहिए जिसे लोग आसानी से बोल सकें, याद कर सकें। एक सामान्य बुद्धि का आदमी भी उसे याद कर सके। मुझे आपके विभाग में इंटेलेजेंस और कामनसेंस का अभाव लगता है। इसका नाम सिक्युरिटाइज़ेशन एंड रीकॉन्स्ट्रक्शन ऑफ़ फाइनेंशियल असेट्स एंड ऐनफोर्समेंट ऑफ़ सिक्युरिटी इंटरैस्ट बिल, 2002 है। यह क्या कानून बनेगा ? लोगों को इसका नाम भी रखना नहीं आता। हिन्दी में इसका नाम वित्तीय आस्तियों का प्रतिभूतिकरण और पुनर्गठन तथा प्रतिभूति हित का प्रवर्तन विधेयक, 2002 है। इसका नाम लेने से कुछ भी पता नहीं चलता कि यह क्या बिल है ? मेरा कहना है कि हमसे ज्यादा विद्वान लोगों का यहां भाण हुआ है। वे काबिल लोग हैं, अर्थशास्त्र के विशेषज्ञ भी हैं। कोई भी विधेयक को देखे बगैर इसका नाम नहीं बता सकता। ऐसा क्या बिल हुआ ?

मेरी दूसरी आपत्ति यह है कि कितनी जबरदस्त गड़बड़ी है कि लोगों ने फ़ॉड करके पैसा ले लिया लेकिन अब उसे दे नहीं पा रहे हैं। उसका नाम नॉन परफार्मिंग असेट्स है इसमें भी हमें पेच लगता है। गांव में लोगों ने कर्जा ले लिया, डूबो दिया, कर्जा ले लिया और डूबो दिया। वे पैसा नहीं दे रहे हैं लेकिन यहां उसका नॉन परफार्मिंग असेट्स बढ़िया नाम रख लिया है। इतना भारी पेच है क्योंकि इससे उनकी धड़ाधड़ पकड़ होगी। यह सब कैसे होगा ? अब कुछ जानकार लोग हमें फिगर बता देते हैं तो हम उसे याद कर लेते हैं।

जसवंत सिंह जी वहां थे। उस समय भी हम लोगों ने बहुत जोर का हल्ला किया था कि नान-परफार्मिंग असेट्स कैसे बढ़ रहा है। जनता को बैंकिंग से लुटवाया, यू.टी.आई. से लुटवाया और अब बैंक भी लूटे जा रहे हैं। उस पर कोई कार्यवाही नहीं हुई है। उस समय से हम लोग ऐजीटेड कर रहे हैं कि इसे रोकें, इसे घटाएं लेकिन कोई कार्यवाही नहीं हुई। अब सरकार ने दावा किया है कि नरसिंम्हन कमेटी, जुनिना की एक रिपोर्ट है, इन रिपोर्ट पर ये विधेयक लाए। 1998 में रिपोर्ट हुई और सन् 2002 में आर्डिनेंस होते-होते अब विधेयक आया है। इसमें 62,000 करोड़, सुनते हैं कि 83,000 करोड़ की आफिशियल फिगर है। किसी एजेंसी ने जांच की है। वह कहती है कि एक लाख तीस हजार करोड़ से डेढ़ लाख करोड़ नान-परफार्मिंग असेट्स है। सरकार इस बात को साफ करे कि उसकी क्या जानकारी है, वह एजेंसी किस आधार पर बोल रही है या इसमें क्या घपला हो रहा है, ज्यादा लिखा जा रहा है और बोला कम जा रहा है। दो करोड़, पांच करोड़, दस करोड़ रहे तो अलग बात है लेकिन 83,000 करोड़, एक लाख तीस हजार करोड़ से डेढ़ लाख करोड़ तक का अनुमान है यानी लगभग दुगना बनता है। यह किस हिसाब-किताब से चल रहा है, हमें समझ में नहीं आता। दुगनी फिगर की हेराफेरी बहुत आश्चर्य का विषय है। इस देश में दो तरह का कानून चल रहा है। गांव में किसी व्यक्ति पर 5,000-10,000 रुपये बकाया हों तो उसकी वसूली के लिए उसकी गर्दन में गमछा लगाया जाता है, उसे जेल में डाला जाता है लेकिन ये लोग जो धन ले रहे हैं, उनसे वसूली का कोई कानून ही नहीं है।**(व्यवधान)** यह साफ होना चाहिए। पुराने वित्त मंत्री थे। फिक्की, ऐसोचैम, सी.आई.आई. सब संस्थाएं बनाई हुई हैं। इन संस्था वालों के यहां कितना रुपया बकाया है, इसमें उनका कितना प्रतिशत है। फिक्की, ऐसोचैम की मीटिंग में जसवंत सिंह जी तो कम जा रहे हैं, हम प्रधान मंत्री जी को भी मीटिंग में

बराबर देखते हैं। जो कर्जखोर लोग हैं और रुपया डुबाया हुआ है, क्या उसमें प्रधान मंत्री, वित्त मंत्री के जाने से पैसे की वसूली होने वाली है। देश के साथ इतनी भारी धोखाधड़ी है। देश में दो तरह का कानून है। यदि कोई गरीब आदमी लोन लेता है तो उससे पैसे की वसूली के लिए उसे जेल हो जाती है, उसका सामान जब्त कर लिया जाता है लेकिन इन लोगों के लिए कोई कानून नहीं है और ये कह रहे हैं कि हम कानून बना रहे हैं कि उनके असैट्स जब्त करेंगे और ए.आर.सी. बना रहे हैं। बैंकिंग ऐसोसिएशन वाले बोल रहे हैं कि ए.आर.सी. से कुछ नहीं होता, उनको और मौका मिल जाएगा, अपनी सम्पत्ति बेच कर पैसा डुबा देंगे।

हमारे यहां एक काण्ड हुआ था। इसमें हम क्लाज 13 पढ़ रहे थे, उसमें यह विषय है, जिसमें क्या-क्या बात करनी है, वह लिखा है, लेकिन उसमें कहीं वह बात है ही नहीं। हमारे यहां का अर्बन कोआपरेटिव बैंक का घोटाला सब लोगों ने सुना होगा। उसमें असैट्स की जो सिक्योरिटी देता है, उसमें गांधी मैदान को गिरवी रख दिया और रेलवे प्लेटफार्म को रख दिया। यहां भी जांच होगी तो बोट क्लब भी गिरवी में रखा होगा तो उसे ये कैसे बेचेंगे और कैसे रिकवरी करेंगे। इस पर देश भर में हंगामा हुआ था और सुप्रीम कोर्ट तक मामला चला था। इस पर साधारण लड़ाई नहीं हुई थी, इतना जाल फरेब हुआ था। इस तरह की कोई भावना हमने इसमें नहीं देखी, इसलिए पहले तो इसका नाम सुधार होना चाहिए। एन.पी.ए. का भी सब नाम सोचिये और वह रखिये। सी.बी.आई. ने जांच की है, रूपचन्द दादा बोल रहे थे, उसमें क्या दिक्कत है, वह सुनिये:

"However, what is really worrisome is that an indepth study conducted by the Central Bureau of Investigation into the growing phenomenon of economic offences reveals that frauds in banks result in NPAs. "

फ्राड हुआ है, तब इतना एन.पी.ए. बढ़ गया है, और ज्यादा हो गया है।

"The CBI yesterday revealed that all NPA is not synonymous with fraud. There is no doubt that frauds in banks result in NPA."

इसके माने फ्राड हुआ है, तब एन.पी.ए. हुआ है और उसका नाम ऐसा है, जैसे यह तो रुपये पैसे का मामला है, उन्हें नोटिस वगैरह जायेगा, उनका कुछ बिगाड़ा नहीं जायेगा और उसकी सम्पत्ति होगी तो जब्त करेंगे। अगर सम्पत्ति में बोट क्लब जैसी चीज लिखी होगी तो क्या इसकी रिकवरी होगी? उसकी कैसे रिकवरी होगी, इसलिए इसका नाम आप क्यों नहीं लूट रिकवरी एक्ट रखते। आपने राज्य सभा में कहा भी है कि यह डेट नहीं है, यह लूट है तो फिर क्यों एन.पी.ए. नाम लिखा, इसका नाम लूट रिकवरी बिल रखिये कि हमारा रुपया लूट लिया है, हम उसकी रिकवरी करेंगे। हमारा रुपया ले लिया है, उसे डुबा रहा है, उसकी रिकवरी करेंगे। इस तरह से सख्ती से पेश आना होगा। आपने क्यों नहीं क्रिमिनल ऑफेंस बनाया है, सामान वगैरह जब्त करके उसे भले आदमी की तरह छोड़ दीजिएगा तो सब आप लोगों के साथ ही तो बैठेंगे तो कैसे वसूली होगी। इसीलिए देश का आर्थिक संकट और एन.पी.ए. ज्यादा बढ़ता रहेगा।

इकोनोमिक ग्रोथ पर आप लोग भारी-भारी भाण करते हैं कि आठ परसेंट करेंगे, प्रधानमंत्री कहते हैं कि 10 परसेंट करेंगे। सही लोग कहते हैं कि नहीं कम होगा तो आठ परसेंट पर होता है और वास्तव में 5.4, 5.5 पर ये लोग रह जाते हैं। कोई इकोनोमिस्ट बताये, समाज शास्त्री या काबिल आदमी बताये कि एन.पी.ए. बढ़ेगा तो इनकी इकोनोमी की ग्रोथ कैसे बढ़ेगी, नहीं बढ़ सकती। एन.पी.ए. बढ़ेगा तो इकोनोमिक ग्रोथ घटेगी, यह साधारण फार्मूला मोटा-मोटा हम लोग समझते हैं कि एन.पी.ए. बढ़ने से इकोनोमिक ग्रोथ घटेगी। दोनों एक दूसरे का इनवर्शली प्रोपोर्शन है, इसीलिए इकोनोमिक ग्रोथ बढ़ाना चाहते हैं तो सख्ती से क्यों नहीं इससे निपटना चाहते, नहीं तो इस तरह का कानून सभी जबर लोगों को मालूम है। सभी लोगों ने इस पर आशंका व्यक्त की है। देश में जो एन.पी.ए. की लूट हुई है, उसकी इससे रिकवरी नहीं हो सकती है। लगता है कि बहुत लूट हुई है, इस कानून की झाड़ दिखाने से पूंजीपतियों से कुछ और वसूली हो जायेगी। यह सब भी चलता रहता है और भाजपा के लोग तो इसमें पारंगत हैं, धनपशु उनके मददगार हैं। सभी मामलों में आप क्यों नहीं इसे क्रिमिनल आफेंस मान रहे हैं, क्यों नहीं जेल में बन्द करने का कानून बनाते। सभापति महोदय, आपने भी वहां से कहा है कि इसे क्यों नहीं क्रिमिनल ऑफेंस माना जाये।

बैंक में ट्रांसपेरेंसी और एकाउण्टेबिलिटी नहीं है। बैंकों में बैंकर्स नहीं हैं, अब बैंकों में सिविल सर्विस के लोग हैं, जो बैंकर का गुण और काबिलियत होनी चाहिए, वह उनमें नहीं है। वे बैंक सिविल सर्वेण्ट्स के लिए हैं, बैंकर्स नहीं हैं। इसीलिए आप बैंक रिफार्म का कॉम्प्रीहेंसिव बिल लाएंगे तो तब हम आपको बताएंगे कि बैंकों में ट्रांसपेरेंसी होनी चाहिए। बैंकों में सीक्रेसी क्यों है, सब का नाम प्रकाशित होना चाहिए कि किसने कितना रुपया लिया है।

इसीलिए देश को अगर बचाना है, जनता का पैसा लेकर जो ये चंद लोग अरबपति और खरबपति बन रहे हैं, आम जनता मर रही है, देश की आर्थिक हालत खराब हो रही है, इन सब बातों को ध्यान में रखते हुए ऐसा सख्त कानून बनाना चाहिए कि लूट की छूट न हो और लूट बंद हो। जिन्होंने देश का रुपया डुबो दिया है, उन लोगों को जेलों में रखा जाए और तब तक रखा जाए, जब तक वह पैसा वसूल न कर लिया जाए।

MR. CHAIRMAN : Now, the hon. Member, Shri Prabodh Panda.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Mr. Chairman, Sir, the offenders and the defaulters should be criminally dealt with. They should be dealt with as per criminal offence without any mercy. That is the desire of the people and the collective desire of this House also. ...(Interruptions)

MR. CHAIRMAN: All the Members are not here now. If all the Members are here and if they say, then I can give a ruling.

Now, Shri Prabodh Panda.

SHRI PRABODH PANDA (MIDNAPORE): Mr. Chairman, Sir, you have given me a chance to speak on this Bill, Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002.

Sir, I am also a member of the Standing Committee of Finance. Such an important Bill should be discussed in the Standing Committee first. So, my appeal to the hon. Minister, through you, Sir, is that this Bill should be referred to the Standing Committee so that the Standing Committee can scrutinize and undertake an in-depth study of this Bill.

Much has been said about the huge amount of NPA. AIBEA has done a brilliant thing by publishing a big volume of the list of defaulters, which could have been done by the Government itself. It is understood that the Bill seeks to impose liability on the secured creditors to act on the security held by them and to have recoveries in the financial sector. Much confusion has been raised. Even the Members from the Treasury Bench have raised some important points. They are already confused. So, it is not understood how far this Bill will serve the purpose. Rather, there is a lot of confusion. I do agree that there should be a differentiation between the willful defaulters and those who are unable to pay.

17.33 hrs [Dr. Laxminarayan Pandeya *in the Chair*]

A lot of clarifications are still to be sought on a number of issues. For instance, it is still not clear as to which of the authorities has to notify; whether the originator of the deal has to notify himself.

A large number of cases are pending before DRT. The hon. Member, Shri Rupchand Pal has also mentioned correctly that a large number of cases are pending before the Debt Recovery Tribunal or the Civil Courts. I want to know whether an appeal to DRT against this Ordinance-based action would be permitted or not. That is not clear. The banks are issuing notices only to the borrowers. And whether any notification is to be issued to the guarantors, which is not clear. The second charge holder has resorted to enforcement of security interest in a case where the dues of the first charge holder also remains unpaid.

In case of joint financing, confusion prevails. On how to resolve the case, if one banker classifies an asset as NPA, another treats it as a standard asset. So, all these confusions are there. All these should be clarified. That is why, I request the Government, through you, to please refer this Bill to the Standing Committee. After the Standing Committee gives an in-depth study, let the Bill come to this august House.

SHRI G.M. BANATWALLA (PONNANI): Mr. Chairman, Sir, the question of mounting non-performing assets has been receiving serious attention since long. In due course of time, the non-performing assets have attained very dizzy heights. The non-performing assets of banks and financial institutions are presently estimated at more than one lakh thousand crores of rupees. Such is the serious problem that the Bill wants to deal with. The Bill is indeed a long awaited and badly needed legal measure to meet this colossal question of large scale NPAs. In due course of time, of course, there have been several mechanisms and channels like reference to the semi-judicial body, namely, the Board for Industrial and Financial Reconstruction, Debt Recovery Tribunals, corporate restructuring, *Lok Adalat* for small amounts up to Rs.5 lakh and so on. This Bill is an attempt at almost redefining of the relationship between the creditor and the debtor and is of far-reaching importance.

It is unfortunate that in case of a legal measure of such far-reaching consequence, the Government sought the method of promulgating an Ordinance to deal with the situation. Perhaps, this was because the Government did not want to face the stern legislative method that a Bill has to go through or the process that the Bill has to go through. I understand that the provisions of the law were cleared by the Cabinet even before the Budget Session, but still the Government did not think it necessary to come to the House during the Budget Session itself with the Bill. It waited for the adjournment of the Budget Session and for the prorogation of the Budget Session. It was only in June that the Ordinance was promulgated. Thereafter also, in the Monsoon Session, there was no sense of priority, I believe, with the Government in order to see that the Ordinance is replaced by a proper Bill.

My objection therefore is twofold – firstly, to this Ordinance *Raj* and secondly, of course, that a Bill of such far-reaching importance and far-reaching significance is replete with several deficiencies.

In the first place, the Bill has only a limited applicability. The provisions of the law are applicable only in cases of secured credit. They are applicable only when the banks have some collateral security. Now, look at the nature of

the non-performing assets. We find that merely 35 per cent of the non-performing assets are such which are backed by collateral security. In other words, nearly 65 per cent of the non-performing assets are outside the scope of the provisions of this Bill because we do not have a collateral security or a secured credit in those cases.

17.41 hrs (Mr. Speaker *in the Chair*)

Mr. Speaker, Sir, this is a serious deficiency. The Bill addresses itself only to the question of about 30 per cent of the non-performing assets that are backed by collateral security and is blind to the fact that about 70 per cent of the non-performing assets not backed by collateral security are beyond the pale of this particular Bill.

This Bill also fails to distinguish between the wilful defaulters and others. There is a need to bring about this particular distinction in the interests of the national economy itself. I do not want to go on elucidating about it but there are questions of wilful defaulters and there are questions of those who are genuine but have come into default. Certain safeguards therefore are also necessary for bringing about a distinction between a wilful defaulter and others.

This Bill rolls the red carpet to corruption. The red carpet to corruption is freely rolled. There are many provisions of this Bill that would definitely lead to more and more corruption. There are no safeguards in the Bill to avoid corruption. For example, there is this vital question of pricing the assets that are going to be transferred from the bank to the asset management company. In the matter of pricing, we hardly find any guidelines whatsoever or any provisions in the Bill. Therefore, this, I am afraid, rolls the red carpet to corruption.

There are several other provisions that would lead to more and more corruption and greater problems as far as our economy is concerned. For example, there is the vital question of identification of the borrower against whom the provisions of the Bill are to be invoked. This is at the discretion of the bank and the bank may invoke the provisions of the Bill against one and may not invoke it against the other at its discretion, for reasons one could understand well.

There are also no safeguards whatsoever with respect to the misuse of the provisions of the Bill and borrowers trying to profit by the same.

For example, there is no ban whatsoever in the Bill on the borrower purchasing the asset, repurchasing the asset, reacquiring the asset from the Securitisation Company.

We had one very nasty incident in Mumbai. The Centaur Airport Hotel was sold for a pittance and the buyer then in a matter of few months resold it at tremendous profit to itself. There is a heavy loss to the exchequer. Here, even learning from this, there is no provision in the Bill to impose a ban that the borrower cannot reacquire the asset from the Securitisation Company after it has been transferred to it by the bank.

Sir, the Government has taken the recourse to promulgation of Ordinance. Therefore, the question of the Bill going to the Standing Committee and so on did not arise. As a result, there are so many loopholes and several legal hurdles that we find. The matter of Ordinance is agitated before the court and a legal question has already come up that banks cannot initiate any action under the provisions of the Bill or the Ordinance if they have already initiated other legal proceedings under any other law to recover the dues. There is a necessity that here the matter ought to have been clarified when we are trying to replace the Ordinance by the Bill, when such hurdles have already come up and are being agitated in the court of law. The then hon. Minister of Finance promised to one and all in most unequivocal language that when the Ordinance would be replaced by the Bill, a review would take place and the necessary modifications would be made. One does not find any review whatsoever having taken place.

...(Interruptions)

MR. SPEAKER: Please conclude.

SHRI G.M. BANATWALLA : Sir, we can go on. I have nearly 18 amendments of mine covering the various aspects to show the hurdles, the loopholes and the deficiencies in the Bill. If the Bill had gone to the Standing Committee, I am sure, the hands of the lenders would have been further and properly strengthened in order to see that the question of the NPA is effectively met.

Sir, I would like to conclude by saying that we cannot totally rely upon legal provisions. Much will depend on the level and the quality of the governance in the banks. Take for example the State Financial Corporations. These State Financial Corporations have the power to acquire assets, sell or lease them similar to the powers incorporated in this Bill and yet one is not happy with the financial health of the State Financial Corporations despite all these powers that they have. This shows that hand-in-hand with legal provisions, one has to also deal with the question of improving the quality of the governance of the banks and the financial institutions.

Sir, I conclude by appealing to the Government that, even at this late stage, it should consider the question of

reviewing the various provisions so that the Bill really turns out to be a landmark in this herculean task of meeting the Non-Performing Assets.

MR. SPEAKER: May I now call upon the hon. Minister because the time is short?

SHRI VARKALA RADHAKRISHNAN : Sir, please allow me for two minutes.

MR. SPEAKER: Shri Radhakrishnan, we have to complete this Bill by 6 o' clock and thereafter one more Bill is also to be discussed.

SHRI BASU DEB ACHARIA : Sir, please give him five minutes.

MR. SPEAKER: The other Bill will also take five to ten minutes only. It is a very small one. Let this Bill be completed by 6 o' clock and let the hon. Minister reply.

SHRI KIRIT SOMAIYA : Sir, he may be given the first chance to speak in the discussion on the next Bill.

MR. SPEAKER: I am ready to accept the suggestion of Shri Kirit Somaiya.

...(Interruptions)

MR. SPEAKER: A number of hon. Members have already spoken on this and they have made lots of points. It is clear.

SHRI VARKALA RADHAKRISHNAN : Sir, my name is included in the list.

SHRI RAMDAS ATHAWALE : Sir, my name is also included.

MR. SPEAKER: Shri Ramdas Athawale, we have no time today. By 6 o' clock this Bill is to be completed.

श्री रामदास आठवले :सर, दो-दो मिनट्स दे दीजिए।

अध्यक्ष महोदय : ठीक है, केवल दो-दो मिनट्स ही बोलें। पहले श्री वरकला राधाकृष्णन दो मिनट्स बोलेंगे। Only two hon. Members will speak.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Thank you, Sir. I thought I will not be getting time. Since I am the penultimate speaker, I will confine myself to raising only important points.

This is the second attempt by the Government to improve the position of NPA. The first attempt was through the Board of Industrial and Financial Reconstruction (BIFR). Many of our industries had become defunct. the loans to those industries had become defunct and the Government came with a new Bill to revive and rehabilitate the sick industries and for that purpose a Board was constituted and a High Court Judge was appointed as Chairman. Even at the outset, that legislation was defective, defective in the sense that it was not given any powers. It could not function because even the staff was not provided and even the number of members of the Bench was also reduced to a nullity. The result was that the cases were pending for 12 to 15 years before the Board. The result was that the NPA situation did not improve. In spite of the fact that the matter was brought to the notice of the Government, the Government did not act. So also, now they have come with another Bill. It will have the same fate in the sense that it will not function.

The first point that I want to submit is, there is no power for the banking or financial companies. They do not have any power to implement the decision. They do not have any power of recovery. They will have to approach the District Magistrate and only through the District Magistrate the penal provisions, even if they are small penal provisions or fines, would be imposed. They could be imposed only through the Metropolitan Magistrate or the District Magistrate as the case may be.

The net result will be complete failure and there will be no recovery and the capitalists, as described by various friends, will continue as such. Until and unless this Bill is revised, no purpose will be served.

Now, you will see that the idea for bringing out the legislation is there for about ten years. When the reforms were introduced in India, naturally there will be reforms in the banking sector also. But the Government acted very slowly. Now they have come to the conclusion that there are certain areas in which the banking and financial sectors do not have a level-playing field as compared to other participants in the financial market in the world.

So, we are lagging behind. Why did we not act earlier? Now the legislation that is brought before us is defective. It is weak inherently in the sense that they cannot act with this Bill.

That is the opinion of the banking industry also. They have expressed in clear terms that this legislation will not serve the purpose. Moreover, this could have been prevented had the Bill been referred to the Standing Committee. We would have discussed it in the Standing Committee, we would have suggested methods and we would have made amendments to the Bill, but that was not done. The Government did not refer the Bill to the Standing Committee for their opinion, for their amendments and for their scrutiny. If it had been done, it would have been better. So, on these grounds, I request the Government to reconsider their position and bring in a new legislation by which the noble ideas the Government claims can be implemented. With these words, I conclude.

श्री रामदास आठवले (पंढरपुर) : अध्यक्ष महोदय, नरसिम्हन कमेटी और अंथियारुजनिया कमेटी ने बहुत से सुझाव दिए। बहुत सी वित्तीय संस्थाएं जो कर्जा देती हैं, उनका कर्जा वापस नहीं किया जाता है। इसमें सुधार लाने के लिए जसवन्त सिंह जी यह बिले लाए हैं। मैंने गम्भीरता से इस बिल पर विचार किया और अच्छा महसूस करने के बाद ही इस बिल का समर्थन कर रहा हूँ। इस बिल के पास होने के बाद इसके रिजल्ट्स निल नहीं होने चाहिए। इस बिल के माध्यम से आप कुछ सुधार करने जा रहे हैं। जो बड़ी कम्पनियां हैं और जो 500-1000 और दस हजार करोड़ रुपए कर्ज के रूप में लेते हैं, वे कर्जा वापस नहीं करते हैं। उस राशि की रिकवरी नहीं हो पाती। इस बिल के द्वारा उनकी प्रॉपर्टी पर कब्जा करने की परमिशन मांगी गई है जो एक अच्छी बात है। जो सिक और स्मॉल स्केल इंडस्ट्रीज हैं जिन में 50 करोड़ रुपए की पूंजी लगी है, वहां यह कानून लागू नहीं होना चाहिए। उन्हें ज्यादा से ज्यादा सपोर्ट करना चाहिए जिससे उनकी कम्पनियां विकसित हों। सिक इंडस्ट्रीज की हालत सुधारने के लिए उन्हें अधिक से अधिक मदद देनी चाहिए। मैं इस बिल का समर्थन करता हूँ। अभी जसवन्त सिंह जी इस विभाग के नए मंत्री बने हैं। इससे पहले यशवन्त सिन्हा जी इस विभाग के मंत्री थे। तब बात अलग थी। अब आप इस विभाग के मंत्री बन गए हैं इसलिए यहां ज्यादा से ज्यादा सुधार आएगा। उम्मीद है कि आने वाले बजट में अच्छा परिवर्तन करने में आपके सुझाव महत्वपूर्ण रहेंगे।

अडसुल जी वित्त राज्य मंत्री बन गए हैं। वह हमारे लिए कुछ करें। सिक इंडस्ट्रीज का ज्यादा से ज्यादा समर्थन करने की आवश्यकता है। मैं इस बिल का समर्थन करता हूँ और आपको धन्यवाद देता हूँ लेकिन आप भी हमें धन्यवाद करिए।

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): Mr. Speaker, Sir, I am very grateful to all the hon. Members who have benefited the Government by their views. Sir, I was very brief at the stage when the Bill was taken for consideration and I will be equally brief at this stage, mindful of the time of the day. But while I will be brief, it will not be at the cost of my providing answers to the very valuable suggestions which have been given by the hon. Members.

MR. SPEAKER: Mr. Minister, I have to interrupt for a minute.

I am extending the time of the House, with the permission of the House, till this Bill and the next Bill are passed.

SHRI BASU DEB ACHARIA : Sir, you extend the time of the House till only this Bill is passed and not till the passing of the next Bill. ...*(Interruptions)*

MR. SPEAKER: That is a very small Bill. There is no debate required on that Bill.

...*(Interruptions)*

SHRI PAWAN KUMAR BANSAL : Sir, the next Bill is on a very important subject. Members would certainly like to speak on that Bill. ...*(Interruptions)*

SHRI BASU DEB ACHARIA : Sir, you please extend the time of the House till the passing of this Bill only.

...(Interruptions)

MR. SPEAKER: It was decided in the Business Advisory Committee that the next Bill would also be passed because the next Bill does not require lot of discussion.

SHRI BASU DEB ACHARIA : There are many points on the next Bill. It will take time. So, you take up the next Bill tomorrow.

श्री पवन कुमार बंसल : जो मैम्बर्स बोलना चाहेंगे, शायद वह इस वक्त नहीं होंगे क्योंकि उन्हें मालूम नहीं है।

अध्यक्ष महोदय: यह बीएसी में तय हुआ है।

श्री पवन कुमार बंसल : लेकिन यह बात एनाउन्स नहीं हुई कि वह बिल छः बजे के बाद टेक-अप होगा।

THE MINISTER OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES (SHRI BALASAHEB VIKHE PATIL): The Bill to be taken up next was referred to the Standing Committee. So, it is not very much complicated that way.
...(Interruptions)

MR. SPEAKER: Anyway, we will take up this issue after passing of this Bill.

...(Interruptions)

SHRI PAWAN KUMAR BANSAL : Sir, I am so sorry that the Minister is saying so. This decision was not taken that the House would sit after six o'clock. So, the Members who were to participate in that discussion, perhaps thinking that the Bill will not be taken up today, have gone away.

18.00 hrs.

MR. SPEAKER: Now, I am extending the time till the Bill is disposed of. Thereafter, I will again take the sense of the House.

SHRI JASWANT SINGH: Mr. Speaker, Sir, I am very grateful to all hon. Members for the interest that they are demonstrating in the legislations that we are bringing forward. I am also very grateful for the interest that has been shown here. I do entirely agree with all hon. Members who say that recourse to the path of Ordinance is not a good path. Of course, it is not a good path to the extent that the Government can avoid it. We do avoid it; all Governments, at one stage or another, have to take recourse to this path because of the exigencies or circumstances. I do not wish to go into the details.

After all, I was here in this very House when the system of Standing Committees was instituted. I was a Member of that Committee. We all have to reflect ourselves, we have to reflect as to whether the time taken in the Standing Committees for the Bills that have been referred to them is really the time that should be taken because in the process, the whole purpose of the Standing Committee is really rather being defeated. However, that is a different subject and I will not dwell on that at all.

Now, as I had shared initially with all the hon. Members, Sir, when the Bill was to be taken up for consideration, this Bill is essentially for securitisation of financial assets so as to generate immediate liquidity, and it is also to enforce security which, at the present moment, there are no powers for because all the hon. Members are aware of the time consuming judicial processes, which is part of the total judicial system that we all have. This is also part of the fact of life that the commercial environment, both within the country as also globally, is changing. This results in what I would call an asset-liability mismatch as well as in mounting levels of non-performing assets (NPAs). I do not wish to go into the non-performing assets (NPAs) ratio with GDP. As a ratio of GDP, India's non-performing assets (NPAs) are really much lower than some of the countries. I do not want to get into that debate at the moment.

I will here go immediately into some of the substantial questions. I wish to assure all hon. Members -- some have suggested that this Bill or the Ordinance is not sufficiently harsh or effective; other hon. Members have said that it is

already too harsh and, therefore, there should be legal provisions to ensure that it is not misused. Both viewpoints are held by hon. Members -- that as we proceed down this path, the Government is committed to constantly reviewing, constantly improving the provisions that Parliament is today enabling us to. Yes, Sir, I did publicly say that if there is any provision that we find requires a second look and needs a revision, the Government or the Ministry of Finance will have no hesitation to have that second look and have such a revision.

Why have we adopted the path of the Ordinance? We believe that a climate had to be created within the country so that there is a sense of responsibility created, both in the borrower as also the lender, that we cannot continue down this path in the manner in which we are continuing without a very major national cause. I wish to also assure hon. Members, particularly, hon. Members Shri Kirit Somaiya and Shri Rupchand Pal, that yes, we have put one lakh, but that does not mean that we will start at one lakh. I assure hon. Members that we will start with the larger non-performing assets (NPAs).

रघुवंश बाबू हम पर बहुत गुस्सा कर रहे थे और ज़ोरों से बोल रहे थे कि आप क्यों इतने ऐसेट्स छोड़े जा रहे हैं और इसे क्यों इतना बड़ा लंबा नाम दिया है। कानून में पेचीदगी है। ऐसे ऐसेट्स को लायेबिलिटी थोड़े ही कह सकते हैं। वह जानते हैं कि हम क्या कर रहे हैं।

जहां तक बड़े कर्जदारों की बात है, उनके खिलाफ निश्चित रूप से कार्रवाई होगी और जो छोटे कर्जदार हैं, सरकार उनके प्रति कोई पक्षपात नहीं करने जा रही है। यह सही है कि कर्जदारों ने बड़े पैमाने पर कर्ज लिया हुआ है, लेकिन मुझे अभी वित्त मंत्रालय का भार संभाले तीन महीने ही हुए हैं। मैं इस बारे में सजग हूँ। आप विश्वास रखिये कि विदाउट फियर एंड फेवर, जैसा हम शपथ लेते हैं, वित्त मंत्रालय में हम न किसी की तरफदारी करते हैं, न हमें किसी की घबराहट है।

We have to act without fear and favour and the Finance Ministry acts only in the interest of the country, to the extent that God gives us the ability to do them.

Sir, I also want to make it clear that the State Financial Corporations will also be covered under the provisions of this Bill.

बनातवाला साहब ने फरमाया, वह अब तो हाज़िर हैं नहीं। स्टेट फाइनेन्शियल कॉर्पोरेशन्स में ऐसे प्रोविज़न्स एक्ज़िस्ट करते हैं। एक माननीय सदस्य जानना चाहते थे कि क्या कर्मचारियों पर इसका कोई असर होगा?

I wish to assure the hon. Members that employees will not be affected with this change and no employee, either in the management or a worker, will be affected on this account.

Sir, there was a question relating to write-off. I think, the hon. Mover of the Motion for disapproval asked as to why there is a write-off. Is it arbitrary? It is not arbitrary. Write-off is a provision that banks adopt really to take benefit of the taxation structure and it is not really as if money is written off. It is an adjustment and the loan that is outstanding is pursued even after it has been written off. The hon. Mover of the Motion of disapproval wanted to know whether the rules have been notified or not. Yes, they have already been notified under the Ordinance and the Reserve Bank of India is already in the process of issuing guidelines. The Ordinance governs, I wish to make it clear, the relationship between the lender and the borrower and if there is any third party involved, then that third party can always approach a court of law in this regard.

Sir, an hon. Member just now mentioned about taking the assistance of the Metropolitan Magistrate etc. I wish to inform the hon. Member that the Bill provides that whenever necessary, banks can take the help of the Metropolitan Magistrate for taking over the assets. It can do so. But no court decision is required for this purpose. Let that thing be clear. It is not an expiratory measure. We are determined to create a climate of sense of mutual responsibility.

Sir, there were some other queries also. Out of the 27 Public Sector banks, during the pendency of the Ordinance, 25 banks have issued notices in respect of about 10,000 odd borrower's accounts. The banks have reported that there is a positive impact of the Ordinance and some borrowers have approached for a compromise or a negotiated settlement. The Financial Institutions have issued notices in respect of 123 borrower's accounts and particularly IDBI has reported that now there is a movement for one time negotiated settlement.

Sir, I wish to share two more additional points. I recognize that the complexity of the laws as such and the complexity of commercial crimes as such is that we need to really go beyond the immediate legal framework that is available.

It is my conclusion in the Finance Ministry that perhaps the time has come wherein entrusting all such cases only to the Central Bureau of Investigation may not serve the purpose because of the complexity of the commercial, at times, fraud that we are confronted with. Therefore, when I got this job, we have taken a decision that the Ministry of Finance, of which the Department of Companies Affairs is now a part, shall institute immediately steps to establish what we have termed as a Serious Frauds Offices and this Serious Frauds Office will incorporate all these various aspects. I am happy to inform the House that we have made a significant progress in this regard. We have been in consultation with the Ministry of Law. I hope to come forward to the Parliament with a legislation in this regard which is well thought out. I assure the hon. Members that that will not be an Ordinance because I do wish to share and have the benefit of your views.

There is a second aspect that I wish to share which is, just as the borrower has the responsibility - it is my view in the Finance Ministry and it is the collective view of the Government - the lender also has the responsibility. We must now recognise that whereas the borrower has the responsibility and obligation, which is both commercial and moral, to repay what he borrowed, the lender has an obligation to continue to service the borrower positively, supportively and not always as if the two are combative halves of a different organisation. We wish to move away from this kind of attitude. So, we are also thinking in terms of a Lenders' Liability Law so that lending of moneys from public institutions and banks cannot be selective, cannot be subjective; that they must be governed by commercial considerations; and in the process of servicing loans they must continue to observe norms just as the borrower must continue to observe norms.

It is for this and various other reasons that I commend this Bill for the consideration of the House. I appeal to all hon. Members that do please give us your consent. If there are any suggestions, amendments, provisions, improvements that we have to carry out, I assure the hon. Members, we will do so as we proceed down this path.

SHRI BASU DEB ACHARIA: Sir, while moving my Statutory Resolution, I clarified that we were not against the contents of the Bill. We are against the Ordinance route that the Government is taking recourse to.

At least five Ordinances have been promulgated during this inter-session period. Some of the Ordinances were not required to be promulgated on the eve of the Session. The Government could have come with a Bill and that Bill could have gone to the Standing Committee for scrutiny. We are passing such an important Bill in three-four hours. Most of the points that we raised here remained unanswered because of paucity of time. That is why, my appeal is that this Bill should be referred to the Standing Committee.

We realise the problem that the Standing Committee takes too much time to report back to the House. Some time limit can be imposed, say three months, within which the Standing Committee can come back to the House with its report.

This should not be the general instruction but for important Bills which are required to be passed urgently, it can be done. We also want that such measures should be taken up to curb this menace for reducing NPAs and for tackling those who have looted the public money. The Finance Minister himself has described that these are not bad debts but this is just loot. Therefore, some punishment should also be given to them. Why could those defaulters who have looted the public money not be prosecuted criminally? This question is also there.

The Government should consider the suggestion made by various hon. Members and myself to strengthen this Act in future. Of course, we cannot completely stop all these things but we can reduce them. If there is a political will, we will be able to reduce them and utilise this money of NPAs for better purposes like education, health, etc. We need money. We are in dire need of money.

I hope that the Minister will definitely consider our suggestions to improve this Act in future so that we are able to tackle the problem of non-performing assets and the problem of wilful defaulters.

Sir, with these words, I seek leave of the House to withdraw my Statutory Resolution.

MR. SPEAKER: Is it the pleasure of the House that the Resolution moved by Shri Basu Deb Acharia be withdrawn?

The Resolution was, by leave, withdrawn.

MR. SPEAKER: Now, the question is:

"That the Bill to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto, be taken into consideration. "

The motion was adopted.

MR. SPEAKER: *The House will now take up clause-by-clause consideration of the Bill.*

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3---- Registration of Securitisation companies

Or reconstruction companies

SHRI G.M. BANATWALLA : Sir, I beg to move:

Page 6,-

after line 22, insert –

"(7) every application for registration made under sub-section (2) shall be disposed of by the Reserve Bank within three months of the receipt of the said application. " (44)

MR. SPEAKER: I shall now put amendment No.44 to clause 3 moved by Shri G.M. Banatwalla to the vote of the House.

The amendment was put and negatived.

MR. SPEAKER: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 ----- Cancellation of certificate of

registration

SHRI G.M. BANATWALLA : Sir, I beg to move:

Page 6,-

after line 41, insert –

"(f) has acquired financial assets under sub-section (1) of section 5 the total aggregate amount which exceeds three times the total amount of its owned fund and the fund raised under section 7, without the prior approval of the Reserve Bank. " (45)

Page 7, line 8,-

after "the Central Government"

insert "and the procedure for filing and hearing of such appeal shall be in accordance with the rules prescribed by the Central Government in this behalf" (46)

MR. SPEAKER: I shall now put amendment Nos.45 and 46 to clause 4 moved by Shri G.M. Banatwalla to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

**Clause 5 --- Acquisition of rights or
interest in financial assets**

MR. SPEAKER: I think, Shri Pawan Kumar Bansal is not moving.

SHRI G.M. BANATWALLA : I beg to move:

Page 7, -

after line 32, insert –

"(2A) The securitisation company or the reconstruction company shall have the same rights and powers with respect to any goods manufactured or produced wholly or partly from the secured assets forming part of the financial assets acquired under sub-section (1)." (32)

Page 8, -

after line 2, insert –

"(5) Notwithstanding anything contained in the registration Act, 1908 or the Indian Stamp Act or any of the corresponding Acts in a State, the acquisition of the financial asset of any bank or financial institution by a securitisation company or reconstruction company under sub-section (1) shall not be subject to any registration fees or stamp duty." (33)

MR. SPEAKER: I shall now put amendment Nos. 32 and 33 moved by Shri G.M. Banatwalla to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 ---- Notice to obligor discharge

of obligation of such obligor

SHRI PAWAN KUMAR BANSAL: I beg to move:

Page 8, line 3, -

for "may, if it considers appropriate",

substitute "shall" (3)

Page 8, lines 9 and 10, -

for "where a notice of acquisition of financial asset under sub-section (1) is given by a bank or financial institution, the obligor",

substitute "The obligor" (4)

Page 8, -

omit lines 15 to 22 (5)

SHRI G.M. BANATWALLA : I beg to move:

Page 8, lines 3 and 4, -

for "may, if it considers appropriate, give notice of acquisition of financial assets by any securitisation company or reconstruction company,"

substitute "shall, within two months of acquisition of financial assets by any securitisation company or reconstruction company, give a notice of the fact of such acquisition" (34)

Page 8, lines 15 to 17, -

for "Where no notice of acquisition of financial assets under sub-section (1) is given by any bank or financial institution, any money or other properties subsequently received by the bank or financial institution,"

substitute "Any money or other properties received by the bank or financial institution subsequently to the acquisition of financial asset under sub-section(1)" (35)

MR. SPEAKER: I shall now put amendment Nos. 3, 4 and 5 moved by Shri Pawan Kumar Bansal and amendment Nos. 34 and 35 moved by Shri G.M. Banatwalla to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7 ---- Issue of security by raising of receipts

or funds by securitisation company or reconstruction

company

SHRI PAWAN KUMAR BANSAL: I beg to move:

Page 8, line 37, -

for "seventy-five"

substitute "fifty-one" (6)

SHRI G.M. BANATWALLA : I beg to move:

Page 8, line 37, -

for "seventy five per cent"

substitute "sixty per cent" (36)

Page 8, line 39, -

after "passed in such meeting"

insert "by voting in person, or, where proxies are allowed, by proxy" (47)

MR. SPEAKER: I shall now put amendment No. 6 moved by Shri Pawan Kumar Bansal and amendment Nos. 36 and 47 moved by Shri G.M. Banatwalla to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8 was added to the Bill.

Clause 9 ----- Measures for assets reconstruction

SHRI PAWAN KUMAR BANSAL : I beg to move:

Page 9, lines 5 and 6, -

omit, "or take over of", (7)

SHRI G.M. BANATWALLA : I beg to move:

Page 9, -

after line 13, *insert* -

"provided that where a securitisation company or reconstruction company takes action under clause (b) or clause (d) of this section, it shall not be lawful for the borrower or his agent to buy or acquire any interest in the business or the secured asset." (37)

MR. SPEAKER: I shall now put amendment No. 7 moved by Shri Pawan Kumar Bansal and amendment No. 37 moved by Shri G.M. Banatwalla to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 to 12 were added to the Bill.

Clause 13 --- Enforcement of Security interest

SHRI PAWAN KUMAR BANSAL : Except amendment 9, I would like to move all other amendments.

I beg to move:

Page 10, line 17, -

omit "without the intervention of the court or tribunal", (8)

Page 10, line 30, -

after "sub-section (2)", *insert* -

"and the Debts Recovery Tribunal has not passed an order to the contrary under section 17" (10)

Page 10, line 30, -

for "may take recourse",

substitute "may apply to the Debts Recovery Tribunal having jurisdiction for granting permission to take recourse" (11)

Page 10, -

after line 41, *insert* -

"Provided that the Debts Recovery Tribunal, on receipt of the application under sub-section (4), hear the borrower as to why such permission should not be granted and decide the matter within four months."
(12)

Page 11, line 2, -

for "secured creditor"

substitute "Debts Recovery Tribunal" (13)

Page 11, line 3, -

for "by him",

substitute "by the secured creditor" (14)

Page 12, lines 3 and 4, -

for "without first taking any of the measure specified in clauses (a) to (d) of sub-section (4) in relation to the secured assets under this Act",

substitute "in the manner prescribed under sub-section (4)" (15)

SHRI G.M. BANATWALLA : I beg to move:

Page 10, line 23, -

for "sixty days" *substitute* "ninety days" (38)

Page 12, line 2, -

omit "proceed against the guarantor or" (39)

Page 12, line 4, -

add at the end -

"or proceed, if need be, against the guarantor after taking any such measure" (40)

Page 12, -

after line 10, *insert* -

"(14) where the secured creditor has taken any action against a borrower under the provisions of sub-section (4), the secured creditor shall be deemed to be the owner of the secured assets for the purposes of suits by or against the borrower and shall sue and be sued in the name of the borrower.

(15) where the secured creditor apprehends that the borrower may remove the secured asset from its rightful place, the secured creditor may apply to the Chief Metropolitan Magistrate or the District Magistrate in whose jurisdiction any such secured asset may be situated for an ad interim injunction restraining the borrower from so removing the secured asset without the prior permission of the secured creditor." (41)

Page 10, line 32, -

after "borrower"

insert "with all the rights the borrower possessed over the secured assets"

(48)

MR. SPEAKER: I shall now put amendment Nos. 8, 10, 11, 12, 13, 14 and 15 moved by Shri Pawan Kumar Bansal and amendment Nos. 38, 39, 40, 41 and 48 moved by Shri G.M. Banatwalla to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14 -- Chief Metropolitan Magistrate

or District Magistrate to assist secured creditor in taking possession of secured asset

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Sir, I beg to move:

"Page 12, line 14,--

for "request, in writing",

substitute "apply to". (16)

Page 12, line 18,--

for "request",

substitute "application". (17)

Page 12, line 18,--

after "him"

insert ",hear the parties and decide within three months whether

to". (18)

MR. SPEAKER: I shall now put amendment Nos. 16, 17 and 18 moved by Shri Pawan Kumar Bansal to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

**Clause 15 - Manner and effect of
takeover of management**

SHRI PAWAN KUMAR BANSAL : I beg to move:

"Page 12, line 27,--

for "is taken over",

substitute "is sought to be changed". (19)

Page 12, lines 30 and 31,--

omit "as many persons as it thinks fit" (20)

Page 12, line 33,--

for "to be the directors",

*substitute "directors in number one more than the existing
directors": (21)*

Page 12, line 35, --

omit "to be the" (22)

Page 12,--

omit lines 37 to 44 (23)

Page 13, line 5,--

for "alone",

substitute "in consultation with the existing management". (24)

Page 13, line 21, --

for "taken over"

substitute "changed" (25)

Page 13, line 22, --

after "full",

insert "withdraw its representatives and" (26)

MR. SPEAKER: I shall now put amendment Nos. 19 to 26 moved by Shri Pawan Kumar Bansal to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clause 16 was added to the Bill.

Clause 17 – Right to appeal

SHRI PAWAN KUMAR BANSAL: I beg to move:

"Page 13, lines 33 and 34,--

for "any of the measures referred to in sub-section (4) of Section

13 taken by"

substitute "a notice issued under sub-section (2) of section

13 by" (27)

Page 13, line 36,--

for "forty-five days"

substitute "fifteen days" (28)

Page 13, line 36,--

for "measure had been taken"

substitute "notice had been received by him" (29)

SHRI G.M. BANATWALLA : I beg to move:

"Page 13,--

after line 36, insertâ€”

"Provided that the Debts Recovery Tribunal may allow an appeal after the period of forty-five days, but not later than ninety days after the measure had been taken, if the borrower satisfies the Debts Recovery Tribunal that he had sufficient cause for not making the appeal within the period of forty five days" (42)

Page 13, line 39,--

for "seventy-five per cent"

substitute "forty per cent" (43)

MR. SPEAKER: I shall now put amendment Nos. 27, 28 and 29 moved by Shri Pawan Kumar Bansal and amendment Nos. 42 and 43 moved by Shri Banatwalla to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18 --- Appeal to Appellate Tribunal

SHRI PAWAN KUMAR BANSAL : I beg to move:

"Page 13, line 37,—

after "under" insertâ€”

"section 13 or" (30)

MR. SPEAKER: I shall now put amendment No. 30 moved by Shri Pawan Kumar Bansal to the vote of the House.

The amendment was put and negatived.

MR. SPEAKER: The question is:

"That clause 18 stand part of the Bill."

The motion was adopted.

Clause 18 was added to the Bill.

Clauses 19 to 36 were added to the Bill.

Clause 37 -- Application of other laws not barred

SHRI G.M. BANATWALLA : I beg to move:

"Page 17,—

after line 25, insertâ€”

"(2) A bank or a financial institution or a securitization company or a reconstruction company may, notwithstanding any recovery proceedings initiated under the provision of any law, other than this Act, for the time being in force, take any action as it may deem fit under the provisions of this Act and, on such action being taken, the recovery proceedings taken under any other such law shall stand abated:

Provided that notwithstanding any such abatement, anything done or any action taken under the recovery proceedings which stand abated, shall be deemed to be valid and shall not suffer from any legal infirmity."

(49)

MR. SPEAKER: I shall now put amendment No.49 moved by Shri Banatwalla to the vote of the House.

The amendment was put and negatived.

MR. SPEAKER: The question is:

"That clause 37 stand part of the Bill."

The motion was adopted.

Clause 37 was added to the Bill.

Clauses 38 to 41 were added to the Bill

Clause 42 --- Repeal and Saving

Amendment made:

Page 18,--

for lines 20 and 21, substitute.

Repeal and "42. (1) The Securitisation and Reconstruction of Ord. 3
Saving. Financial Assets and Enforcement of Security Interest of
(Second) Ordinance, 2002 is hereby repealed." (1) 2002.

(Shri Jaswant Singh)

MR. SPEAKER: The question is:

"That clause 42, as amended, stand part of the Bill."

The motion was adopted.

Clause 42, as amended, was added to the Bill.

THE SCHEDULE

MR. SPEAKER: Shri Pawan Kumar Bansal, are you moving your amendment?

SHRI PAWAN KUMAR BANSAL : No.

MR. SPEAKER: The question is:

"That the Schedule stand part of the Bill".

The motion was adopted.

The Schedule was added to the Bill.

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

SHRI JASWANT SINGH: I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.