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Title: Discussion on Negotiable Instruments (Amendment) Bill, 2015.

HON. SPEAKER: Now, we shall take up Item No. 13 – The Negotiable Instruments (Amendment) Bill, 2015.

Shri Jayant Sinha.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JAYANT SINHA): Madam Speaker, I beg to move:

"That the Bill further to amend the Negotiable Instruments Act, 1881, be taken into consideration."

The hon. Supreme Court, in the case of Dashrath Rupsingh Rathod versus State of Maharashtra and another (Criminal Appeal No. 2287 of 2009), held that the territorial jurisdiction for dishonour of cheques is restricted to the court within whose local jurisdiction the offence was committed. Pursuant to the judgement of the Supreme Court, representations have been made to the Government by various stakeholders, including industry associations and financial institutions, expressing concerns about the wide impact this judgement would have on business interests as it will offer undue protection to defaulters at the expense of the aggrieved complainant, will give rise to multiplicity of cases covering several cheques drawn on banks at different places and adhering to it is impracticable for a single window agency with customers spread all over India.

To address the difficulties faced by the payee or the lender of the money in filing the case under Section 138 of the said Act, because of which large number of cases are stuck, the jurisdiction for offence under Section 138 has been clearly defined. The Negotiable Instruments (Amendment) Bill, 2015 provides for the following, namely:-

- (1) filing of cases only by a court within whose local jurisdiction the bank branch of the payee, where the payee presents the cheque for payment, is situated;
- (2) stipulating that where a complaint has been filed against the drawer of a cheque in the court having jurisdiction under the new scheme of jurisdiction, all subsequent complaints arising out of Section 138 of the said Act against the same drawer shall be filed before the same court, irrespective of whether those cheques were presented for payment within the territorial jurisdiction of that court;
- (3) stipulating that if more than one prosecution is filed against the same drawer of cheques before different courts, upon the said fact having been brought to the notice of the court, the court shall transfer the case to the court having jurisdiction as per the new scheme of jurisdiction; and
- (4) amending Explanation I under Section 6 of the said Act relating to the meaning of expression "a cheque in the electronic form", as the said meaning is found to be deficient because it presumes drawing of a physical cheque, which is not the objective in preparing "a cheque in the electronic form" and inserting a new Explanation III in the said section giving reference of the expressions contained in the Information Technology Act, 2000.

It is expected that the proposed amendments to the Negotiable Instruments Act, 1981 would help in ensuring that a fair trial of cases under Section 138 of the said Act is conducted keeping in view the interests of the complainant by clarifying the territorial jurisdiction for trying the cases for dishonour of cheques.

I would, therefore, request the hon. Members of this august House to support the Bill. Thank you.

HON. SPEAKER: Motion moved:

"That the Bill further to amend the Negotiable Instruments Act, 1881, be taken into consideration."

Now, Shri M.I. Shanavas.

...(Interruptions)

माननीय अध्यक्ष : प्लीज बैठ जाइए, अभी कुछ नहीं है।

SHRI M.I. SHANAVAS (WAYANAD): Thank you, Madam Speaker, for giving me the opportunity to intervene in this debate on a very important matter....(Interruptions)

The Negotiable Instruments Act, 1881 was enacted to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques. The Negotiable Instruments (Amendment) Bill, which the hon. Minister has just moved...(Interruptions)

Madam, some order may be restored in the House. ...(Interruptions)

माननीय अध्यक्ष : प्लीज बैठिए।

â€¦(व्यवधान)

माननीय अध्यक्ष : अभी कुछ नहीं हो रहा है, बैठिए। बिल शुरू हो गया है। अगर आपको बिल पर बोलना हो तो you are allowed; otherwise not. प्लीज बैठिए।

â€¦(व्यवधान)

माननीय अध्यक्ष : अगर आपको नहीं चलाना है तो, the House stands adjourned to meet again at 2 p.m.

12.53 hrs

The Lok Sabha then adjourned till Fourteen of the Clock.

14.03 hrs

*The Lok Sabha re-assembled at Three Minutes past
Fourteen of the Clock.*

(Hon. Deputy Speaker *in the Chair*)

NEGOTIABLE INSTRUMENTS (AMENDMENT)

BILL, 2015 " Contd.

HON. DEPUTY SPEAKER: Now, Shri M.I. Shanavas.

SHRI M.I. SHANAVAS (WAYANAD): Thank you hon. Deputy Speaker, Sir. First of all, I request that I may be permitted to speak from this seat.

HON. DEPUTY SPEAKER: You are permitted to speak from there.

SHRI M.I. SHANAVAS: Thank you hon. Deputy Speaker, Sir. The Negotiable Instruments (Amendment) Bill, 2015 has been introduced in this House by the hon. Minister. First of all, I would like to tell that it is an Act, which was enacted in 1881, to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques. This Amendment Bill, which the hon. Minister has moved, is a very small Bill containing just four Clauses. Even though it has only four Clauses, still it is very serious in nature. It concerns lakhs of people. About 40 lakh cases relating to cheque are pending in various courts of India.

Sir, so many times, the Negotiable Instruments Act has been amended. In 1988 and in 2001, cardinal amendments were made in this Act. So many litigations are there everywhere in this country with respect to issue of cheques and bouncing of cheques. Landmarks judgments have been there in this regard.

I would very briefly speak in this august House about the cardinal features of one or two judgments. One such judgment was Bhaskaran *versus* Sankaran case, 1999, which was an important judgment of the Supreme Court. In that judgment, it was decided by the Supreme Court as to where territorial jurisdiction was defined. In the Negotiable Instruments Act, territorial jurisdiction is not defined. In the case of Bhaskaran *versus* Sankaran, it was defined, and five courses of action were dictated by the hon. Supreme Court. One, where cheque is drawn; two, where payment had to be made; three, where cheque is presented for payment; four, where cheque is dishonoured, and five, where notice is served. There was an advantage for the drawee. The drawer, that is, the defaulter is at loggerheads in any of the following places. At five places, litigation could be started by the moneylenders.

So, after that, again the hon. Supreme Court came into the picture since this Act is 135 years old. The hon. Supreme Court again took up this issue. In the Herman Electronics Private Limited *versus* National Panasonic India Limited case, the hon. Supreme Court came to the rescue of those people who issue the cheques, the donors, the payers. The Supreme Court in this case held:

"We cannot, as things stand today, be oblivious of the fact that a banking institution holding several cheques signed by the same borrower cannot only present the cheque for its encashment at four different places but also may serve notices from four different places so as to enable it to file four complaint cases at four different places. This only causes grave harassment to the accused. It is, therefore, necessary in a case of this nature to strike a balance between the right of the complainant and the right of an accused vis-à-vis the provisions of the Code of Criminal Procedure "

Hence to strike a balance between the right of the complainant and the right of the accused, it was drafted by the hon. Supreme Court in the Herman Electronics Private Limited *versus* National Panasonic India Limited case.

Now, the hon. Minister while presenting the Amendments, said about the Dashrath Rupsingh Rathod case. There is a landmark judgment on the Dashrath Rupsingh Rathod case, which was in 2014. This Supreme Court judgment went into the matter. The hon. Supreme in its judgment dated 4th August, 2014 overruled the Baskaran case. The Supreme Court held that 'territorial jurisdiction for dishonour of cheques is restricted to the court within whose local jurisdiction the offence has occurred, which in the present case is where the cheque is dishonoured by the bank on which it is drawn.'

Mr. Deputy-Speaker, Sir, the hon. Supreme Court has crept into the picture. To rescue the interest of the payers of cheque, the donor of cheque, the Supreme Court relied on the Criminal Procedure Code and its Section 177, Section 178 and Section 179. The Supreme Court said that this harassment cannot be accepted. The harassment of the payers of the cheque cannot be accepted. The Supreme Court has said that 'this procedure is more often than not intended to use such oppressive litigation to achieve the collateral purpose of extracting money from the accused by denying a fair opportunity to contest the claims by dragging him to distant place.' Suppose the transaction takes place in Kerala. One, who gives the money, will be

in Delhi. He will be having an account in Nagaland. He can present the cheque in Nagaland and he can extract money from the poor man or common man and this man will have to go all the way to Nagaland.

Mr. Deputy Speaker, this Section is to help whom? Whose interest is safeguarded by this Section? In paragraph 5 of the Statement of Objects and Reasons of this Bill, it has been said by this Government that 'pursuant to the judgement of the Supreme Court, representations have been made to the Government from various quarters to redress the difficulties faced by the payee or lender of money in filing the case under Section 138 of the said Act' and hence this Bill is coming.'

So, whose interest the Government is safeguarding? The Government is safeguarding the interest of the moneylenders. The sharks and the Shylocks extract money like anything from the poor people. Mr. Deputy Speaker Sir, I tell you the Supreme Court was right. A series of litigations in 135 years were concluded by the hon. Supreme Court and it said, "Oppressive measures shall not be taken for extracting money."

HON. DEPUTY SPEAKER: Please conclude.

SHRI M.I. SHANAVAS: I am coming to the conclusion.

Now, the question that is raised here is, what is the purpose of this Amendment Bill? Now there are 40 lakh cases pending. Mr. hon. Finance Minister, let me ask you this. Of the 40 lakh cases pending, 95 per cent of the cases relate to the poor common man. They are being harassed. So, a total change comes. This Government is bringing this legislation to totally safeguard the interests of the moneylenders.

One thing I want to tell you is that a statistics was released by the All-India Bank Employees' Association. It said that 406 bad loan accounts are there in 24 banks, totaling to Rs.70,70,000 crore. What steps are you taking to recover these bad loans in the banks? In the last seven years, the bad loan is Rs.4,95,000 crore, and the bad loans are amalgamating like anything. I tell you, everybody in this House knows that a business tycoon, who is known as a liquor baron, has taken loan of Rs.7,500 crore from a bank.

HON. DEPUTY SPEAKER: That is not relevant to the Negotiable Instruments Bill.

SHRI M.I. SHANAVAS: But that has not been repaid but he goes free. If a poor man with five cents of land takes Rs.50,000 or Rs.1,00,000, his property is attached. I tell you, Mr. Deputy-Speaker, Sir, that the Government has come into the picture of safeguarding the interests of money launders and not the poor people.

HON. DEPUTY SPEAKER: Please conclude.

SHRI M.I. SHANAVAS: I am concluding.

I urge upon this Government to withdraw this draconian law, which is against the interests of the common man and which is going to affect millions of people. So, something has to be done. ...*(Interruptions)* The properties of farmers are being and the rights of the workers are denied. This legislation is depicting the true colour of the Government because the interests of the poor working class and common man will be affected....*(Interruptions)*

So, I urge upon the Government to withdraw this Bill.

श्री हुकुम सिंह (कैराना) : उपाध्यक्ष महोदय, वित्त मंत्री जी जो संशोधन विधेयक लाये हैं, मैं उसका समर्थन करता हूँ। यह बहुत ही सूक्ष्म, साधारण, सामान्य संशोधन है। उन्होंने अपने उद्घोषण में इस बात का उल्लेख किया कि इस संशोधन को लाने की क्यों आवश्यकता पड़ी? एक समय था, जब कुछ भी चीज खरीदनी होती थी, तो जेब में नोट भरकर या बैली में रुपये भरकर ले जाना पड़ता था। लेकिन समय बदलता गया और वहाँ 1881 में नेगोशिएबल इंस्ट्रुमेंट एक्ट बना। इससे बैंक की सुविधा मिली। इससे पैसे ले जाने की जरूरत नहीं, बैंक बुक ले जाओ और जहाँ जरूरत पड़े, वहाँ बैंक काटकर दे देना। उसमें भी कुछ दिक्कत आने लगी। बहुत से लोगों ने चोखे की मंडी खोल ली। बैंक एकाउंट में पैसा हो या न हो, उन्होंने बैंक इश्यू कर दिया। उस मजबूती में आकर फिर और संशोधन करना पड़ा। इसमें धारा 138 से लेकर धारा 142 तक, यानी चार धाराएं और बढ़ानी पड़ीं। उसमें इस बात का उल्लेख किया गया कि अगर बैंक एकाउंट में बैलेंस नहीं है और आप बैंक इश्यू करते हैं, तो यह एक अपराध होगा, जुर्म होगा। यह मामला ऐसे ही चलता रहा। लेकिन उसके बाद सुप्रीम कोर्ट ने एक जजमेंट दिया कि केस का ट्रयाल कहां होगा, कोर्ट का अधिकार क्षेत्र कौन सा होगा? उस जजमेंट में उल्लेख किया गया कि जहां पर उस बैंक को डिस्टॉर्नर किया जाता है, उसका अधिकार क्षेत्र जिस कोर्ट में आता है, केवल वहीं पर मुकदमा कायम हो सकेगा। इससे सबको दिक्कत आने लगी।

उपाध्यक्ष महोदय, आज पूर्णतः शील युग है, लोग आगे बढ़ रहे हैं। इलेक्ट्रॉनिक युग आ गया, इलेक्ट्रॉनिक बैंक की सुविधा हो गयी। इलेक्ट्रॉनिक बैंक की सुविधा के बाद अगर यह पाबंदी रहती कि केवल वहीं पर मुकदमा चलेगा, तो शायद उसी आदमी को आराम मिलता, जिसने एक गलत बैंक इश्यू किया, बिना बैलेंस के बैंक इश्यू किया। अब उन लोगों को सुविधा मिलनी चाहिए, जिन्हें परेशानी हुई है। उस परेशानी को दूर करने के लिए आज माननीय मंत्री जी एक संशोधन लेकर लाये हैं। मैं उस संशोधन का मैं पूर्ण समर्थन करता हूँ।

उपाध्यक्ष महोदय, इसके साथ मेरे दो-तीन सुझाव हैं, क्योंकि आज पहली बार इस संशोधन के माध्यम से बैंक पर चर्चा करने का अवसर मिला है। बैंक की गतिविधियां बहुत बढ़ गयीं हैं। आज बैंक केवल कुछ उद्योगपतियों और शहर में रहने वालों तक ही सीमित नहीं हैं। आज बैंक की गतिविधि गांव तक बढ़ी है। किसानों का पैमेंट भी बैंक द्वारा होने लगा है। यहां तक कि मन्रेगा का पैमेंट भी बैंक में हो रहा है। जितने भी अनुदान या सब्सिडीज जाती हैं, वे भी सीधे खाते में जाती हैं। वे सारी गतिविधियां इतनी बढ़ गयीं कि इस बात का अहसास होने लगा कि बैंक कहां-कहां होना चाहिए।

अभी आदर्श गांव की बात चल रही थी। मैं दो-तीन बातें कहना चाहता हूँ। आज गांव का इन्फ्रास्ट्रक्चर बैंक में बहुत तीव्र गति से हुआ है। आज गन्ने किसानों का पैमेंट भी उनके खातों में सीधे जा रहा है। अगर बैंक केवल शहर की सीमाओं तक ही सीमित रहेंगे, तो गांव के लोगों को जो सुविधा मिलनी चाहिए, वह उनको नहीं मिल पायेगी। आज जिस तरह से कुछ जगहों पर कानून-व्यवस्था है, उसे देखते हुए अगर वे शहर से पैसा कैश करवाकर गांव में जायेंगे, तो रास्ते में उनकी वया छलत होगी, उसका आप खुद ही अनुमान लगा लीजिए। आज गांव को बैंकों से शामिल किया गया है। इसके लिए प्रधान मंत्री ने जन-धन योजना चलायी है। उस योजना में हर व्यक्ति का खाता खुल गया है। वया इस बात पर विचार नहीं होना चाहिए कि बैंक की शाखाओं का एक्सपेंशन भी उसी गति से होना चाहिए।

उपाध्यक्ष महोदय, मैं एक बात कहना चाहता हूँ, जिस पर ध्यान दिया जाये कि अगर मुझे बैंक कैश करने के लिए जिला मुख्यालय में आना पड़ता है, तो मुझे वया सुविधा मिली? आप बड़े-बड़े गांवों को ईकाई मानिए। जब गतिविधियां बढ़ी हैं, बैंकों पर लोड बढ़ा है, जिम्मेदारियां बढ़ी हैं तो बैंक की शाखाओं का भी विस्तार होना चाहिए, एक्सपेंशन होना चाहिए। गांव-गांव में बैंक की स्थापना होनी चाहिए।

माननीय प्रधानमंत्री जी ने घोषणा की है कि हर सांसद को एक आदर्श गांव बनाना है। शिकायत हो रही थी कि सरकारी मदकमें सुविधा नहीं दे रहे हैं, सहयोग नहीं कर रहे हैं। आदर्श गांव को बनाने की जो नीति बनाई गई है, उसमें थोड़ा-बहुत योगदान हमारा होना चाहिए। मेरा अनुभव है कि आज कम से कम इतनी बात ही हो जाए कि आज ही माननीय मंत्री जी घोषणा कर दें कि जितने भी आदर्श गांव का वजन हुआ है, हर गांव में एक बैंक की शाखा निश्चित रूप से खोली जाए। हम लोग ही शुरुआत नहीं करेंगे तो और कौन शुरुआत करेगा। आदर्श गांव हवा में तो बनना नहीं

हैं। आदर्श गांव तभी बनेगा जब हम अपना योगदान देंगे।

महोदय, मैंने मंत्री जी द्वारा प्रस्तुत संशोधन का पूर्ण समर्थन करते हुए कुछ सुझाव दिए हैं। इनमें से एक सुझाव यह भी है कि बैंक की गतिविधियों में इतना विस्तार हुआ है कि बैंक गांव तक पहुंचा है। मनरेगा के लाभार्थियों का भुगतान खाते में होता है, अन्य अनुदानों की राशि भी खाते में आती है। माननीय प्रधानमंत्री जी ने जन-धन योजना की घोषणा की और करोड़ों लोगों के खाते खोले गए। इनमें अधिकांश लोग गांव में रहने वाले हैं। अगर गांव में बैंक की शाखा नहीं होगी, उनको शहर में आना पड़ेगा। गांवों में बैंक न होने के कारण गरीब आदमी तक लाभ नहीं पहुंच पाता है। मैं विशेष रूप से आपका ध्यान इस बात की तरफ दिलाना चाहता हूँ कि माननीय प्रधानमंत्री जी की उस योजना, जिस पर आपत्ति की जा रही थी, को पूर्णतः सफल करने के लिए जितने आदर्श गांव का चयन माननीय सांसदों द्वारा हुआ है, आपके द्वारा यहीं से शुरुआत हो जाए, घोषणा की जाए कि हर आदर्श चयनित गांव में राष्ट्रीय बैंक द्वारा शाखा की स्थापना निश्चित रूप से होगी। यह सभी की मांग है। यह माननीय प्रधानमंत्री जी की घोषणा है, इसका महत्व तभी दिखाई देगा जब सबको लगेगा कि सरकार इसके बारे में गंभीर है, यह संशोधन लाई है और इस संशोधन के साथ माननीय वित्त मंत्री जी ने इसकी घोषणा भी की है और इसका पालन भी होगा।

महोदय, जिस प्रकार से बैंक बढ़ रहे हैं, जिन सुविधाओं को देने के लिए संशोधन बिल लाए हैं, आप वास्तव में ब्याई के पात्र हैं। आप गांवों को जोड़िए, देहातों को जोड़िए जहां देश की 70 प्रतिशत आबादी रह रही है। हम इनको शहर में आने के लिए क्यों मजबूर कर रहे हैं? मेरा आपसे विशेष रूप से अनुरोध है कि आपके मन में जो भावना है, सरकार के मन में जो भावना है, उसे फलीभूत करने के लिए हर गांव में संख्या निर्धारित कर दें कि 5000 की आबादी वाले गांव में बैंक की शाखा होगी। मेरा अनुरोध है कि आप कम से कम एक मानक निर्धारित कर दें ताकि गांव बैंक की सुविधा से वंचित न रहे। यह सब होने से समझा जाएगा कि हम वास्तव में इसके लिए गंभीर हैं।

इन्हीं शब्दों के साथ मैं इस बिल का समर्थन करते हुए अपनी वाणी को विराम देता हूँ।

SHRI S. SELVAKUMARACHINNAYAN (ERODE): Hon. Deputy Speaker, Sir, I thank the Chair for giving me this opportunity and our leader Manbunighu Amma, for giving me the opportunity to represent Erode constituency in this august House.

The Negotiable Instruments Act was enacted in 1881 in the light of promissory notes, bills of exchange and cheques. So, after many years the nationalisation of banks happened in India, only in 1988, an amendment was effected that would cover the banking sector and the financial institutions under the ambit of this Act. Dishonour of cheques, either due to insufficiency of funds or due to lack of integrity or due to any other reason, causes problems to all concerned. Off and on litigations were initiated in several courts of law in this regard, but only the Supreme judgement delivered on 1st August, 2014 changed the entire scenario.

Under section 138 of the Negotiable Instruments Act, 1881, the jurisdiction of courts, either when the payee or when the payer goes to court, was a matter subject to interpretation, but according to the hon. Supreme Court's judgement in 2014, the jurisdiction is restricted to the place where the dishonouring bank is located.

Various stakeholders including industry associations, financial institutions along with several Bar Associations, throughout the country, brought to the notice of the Government the impact of this judgement on the business interest. They also pointed out about undue protection that is offered to the defaulters. This is also forcing the business people to resort to instant cash business as it becomes difficult to manage credit business. Noticing that this will lead to reduction in trading volume, acute shortage of commodities, hike in prices and above all lower tax collection by both the Central and State Governments, the Union Government thought it necessary to bring about this amendment so that the original position is retained and the payees of the cheques are benefited.

Now, this amendment provides for filing of cases only by a court within whose local jurisdiction the bank branch of the payee or where the payee presents the cheque for payment is situated. I welcome this move of the Union Government to safeguard the interests of both the business community and the Governments at the Centre and States. The Advocates of various Bar Associations are also very happy about the amendments in this Bill.

At this juncture, I would also like to suggest to the Government that they may consider providing for initiation of legal proceedings from the following : (i) where the cheque was issued; (ii) where the cheque was dishonoured; (iii) where the complainant resides; and (iv) where the cause of action arises. Further, I would like to suggest that the Bill should come with retrospective effect.

I would like to thank the hon. Minister of Finance, to whom I had written a letter in this regard recently, taking up the grievance of both the business community and also the legal fraternity throughout the country. Expressing my support to this Bill, I conclude. Thank you.

PROF. SUGATA BOSE (JADAVPUR): I rise to speak on behalf of my Party on the Negotiable Instruments (Amendment) Bill brought by this Government.

What this Bill attempts to do is to remove any ambiguities regarding the territorial jurisdiction of cases that are to be tried under Section 138 of the Act. I would like to ask the Minister of State for Finance -- who is present in the House -- to give us a clarification on the scale of the problem that we are facing. I find that in an answer given by the Finance Minister, Shri Arun Jaitley, on 9 December 2014, it was stated that : "The total number of cases pertaining to cheque bounce and dishonour pending in various courts up to 31 July 2013 were 21,94,022 cases."

However, we find that there is a Law Commission Report, which suggested that, in fact, the number of cases chocking the criminal justice system of this nature amounted to 40 lakh cases, and more than 5.5 lakh are pending in Delhi alone. So, when the Minister of State rises to give his reply, we would like to get a very clear sense of the scale of the problem. But if, in fact, the number of cases pending are, as according to the Finance Minister, just short of 22 lakh until July of last year, then that too, I would say, is 20 lakh cases too many.

There are two points, which make we very said when I see these kinds of statistics. First of all, India, in its economic, monetary and financial history, has always been known for the sophisticated nature of its negotiable instruments. Negotiable instruments that finance long-distance trade, instruments that we knew by the name of *Hundi* or *Suftaja* enabled merchants from this country to carry out trade all across the sub-continent and

also beyond the shores of this sub-continent in different parts of the Indian Ocean world.

When we have so many cheques bouncing, being dishonoured, what we find is that our whole system of negotiable instruments that had been based on trust seems to have completely broken down because when a cheque is issued, it is not going to be dishonoured. It is basically a violation of trust, which was the basis of our negotiable instruments in the past.

The other feature which makes me very sad when I see the statistics is the number of pending cases. This particular Amendment Bill only tinkers at the edges of the problem. What we require from this Government is a scheme for comprehensive judicial reforms. Even in the course of 'Zero Hour' today, one of my friends from Murshidabad pointed out how many cases are pending in one district, which he represents. So, this will only address a very small part of the problem. I think we need comprehensive judicial reforms to be brought in.

There is another point that I wish to mention. I will not be as harsh as the preceding speaker from the Opposition, who has said that this Bill helps the moneylenders. If this had been an issue between small debtors and extortionate moneylenders, then we would wholeheartedly be on the side of the small debtors, but in this instance, it is a question of cheques that are being issued which are not being honoured because of either lack of integrity or because of insufficiency of funds, and whoever is issuing these cheques ought to know that these cheques will not be honoured. That is why we are prepared to go along with this particular amendment.

However, who are the people who are the so-called stakeholders who came to the Government as soon as the Supreme Court judgment of 1st August 2014 was delivered? We are reading not just in the media, but also in the Objects and Reasons spelled out by this Government that these were financial institutions and industry associations that were most concerned. I can see that this Government responds very swiftly when the issue is one of ease of doing business. But will this Government also respond with such alacrity when the question is about small consumers and not businesses? We constantly hear in this House about many banking norms are being simplified. We have heard the fanfare with which the Jan Dhan Yojana has been advertised throughout the country. But when I go to my constituents in my own Jadavpur Constituency, I constantly hear complaints from people who live either in the City of Kolkata or in the villages to the South of Kolkata which I represent that they face huge difficulties even now for fulfilling KYC norms. This is a genuine difficulty and there is a gap between what is said in this House about easing various norms and the actual difficulties that consumers face. As was pointed out, there are many villages, there are many Gram Panchayats where there are no banks whatsoever so that there is no question of drawing cheques on those banks which may or may not bounce. So, I would urge this Government that just as they have responded to the concerns of industry associations and of financial institutions, they should also respond to the concerns of small consumers, people who are still denied access to the banking sector.

So, I will simply say that this is actually a very small piece of legislation. What the country requires are major legislations that have to be brought to bring about comprehensive judicial reforms and comprehensive banking reforms which will help very ordinary people in our country to gain access to credit so that they can actually be able to write cheques. That is the basic right that is denied to vast numbers of our people, living particularly in the villages of the subcontinent.

Finally, I would simply like to urge this Government that let their rhetoric of being people-friendly not be simply limited to rhetoric. Let them act, let them legislate and let us implement those legislations for the benefit of the citizens of this country.

SHRI JHINA HIKAKA (KORAPUT): Hon. Deputy Speaker, Sir, I am thankful to you for giving me an opportunity to say my views on the Negotiable Instruments (Amendment) Bill, 2015.

This Bill is seeking amendment to the Negotiable Instruments Act, 1881. I would like to state here that Negotiable Instruments Act, 1881 starting from Sections 138 to 142 dealing with the Banking, Public financial institutions and Negotiable Instruments Laws were found to be deficient to deal with the recent problems of offence relating to rejection or return of cheques due to insufficient funds in the drawer's account.

HON. DEPUTY SPEAKER: May I request the Members from the Treasury Benches to hear what the Member is speaking? I am very sorry to say this. You can go and sit outside. I am sorry to notice that the disturbance is coming more from this side only.

...(Interruptions)

SHRI JHINA HIKAKA: In this regard, I should clarify that the objective of the Negotiable Instruments Act is to ensure usage of cheques in order to enhance the credibility of the cheque as a reliable financial instrument for normal business transaction. This will ultimately provide a substantial ground for smooth trade and commerce and would encourage the lending institutions like banks to support financially without the fear of loan defaulters in view of bouncing of cheques.

This move is a welcome step and is aimed at resolving the increasing incidents of cheque bounce cases all over the country. By the end of 2014, around 35 million cases pertaining to dishonour or bounce of cheques are pending in various subordinate courts and High Courts of our country. We can imagine how much insecure our lending institutions, lending agencies are financially. This trend absolutely squeezes the very motive of smooth trade, commerce, financial transaction etc., consequently weakening the economy of our country. So, it is necessary to curb such problems at the earliest.

One more thing I would like to state here is that the Supreme Court as per its ruling previously in the case of Dasrath Rupsingh Rathod versus State of Maharashtra and others held that the territorial jurisdiction for dishonour of cheques is restricted to the Court within whose jurisdiction the offence was committed. I may further state that this Bill provides for filling of cases only by a Court within whose local jurisdiction the bank branch of the payee where the payee presents the cheque for payment, is situated. In my view, the jurisdictional issues should be taken up in the courts as per the interest of complainants in order to ensure a fair trial to avoid the security threat from violators. So, I would like to say that it is necessary to address the problem in the backdrop of threat to life of drawer. So, the offence of rejection or return of cheque should be inquired into and tried only by the Court within whose jurisdiction the bank branch of the payee is situated, I mean where the payee deposits the cheque for payment.

I would also like to state that the stringent act of punishment should be initiated against the culprits who deliberately make the ground for return or dishonour of cheques.

This is a very good step. Under the able leadership of our beloved Chief Minister Shri Naveen Pattanaik, we all support this Bill wholeheartedly for its passing and implementation, at the earliest.

SHRI RAHUL SHEWALE (MUMBAI SOUTH CENTRAL): Mr. Deputy-Speaker, Sir, I am very thankful to you for allowing me to speak on the Negotiable Instruments (Amendment) Bill, 2015. The Bill seeks to amend the Negotiable Instruments Act, 1881. I stand here to support this Bill moved by the Government.

The Act defined promissory notes, bills of exchange, cheques, and provided penalties for issues such as bouncing of cheques and specified circumstances under which complaints of bouncing of cheques can be filed. However, it did not specify the territorial jurisdiction of the court where such a complaint is to be filed. It is indeed a good move to amend the Act wherein cases of bouncing of cheques can be filed in a court whose jurisdiction the bank branch of the payee lies in. Also if a complaint against the person issuing a cheque has been filed in a court with the appropriate jurisdiction, then all subsequent complaints against that person will be filed in the same court.

If more than one case is filed against the same person before different courts, the case will be transferred to the court with the appropriate jurisdiction. The Bill also amends the definition of a cheque in the electronic form. Under the Act, it was defined as a cheque containing the exact mirror image of a paper cheque and generated in a secure system using a digital signature. The definition has been amended to mean a cheque drawn in electronic medium using any computer resource and which is signed in a secure system with a digital signature or electronic system.

It is quite appreciable as a clarification of jurisdictional issues may be desirable from the equity point of view as this would be in the interest of the complainant and would ensure fair trial and also would increase the credibility of the cheque as a financial instrument. No doubt this would also help the trade and commerce in general and allow lending institutions including banks to continue to extend financing to the economy without the apprehension of loan default on account of banking of cheque.

I would like to make some suggestions. As the aggrieved person has already suffered loss due to nonpayment, interest, mental trauma for other dues to be paid out of the money to be recovered, further he will have no clue where to find the better lawyer, the cost of litigation and most importantly when and what will be the outcome. It is simply hardship on his part. Hence I urge an immediate action is required to be taken early decisions in such cases. Similarly, most of the small creditors will not go for litigation as it will be a total waste of time and money. Moreover, this will simply favour the law breaker who can steal the hard earned money of innocent creditors.

A negotiable instrument enables the holder to expect prompt payment because a dishonour means the ruin of the credit of all persons who are parties to the instrument. So, I suggest that a deadline should be enforced and fast track courts be set up for speedy decisions whereby total compensation including penalty is paid.

It is observed that the system of judiciary is overburdened and if we want to clear such cases, our pending decisions should be resolved early. Additionally, in case of inter-State business dealings creditors may well prefer to avoid any such potential complication and press for alternative and risk less alternatives.

In the end I would like to submit that taking into consideration the above mentioned hardships faced by a honest creditor, the list of negotiable instruments is not a closed chapter. With the growth of commerce, new kinds of securities may claim recognition as negotiable instruments. The necessary amendments will further be included taking future transactions in account so that truly we can claim '*Sab ka saath, sab ka vikas*'.

With these words I support the Bill. Thank you.

DR. RAVINDRA BABU (AMALAPURAM): Hon. Deputy Speaker Sir, this Bill really seeks to nullify the double jeopardy created by the Supreme Court judgment. The Supreme Court judgment had created double jeopardy. For example, a poor fellow who has submitted his cheque in Thiruvananthapuram is supposed to go to Jammu and Kashmir or North East where he has to argue his case for getting the money back. Firstly, he has lost his money. Secondly, he has to travel all the way from South to North to fight his case of cheque dishonour.

So, this double jeopardy which was created by this judgment of the Supreme Court is sought to be nullified with one stroke of amendment in the Negotiable Instruments Act. We wholeheartedly welcome the step. This Bill nullifies the judgment of the Supreme Court by removing the hurdles and burden on the poor man who has lost money and who is supposed to go to the place of territorial jurisdiction of the Court where he has to fight. With one stroke, this hurdle has been cleared.

It also creates two more provisions. There are three things which pop up from this Act. The first one is, determining the territorial jurisdiction. The second is, defining the electronic exchange of Bill and electronic digital signature. The third is, dealing with multiple places. A person gives so many cheques to so many persons and the Court will determine according to the provision of this Act. This Bill has sought to remove many hurdles which we have experienced as well as those which cannot be foreseen. We, from the Telugu Desam Party wholeheartedly support this Bill. We also

congratulate the Minister for taking this bold step.

SHRI B. VINOD KUMAR (KARIMNAGAR): Sir, on behalf of my Party Telangana Rashtra Samiti, we support this Negotiable Instruments (Amendment) Bill 2015. This Bill has come up because of the judgment passed by the Supreme Court in August 2014. To address the difficulties faced by the payee, a small legislation is brought in the House. We welcome this legislation because the place where the payee submits the cheque and the jurisdiction of that bank is taken as the jurisdiction of the Court to file a complaint under Section 138 of the Negotiable Instruments Act.

In the other Clause 4, that is Section 142 (A) which they are going to insert as a new section, it is stated that all the pending cases against the same accused will be tried by the same Court. This is also a welcome step. This is the aim and objective of this legislation and we support it. The Supreme Court judgment had given undue protection to the defaulters at the expense of the aggrieved party.

Coming to the point, the hon. Minister should take the recommendation of the Law Commission. Just now my hon. colleague had stated that till 2013 there were 37,466 cases out of which 20,000 cases are pending for the last three years. With regard to the pendency of cases in subordinate courts, there are more than 25 lakh cases. The Law Commission in its Report No. 230 in 2009 had said that in order to dispose the cases which are pending before various courts, Fast Track Courts should be created to dispose of dishonoured cheques under Section 138 of the Negotiable Instruments Act. The Government of India, particularly the Minister of Finance should take necessary steps to see that Fast Track Courts are immediately established in various States as per pending cases, and funds for creation of these Fast Track Courts should be provided by the Central government

DR. A. SAMPATH (ATTINGAL): Deputy-Speaker, Sir, I seek your permission to speak from this seat because the House is almost empty. ...(*Interruptions*)

HON. DEPUTY SPEAKER: Yes, you can speak from there.

DR. A. SAMPATH: Deputy-Speaker, Sir, the Negotiable Instruments (Amendment) Bill, 2015, Bill No. 151 of 2015 is *prima facie* a small Bill. But I would like to speak here from a lawyer's point of view. ...(*Interruptions*)

HON. DEPUTY SPEAKER: You are a lawyer.

...(*Interruptions*)

DR. A. SAMPATH: Yes, I am still having a Chamber in Thiruvananthapuram, the capital city of Kerala. My juniors are running the show. I do not have any files now. I do not have any clients now. I am an advocate with no files and no fees. ...(*Interruptions*) I hope, your hands may not go to the bell very early. ...(*Interruptions*)

SHRI E. AHAMED (MALAPPURAM): I do not know why he is very much worried. ...(*Interruptions*) I may be permitted to say something. First thing is, he said no case, no fees. ...(*Interruptions*)

DR. A. SAMPATH: It is, 'no brief, no case, and no fees', Sir. ...(*Interruptions*)

SHRI E. AHAMED : You will get fees and you will get everything. ...(*Interruptions*)

DR. A. SAMPATH: With all due respects to my learned friend Shri Jayant Sinha who is piloting this Bill I am happy that I had the opportunity to work in the Standing Committee along with Shri Yashwant Sinha also.

With your permission, I would like to invite the attention of the hon. Minister of State because the hon. Minister Shri Arun Jaitley is not in the House. I am not talking politics but only on the business before the House, which is the Negotiable Instruments Act.

In page 2, clause 3 (2), it has been stated:

"The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction the bank branch of the payee, where the payee presents the cheque for payment, is situated."

This creates a problem not for the business people, for the industries and commerce. Today, what I understand is that the Government of India has decided to have 51 per cent FDI in multi-brand retail trade. I remember, in the Fifteenth Lok Sabha, when the present occupants of Treasury Benches were in the Opposition, they were vehemently opposing FDI in multi-brand retail markets. I was there. My leader Shri Karunakaran and others were also there. We were opposing it. ...(*Interruptions*)

HON. DEPUTY SPEAKER: You speak on the Negotiable Instruments Act please.

...(*Interruptions*)

DR. A. SAMPATH : Yes.

With your permission, I will come to the Statement of Objects and Reasons. Here, it is stated that the Supreme Court has held that the territorial jurisdiction for dishonour of cheques is restricted to the courts within whose local jurisdiction the offence was committed, which in the present

context is where the cheque is dishonoured by the bank on which it is drawn. This Bill, the Government says, is meant to address the difficulty arising due to the Supreme Court Judgement.

The Government says in para 4 of the Statement of Objects and Reasons

"Pursuant to the judgment of the Supreme Court, representations have been made to the Government by various stakeholders – here I would like to underline the word stakeholders – including industry associations and financial institutions, expressing concerns about the wide impact this judgment would have on the business interests as it will offer undue protection to defaulters at the expense of the aggrieved complainant –"

I am not arguing for the defaulters here. I want to know whether the Government has taken any suggestion, opinion or comments from the consumer organisations. Of course, they were generous to take the suggestions from the industry and commerce. Here I would cite an example. Suppose I am having a business firm, a non-banking financial intermediary which is registered in Mumbai and I am having my own business in Kerala and Tamil Nadu also.

My company's branch is in Trichy, Thiruvananthapuram, Dindigul, Chennai, Kottayam, Kochi, etc. and people go there for the purchase of vehicles or consumer durables and are availing the loans. They are getting the money from my offices. They issue cheque which is with my enterprise. Subsequently, just like some of the private airlines say that they are happy to announce that they have modified the air fares, they will be demanding more money under some pretext; something like administrative expenditure, which you need not pay in cheque. There will be no receipt at all, just like yesterday a policeman asked a lady in Delhi to give the money but he will not give her any challan. Unfortunately, that happens. So, people will be at the mercy of this entrepreneur and quite naturally they will have to pay. My enterprise is having the cheques without any date. I will put some date and present them somewhere in Manipur. These cheques will become dishonoured. What will happen? These people, who have issued cheques, will have to travel up to Manipur to conduct the case.

My simple question is, if you are protecting the interest of the commerce, industry, etc. it is not only your honour but also your duty to protect the interest of the common man. Why should you drag all these men to the court?

I have a few suggestions to make. The place of transaction should be the criteria for presenting the complainant and the complaint should contain the pleading of jurisdiction and transaction. I say so because Section 177 of the Code of Criminal Procedure prescribes a jurisdiction for a criminal case. By making an amendment to the Negotiable Instruments Act, how can we overcome certain legal implications which a CrPC has envisaged?

The cause of action is the criteria for filing complaint under this Act. Hence the jurisdiction should be based on the place of transaction between the parties and not the convenience of the complainant or the accused. The bank advancing the loan in Kerala may have branches in North India. Such a situation may happen. The bank would present the cheque where they have filed a complaint according to their own wish just like whims and fancies and the same would be a harassment to the people so as to pressurise the accused to settle the case.

For transaction between the institution or the agency or the entrepreneur and the individual, they can have their own agreement for fixing the place for filing the complaint and that is why I have given notice for an amendment. My amendments are there and I do not know whether the Minister will be glad to accept them. He has the majority and it is his own decision.

The court should consider the same under Section 202 of the Code of Criminal Procedure before taking cognizance as it is already held as mandatory.

The presence of the complainant need not be insisted as a matter of course except for evidence. If the Government is saying that the complainant is put at the mercy of the defaulter; it is not like that. Here the presence of the accused in each posting is must and hence prosecuting the case in any court will make no difference for the complainant. The accused can defend his case to rebut the presumption.

The Legislature is also duty bound to protect the interest of the citizens, like they are protecting the interest of the financial institution.

Sir, if this Bill is going to be enacted by this House at the late hour of the last day of this Session we are going to witness more and more suicides because people are now at the mercy of the money-lenders. Farmers have committed suicides. Poor people have committed suicides. They have committed suicides because they are in debt. So, Sir, this will be a hangman's knot on the common man. I pray before you, Sir, this Bill should have been referred to the Standing Committee of Law and Justice and that Committee should have taken ample evidence from various stakeholders and then only it should have been passed. Thank you.

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15.00 hrs

SHRI VARAPRASAD RAO VELAGAPALLI (TIRUPATI): I thank the Chair for giving me this opportunity to speak on the amendment to the Negotiable

Instruments Act.

The amendment mainly deals with Section 138 of the principal Act which deals with the cheque bouncing cases. Cases of cheque bounce are increasing day-by-day. As has been mentioned by the earlier speakers, it has touched an alarming figure of 40 lakh cases with Delhi alone having 5.5 lakh cases. In fact, the increase is so much that these cases are choking the judicial system as time not being available for other cases.

One of the main reasons for this kind of pendency is the ambiguity in the jurisdiction of court for filing the cases under Section 138. The present amendment was necessitated because the Supreme Court judgement in 2014 held that the territorial jurisdiction for dishonour of cheque is the district court in whose local jurisdiction the offence is committed which means where the cheque is dishonoured. The Supreme Court also directed that all other complaints relating to this should also be transferred to that particular court.

The principal Act provides for the summary trials and the compoundable offence. It is pertinent to refer to a case of 1999 wherein the Supreme Court talked about the multiplicity of jurisdiction. On the one hand, it says that it should be referred to only a particular court and in another case it talks about multiplicity of jurisdiction. In my opinion, the option may be given to the complainant who is suffering. So, in view of this contradiction, many stake holders have complained in this regard. Therefore, the complainant should be given the option in regard to filing of the case.

The present amendment also stipulates that if more than one prosecution is filed against the same drawer, all these cases have to be referred to the same court. Here one important point is that if all the cases go to a particular court, there is a possibility for prejudice whereby it would affect the drawee or the payee. So an option should be given to the complainant.

Then the electronic form is a welcome step and we appreciate that. It goes along with the information technology. But they have made it so simple that they have totally forgotten to connect it with the CrPC also. It does not coincide with Sections 177, 178 and 179 of the CrPC. Therefore, this amendment should have taken CrPC into consideration as also the Reserve Bank guidelines with regard to the National Electronic Fund Transfer, RTGS and inter-bank mobile payment system so that it would have been more comprehensive rather than restricting it to only one issue.

So, I am of the opinion that this alone will not serve a big purpose unless it is made a more comprehensive amendment.

श्री दुर्गाचंदा चौधरी (हिमाचल) : उपाध्यक्ष महोदय, मैं आज यहां 'नेगोशिएबल इंस्ट्रुमेंट्स (अमेंडमेंट) बिल, 2015' के समर्थन में खड़ा हुआ हूँ। मैं सरकार द्वारा इस तरह की मुद्दिम चलाए जाने का स्वागत करता हूँ, क्योंकि जहां बड़ी-बड़ी कंपनियां चेक जारी कर देती थीं और छोटे-छोटे लोगों को शहरों में जाकर उनके खिलाफ लड़ाइयां लड़नी पड़ती थीं। आज सरकार की ओर से यह एक कदम है, जिसके तहत इस तरह के अत्याचार को रोकने के लिए हमारा सदन एक बिल पारित करने जा रहा है।

महोदय, मैं माननीय मंत्री जी को एक ही सुझाव देना चाहूंगा। जिस तरह से मेरे से पूर्व वक्ता भी कह रहे थे कि आप केवल बड़े उद्योगों के बारे में ही नहीं, बल्कि उन छोटे लोगों के बारे में भी सोचिए, जिन्हें बड़े उद्योग चेक दे देते हैं और वे चेक बाउंस हो जाते हैं। उनके पास भी बराबर का अधिकार होना चाहिए कि जहां उनका गृह क्षेत्र है, वहां वे उन पर मुकदमा कर सकें। बड़ी कंपनी तो दिल्ली में, मुम्बई में, कोलकाता में रजिस्टर्ड है और कोई गांव का व्यक्ति दिल्ली में आकर बड़े ककीलों को रख कर उनके खिलाफ लड़ाई नहीं लड़ पाएगा। आपको उनके बारे में भी सोचना चाहिए, उनके लिए भी कोई अमेंडमेंट वर्लोज़ इसके अंदर लाना चाहिए। मेरा तो यही सुझाव है।

मैं इस बिल का स्वागत करता हूँ और इसका समर्थन करता हूँ।

ADV. JOICE GEORGE (IDUKKI): Sir, regarding the Negotiable Instruments (Amendment) Bill, 2015, I do agree with the Government on one aspect because this is necessarily for the purpose of abating the confusion in the judgement of the Supreme Court in D.R. Rathod versus State of Maharashtra whereby the Supreme Court has held that the place where drawers bank is situated alone is having jurisdiction. That lacuna has to be removed necessarily. But under the guise of removing that lacunae, the Government is now fixing the jurisdiction only when the cheque is presented for collection before the payee's bank.

Earlier, there was a judgement of the Supreme Court in Bhaskaran versus Sankaran Vaidhyan Balan case in 1999 whereby the Supreme Court has fixed five places as its jurisdiction and that too, it was done after elaborate consideration of Sections 177 to 179 of the Criminal Procedure Code. The cause of action arises at places where the drawer's bank or payee's bank is situated. Now, as per this amendment, the provision is for giving jurisdiction only to the courts under which the drawer's bank is situated. This will affect the right of the people at large.

As pointed out by my colleague, Dr. Sampath and others, under the guise of ease of doing business, if we are conceding to the demands of the non-banking financial institutions and other corporate institutions, we are giving a go-by to the interests of the poor people and those people who are not in a position to honour their cheques which may not be their fault but due to some other reasons.

If we go by this amendment, a person who issues a cheque at Thiruvananthapuram or some other place to a non-banking financial corporation which is having its corporate office at Delhi or Kashmir, and if he chooses to present his cheque at some other places in the Northern States, then that person has to go to Kashmir or Northern States for the purpose of fighting his case and get justice for himself.

We should understand one position. In cases where a person is having a genuine grievance for not honouring the cheque, and if a dubious litigant chooses to file a case in Mumbai or Kashmir, then that poor person who is residing at Thiruvananthapuram or Chennai has to go all the way to that place to fight out his case and get justice.

This point also has to be taken into account. That is why, I have moved an amendment also. The Government should relook these words and refer the issue to the Standing Committee.

DR. UDIT RAJ (NORTH WEST DELHI): Hon. Deputy-Speaker, Sir, I thank you for giving me this opportunity to speak on this Bill. In fact, a lot has been said on this Bill and so, I do not have to say much.

Now, people will be safe from double jeopardy. In fact, a few days back, a large number of traders of my constituency came to me and said that the judgment of the Supreme Court has created a lot of problems for them. They are the ones who should receive the payment but rather, they are paying more and more to the defaulters.

So, I support the Bill.

वित्त मंत्रालय में राज्य मंत्री (श्री जयंत सिन्हा): उपाध्यक्ष महोदय, मैं आपको धन्यवाद देता हूँ कि आपने जवाब देने के लिए कुछ समय दिया है; मैं पहले तो सिर्फ धन्यवाद दूंगा क्योंकि मुझे लगता है कि कहीं आठ-दस वक्ता ने इस विषय पर बोला है। यह इस सदन की महानता है और हमारे जो माननीय सदस्य हैं, उनकी सोच इतनी अच्छी है कि यह जो एक छोटा सा चार वर्तमान का बिल है, परंतु इस विषय पर भी और जो काफी टेक्निकल मामला है, फिर भी उन्होंने कई रोमांचक पहलुओं के बारे में चर्चा की है। माननीय सुगत बोस जी ने एक ऐतिहासिक पहलू निकाला और उन्होंने बताया कि जो निगोशिएबल इंस्ट्रूमेंट्स एक्ट है, वह 1881 का एक्ट है। वह बहुत सालों से चला आ रहा है। हम लोगों ने उसमें काफी परिवर्तन किया है, परंतु यह एक प्रकार का ऐतिहासिक एक्ट है, आज इसे हमारे कानून बुक में सम्मान दिया जाता है। पहला तो यह ऐतिहासिक पहलू है। दूसरा पहलू यह है कि यह कानूनी तरीके से इस मामले को कैसे संभाला जाये, इस मामले पर किस तरह की कार्रवाई की जाये, हमें इसके कानूनी पहलू को भी समझना है। अगर, हमें इसका समाधान करना है तो इसे बिजनस, इकॉनोमी, व्यापार और व्यवसाय के दृष्टिकोण से संभालना है। क्योंकि, अंत में इस बिल के माध्यम से हम यह करना चाह रहे हैं कि जो व्यवसाय इस देश में चल रहे हैं, उनको आसानी से किया जाये और जो दो पार्टियों के बीच कॉन्ट्रैक्ट्स होते हैं, उन्हें हम किस तरह से मजबूत बनायें, और उन कॉन्ट्रैक्ट्स को एक सैविटी ऑफ़ लॉ और उनको इम्प्लिमेंटेशन में आसानी दी जाये। यह सबसे महत्वपूर्ण है। इस समय देश में जो आर्थिक हालात हैं, और जो वेव्स के आंकड़े हैं, उन्हें उन पर ध्यान देना चाहिए। कई सदस्यों ने पूछा है कि कितने वेव्स बाउंसिंग के केसेज आज न्यायालयों में हैं? हम लोगों के पास जो आंकड़े हैं, उनके अनुसार इस समय 21 लाख वेक बाउंसिंग के केसेज कई न्यायालयों में फंसे हुए हैं, जिनमें हाई कोर्ट्स में 42,000 केसेज हैं। बहुत बड़ी संख्या में केसेज के ऊपर कार्रवाई हो रही है। साथ-साथ 259 कोर्ट्स सिर्फ वेक बाउंसिंग के लिए स्थापित किये गये हैं। आपको इससे पता चलेगा कि हमारा जूडिशियल सिस्टम इसमें बहुत फंसा हुआ है, उससे बहुत लोगों को तकलीफ हो रही है, खासकर हमारे जो व्यापारी हैं, जो व्यवसाय का काम कर रहे हैं उनको इससे काफी समस्या हो रही है। अब जो माननीय सुप्रीम कोर्ट की रूलिंग आयी है, जिसका जिक्र कई माननीय सदस्यों ने किया है, जिसमें यह कह दिया गया है कि अगर आपको कोई केस फाइल करना है तो आप केस वहां फाइल करिए, जहां वेक इश्यू होता है, उससे और भी बड़ी समस्या हो सकती है।

मैं इसके दो महत्वपूर्ण पहलू आप लोगों को समझाना चाहता हूँ। आप किसी भी टेलीकॉम कम्पनी को ले लीजिए, जिसके करोड़ों सब्सक्राइबर्स हैं। अक्सर, यह होता है कि कई सब्सक्राइबर्स अपना बिल नहीं देते हैं, जब वह लोग बिल नहीं भरते हैं और उनके वेक बाउंस कर जाते हैं तो उस टेलीकॉम कम्पनी के लिए या कोई छोटा व्यापारी भी हो, जिसके पास 10, 20 या 25 ग्राहक हों, जिनके वेक बाउंस कर गए हैं, वह मुंबई में है तो वह कहां-कहां जाकर लाखों लोगों के विरुद्ध कोर्ट में केस फाइल करेगा और बोलेगा कि आपको जो हमें पैसा देना था, वह हमें दीजिए। यह बड़ा इम्पैक्टफुल मामला है। कोई इस तरह से अपना व्यापार और व्यवसाय नहीं चला सकता है। इसलिए हम लोगों को यह कोशिश करनी चाहिए कि हम लोग इसको किस तरह से कन्वर्निंग बनायें। इसको इस तरह से चलायें जिसमें जो बिजनेस हैं, अगर उनके हजारे या लाखों सब्सक्राइबर्स हैं, जिनके वेक बाउंस कर गये हैं, वे एक जगह केस फाइल करके कार्रवाई करें। इसलिए इसको कन्वर्निंग बनाने के लिए माननीय सुप्रीम कोर्ट ने जो रूलिंग दी थी, वह बड़ी इम्पैक्टफुल थी, उसको हम लोग कन्वर्निंग बनाने की कोशिश कर रहे हैं। माननीय सदस्यों ने कहा है कि इससे सामान्य जनता को हानि होगी क्योंकि आप कॉमन मैन को सिंव कर कहीं और ले जाइएगा और उस पर आप कार्रवाई चालू करवा दीजिएगा, आप उसे न्यायालय में ले जाइएगा।

माननीय सदस्यों को मैं यह समझाना चाहता हूँ कि 'प्रधानमंत्री जन धन योजना' के पहले 50 प्रतिशत लोगों के पास तो बैंक एकाउंट्स ही नहीं थे तो वे वेव्स के साथ क्या कर सकते थे? आप जिन गरीबों की यह बात कर रहे हैं कि उनके साथ वे फंस जायेंगे, उनके पास तो बैंक एकाउंट्स ही नहीं थे, उनके पास वेव्स भी नहीं थे तो वे किस तरह से इस वंगुल में फंसते, मैं यह नहीं समझ पा रहा हूँ। इसलिए यह उन गरीब किसानों के लिए नहीं है, जिसके पक्ष में आप बहस कर रहे हैं, यह उन लोगों के लिए है जो डिफॉल्टर्स हैं। जिन्होंने किसी से एक सर्विस ली या किसी से कोई चीज खरीदी तो फिर उसके लिए जो पैसे देने चाहिए थे, वह उसे नहीं दिये। इसके लिए उन पर जो कार्रवाई करनी चाहिए, उसको कन्वर्निंग बनाने के लिए हम लोगों ने बिल पेश किया है। बहुत सारे लोगों ने आकर हम लोगों को रिपुजेंटेशन दिये हैं। बहुत लोगों ने कहा है कि हम लोग यह नहीं कर पायेंगे तो जो नेगोशिएबल इंस्ट्रूमेंट की इंटीग्रिटी है। माननीय सुगत बोस जी कह रहे थे कि हिन्दुस्तान में एक इतिहास है, उसकी इंटीग्रिटी पर एक बड़ा धक्का आयेगा और यह मुश्किल होगा कि हम उसे कैसे आगे बढ़ायें।

इसके साथ-साथ हमारी कोशिश यह भी है कि आने के समय और भी 'कैशलेस' सोसायटी की तरफ चले, जिसमें हम लोग इलेक्ट्रॉनिक पेमेन्ट्स से काफी सारे ट्रेंडिंग्स कर सकें। अगर इलेक्ट्रॉनिक पेमेन्ट्स का डिफॉल्टर्स पर कलैक्ट नहीं कर पायेंगे तो वहां भी बहुत बाधाएं आएंगी और हम कैशलेस सोसायटी की तरफ नहीं जा पायेंगे। इस सबका समाधान करने के लिए, फाइनेंशियल सिस्टम को और मजबूत बनाने के लिए जिसमें ब्लैक मनी को कम किया जाए, कैशलेस सोसायटी की तरफ चला जाए। कई माननीय सदस्यों ने कहा कि फाइनेंशियल इनवोल्यूशन होना चाहिए। शाखाएं नहीं हैं इसलिए हमें कोई न कोई सुधार लाना चाहिए। इन सब चीजों को मजबूत बनाने के लिए जिसमें मोबाइल बैंकिंग कर पाएं, इलेक्ट्रॉनिक पेमेन्ट्स कर पाएं, इस प्रकार के एक्ट की बहुत सख्त जरूरत थी। इसलिए हमने यह एक्ट पेश किया है। कई माननीय सदस्यों ने इसके लिए सहयोग और समर्थन प्रकट किया है। इसलिए हमें विश्वास और भरोसा है कि अगर आप इस बिल के लिए समर्थन दें तो जिस प्रकार हमने अभी तक जन-धन योजना में बहुत अच्छी तरह लोगों को फाइनेंशियल इनवोल्यूशन में जोड़ दिया है, आज हर परिवार का बैंक में खाता खुल गया है। हम इससे सिस्टम की इंटीग्रिटी को मजबूत बनायेंगे, कैशलेस सोसायटी की तरफ जा सकते हैं, बिजनस कॉर्रिस्पॉन्डेंस, मोबाइल बैंकिंग आदि आधुनिक टैक्नोलॉजी का प्रयोग कर पायेंगे। इस प्रकार सिस्टम को मजबूत बनाते हुए, नई-नई टैक्नोलॉजी का प्रयोग करते हुए हर व्यक्ति चाहे वह सामान्य व्यक्ति हो या बड़े-बड़े बिजनस हों, सबको आधुनिक, डिजिटल इकॉनॉमी में ताकर सुविधा पहुंचा पायेंगे। इसके साथ ही मैं अपनी बात समाप्त करता हूँ।

I commend this Bill to the House to be passed.

श्री एस.एस.अहलुवालिया (दार्जिलिंग): उपाध्यक्ष महोदय, मैं मंत्री जी से सिर्फ इतना कहना चाहता हूँ कि इन्होंने कहा कि व्यापार बढ़ाने के लिए इनकी जरूरत है। मैं गवाह हूँ। जब सेशन 138 एंड किया गया था, मैं उस कमेटी का सदस्य भी रहा हूँ जिस कमेटी ने रिपोर्ट दी और यह बना था। तब हायर-परचेज का जमाना था और हायर-परचेज इंस्ट्रूमेंट हमारी कंटी में नहीं आ रही थी क्योंकि पीडीसी का सिस्टम नहीं था, 138 सेशन नहीं था। सेशन 138 लाया गया था कि हायर-परचेज आगे बढ़े। हायर-परचेज में सबसे ज्यादा ऑटो इंस्ट्रूमेंट आई। ऑटो शिपिंग, स्क्वैर, मोटर साइकिल, कार से लेकर ट्रक तक अभी हायर-परचेज में लेते हैं। सुप्रीम कोर्ट की जजमेंट से पहले केरल हाई कोर्ट ने एक जजमेंट दी। केरल हाई कोर्ट की जजमेंट को ही जस्टिफाई करते हुए सुप्रीम कोर्ट ने अपनी जजमेंट दी। जजमेंट की मेन चीज है कि किमिनल जुरिस्पुडेंस कहता है कि प्लेस ऑफ़ ऑर्कर्स, क्राइम कहां हुआ। अगर किसी का बैंक बाउंस हुआ है, जहां मर्डर हुआ है प्लेस ऑफ़ ऑर्कर्स वहां हुआ है। उस ऑर्कर्स को ही एविडेंस माना जाता है और उस पर कार्यवाही होती है। प्लेस ऑफ़ ऑर्कर्स को सुप्रीम कोर्ट ने कहा कि जहां बैंक बाउंस हुआ है, उसी को प्लेस ऑफ़ ऑर्कर्स माना जाए और केसेज वहीं फाइल हों।

मैं आपके माध्यम से मंत्री महोदय से जानना चाहता हूँ कि जितनी ऑटो इंस्ट्रूमेंट हैं, सबकी फाइनेंस कम्पनियां हैं। किसी का चेन्नई में हैडक्वार्टर है, किसी का मुंबई में हैडक्वार्टर है, किसी का नासिक में है... (व्यवधान)

HON. DEPUTY-SPEAKER: Shri Ahluwalia, you must ask a specific question.

SHRI S.S. AHLUWALIA: I am coming to the point. I need a clarification. This is the clarification which we need for the benefit of the common man.

HON. DEPUTY-SPEAKER: What is your point? You tell it.

SHRI S.S. AHLUWALIA: I need a clarification. My point is that tomorrow a person in the North-Eastern State purchases a particular brand of the vehicle whose head office is in Mumbai. 'Place of occurrence' means in the Branch of the North-Eastern State where the cheque bounced. In the present case, the Supreme Court will give the verdict that the case should be filed in that branch office where the cheque bounced. The finance company will say : "No, the case will be filed in Mumbai." So, the person from the North-Eastern State, from Mizoram will have to go and contest the case in Mumbai. Can he survive? Can he get justice? That is my point. Here, I want assurance from the Government that the Government should come out and say that they will give justice to them. ...(*Interruptions*)

HON. DEPUTY SPEAKER: Hon. Member, you have already participated in the debate. Now, what do you want to ask?

SHRI B. VINOD KUMAR (KARIMNAGAR) : The hon. Minister has not made any comment on fast track court?

SHRI M.I. SHANAVAS: The hon. Minister has forgotten about the social impact. I can understand very well the mercantile issues and transactions. What is the social impact of the poor farmer taking loan from the money-lending sharks? What is the answer for that?

SHRI P.P. CHAUDHARY (PALI): So far as the cause of action and territorial jurisdiction are concerned, it has been well defined in the respective laws. We can say that it is a special law. It is a settled principle. On the basis of that definition of the Supreme Court and the High Court in various pronouncements, in case, we provide territorial jurisdiction or the cause of action which is something different than as has been stressed out very well, I think, it might create a lot of confusion for the poor people. They may not approach at a place where the suit is filed by the companies. My submission is as to how to reconcile all these things. When the territorial jurisdiction and cause of action has been decided by the Supreme Court and the High Court, will it withstand the tide of the Supreme Court and the High Court with the law legislated by this august House?

PROF. SUGATA BOSE (JADAVPUR): The hon. Minister has given a comprehensive reply but I would like to seek a clarification. Our Constitution provides division of powers. We enact laws, and amend laws in this Parliament but the Judiciary can interpret those laws. We have to be extra careful when we are amending the law in order to remove the difficulty that has arisen out of a Supreme Court judgement. I would like the Minister to assure this House that this law, small though it is, has been thoroughly scrutinized by the Law and Justice Department, and that it will stand up to any judicial scrutiny to which it might be put.

HON. DEPUTY SPEAKER: Dr. Sampath, you have already given amendments.

DR. A. SAMPATH : In the Bill it is stated. All subsequent complaints arising out of Section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were presented for payment within the territorial jurisdiction of that court. Will this not amount to questioning the independence of the Judiciary, the territorial jurisdiction of a particular court? How can we define the territorial jurisdiction of a court, apart from the CrPC, and other penal laws that we have in the land?

श्री आर.के.सिंह (आरा) : सभापति महोदय, माननीय मंत्री महोदय ने कहा है कि इस कानून का कुपूभाव आम आदमी पर नहीं पड़ेगा। चूंकि आम आदमी के पास बैंक अकाउंट नहीं है, इसलिए वह लोन पर कार या मोटरसाइकिल नहीं लेता है। मैं आपके माध्यम से मंत्री महोदय से जानना चाहता हूँ कि अगर कोई लोअर मीडिल क्लास का आदमी लोन लेकर पटना में कार लेता है और उसका केस पूना में होता है तो क्या वह आम आदमी नहीं है? इससे आम आदमी को बहुत परेशानी होगी।

श्री दुःआयंत चौटाला : महोदय, मैं मंत्री जी से एक डी वलेंटिफिकेशन चाहता हूँ, अभी मंत्री जी ने बताया कि मोबाइल कंपनी कस्टोमर्स सब्सक्राइबर तक पहुंचती है। अगर हम मोबाइल कम्पनीज की बात करें, तो गरीब से गरीब आदमी के पास आज मोबाइल फोन है। आप कहते हैं कि जहां उसका हैडक्वार्टर है, वहां पर जाकर वह गरीब आदमी, सिरसा के एक छोटे से गांव से उठकर मुम्बई में एक टेलीफोन कम्पनी के विशेष में कैसे लड़ेगा, इसकी आप मुझे वलेंटिफिकेशन दीजिए।

SHRI JAYANT SINHA : Mr. Deputy Speaker, Sir, I think hon. Members have again brought up several good points which can all be easily addressed and I shall do so in sequence.

I think the first point which a number of hon. Members have spoken about is the question of the common person and I will address that comprehensively. There is a very legitimate concern that hon. Members have expressed.

A case was made out that if there is a poor farmer who is in the grip of a money lender and that money lender will extort this farmer because he will file a case somewhere farther from his place. That was the case presented.

The second case that was presented by Shri Ahluwalia is the case of an auto rickshaw driver who has purchased his auto-rickshaw from a hire purchase company which is situated in Chennai and he is driving his auto-rickshaw in Delhi. What happens to that individual?

Then, the third case that the hon. Member Shri Dushyant Chautala presented was the case of a mobile subscriber who is having a mobile phone in Sirsa, Haryana. How is that person going to go to Mumbai and fight that case?

These were the three examples that were presented. Now let me explain why, in each of these cases, the fears that hon. Members have are unfounded.

Let me start with the mobile case first because that is the easiest one to talk about. In the case of mobile phones, most of the people, more than 90 per cent of mobile subscribers that we have in India, are pre-paid subscribers, that is, you pay in cash upfront and there is no cheque involved. Therefore, this case of somebody in Haryana being forced to go to Mumbai to fight the case will, probably never arise at all because most of the subscribers are pre-paid customers who pay by cash. So, really there is no question of a cheque being involved in that case. ...(*Interruptions*)

SHRI DUSHYANT CHAUTALA: There are post-paid mobile customers also in this country. What happens to them? ...(*Interruptions*)

SHRI JAYANT SINHA: All right. There are post-paid customers also who typically either pay by cheque or by credit card. Most mobile companies have a policy of trying to ensure that the customers pay their dues. ...(*Interruptions*) If a customer has not paid his bill for two or three months continuously, then it will be absolutely within the right of the mobile company either to stop the service to the customer or ask him to pay his dues. If he is a pre-paid customer, then the customer will have the service for as long as he has paid for it. In the case of post-paid customers, if they have not paid their dues for two or three months, then it is the company's right to either cancel the subscription which is what they typically do after three months or if the number of defaulters is large, then they will try and collect the dues which is part of the reason why we have as many cases as we do now. I think that addresses the case of mobile phone customers. ...(*Interruptions*)

Now, let us come to second case. ...(*Interruptions*) Sir, I believe I have addressed that point. ...(*Interruptions*) I am not yielding. ...(*Interruptions*) Let us now talk about the case of the auto-rickshaw driver who has a loan. ...(*Interruptions*)

SHRI S.S. AHLUWALIA: Mr. Deputy Speaker, Sir, I have not mentioned auto-rickshaw. I said 'auto' which means even a truck. Let the hon. Minister not say that it is a case of poor people. Any citizen can be put to this difficulty which I have explained. We are here to make laws and we want to help all the citizens. ...(*Interruptions*)

SHRI JAYANT SINHA: Sir, I understand his concern. I will explain. What does the law say? Clause 3 (2) of this Bill says:

"The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction the bank branch of the payee, where the payee presents the cheque for payment, is situated."

For example, if somebody has taken a loan to buy an auto-rickshaw or automobile loan or any other loan from a consumer finance company or a bank in Delhi, it is very rare that that cheque will be sent to Mumbai to be deposited there if that is where the company is. Most of the consumer finance companies will deposit that in the branch in Delhi which is where the offence will be committed. ...(*Interruptions*) It is very clear. So, I think, that answers that question. ...(*Interruptions*)

Now, in the case of the farmer and the money lender, most of those are cash transactions. This is about negotiable instruments; it is not about those kinds of cash transactions at all. So, I think, that fear is unfounded as well. Then there was a question, there was clarification required about whether this has been thoroughly scrutinized. Like every other law that Government of India presents to this august House, that goes to the Department of Company Affairs and something like this; it goes to the Ministry of Law, the Ministry of Parliamentary Affairs. So it is scrutinized thoroughly. It is vetted very carefully before it is presented before the hon. Members in this august House. So, you should be quite assured about that matter.

Finally about the question of the consolidation before the courts, I have just pointed to you that we have a situation today where there are some 21 lakh cases pending. If we have to ensure judicial efficiency and streamlining, we have to consolidate these cases. The cheques are presented in many different places. This is to ensure judicial efficiency and judicial streamlining. I think it is a very well thought out provision, therefore, to consolidate all of these into one particular court. Thank you very much.

HON. DEPUTY SPEAKER: The question is:

"That the Bill further to amend the Negotiable Instruments Act, 1881, be taken into consideration."

The motion was adopted.

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

The question is:

Clause 2 Amendment of Section 6

"That clauses 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 Amendment of Section 142

HON. DEPUTY SPEAKER: Dr. A. Sampath, are you moving your Amendment No.1 to Clause 3?

DR. A. SAMPATH : Yes, Sir, I beg to move:

"Page 2, line 13,--

after "court within whose local jurisdiction",

insert "the bank or". " (1)

Sir, with your permission and due respect to the Government of India, especially my learned friend, the Minister of State for Finance, the argument that he has made in this august House is self-defeating. ...(*Interruptions*) Here, without any data, without any statistics, he is saying about the poor man and the common man. What is the distinction between that? Regarding the Jan Dhan Yojana, the Government issued cards also. He is under the impression that the poor people will not issue cheques. The Government of India is also insisting that all the people should have bank accounts. Anyway, we cannot avail loan without any bank account. At the same time, the hon. Member has cited various examples. ...(*Interruptions*)

HON. DEPUTY SPEAKER: I shall now put Amendment No. 1 to Clause 3 moved by Dr. A. Sampath to the vote of the House.

The amendment was put and negatived.

HON. DEPUTY SPEAKER: Adv. Joice George, are you moving your Amendment No.2 to Clause 3?

ADV. JOICE GEORGE (IDUKKI): Yes, Sir, I beg to move:

"Page 2, lines 13 and 14,--

for "payee, where the payee presents the cheque for payment",

insert "drawer, where the cheque is dishonoured"." (2)

From the reply given by the hon. Finance Minister, it is very evident that this Bill has been brought to the House without applying the mind. The Government is not understanding the ground realities also. There are instances of misusing the proceedings under Section 138 of the Negotiable Instruments Act. Cases are being filed in some far away places; so many cases are there. The hon. Minister has failed to address all these issues. Hence, I am moving the amendment.

HON. DEPUTY SPEAKER: I shall now put Amendment No. 2 to Clause 3 moved by Adv. Joice George to the vote of the House.

The amendment was put and negatived.

HON. DEPUTY SPEAKER: Dr. A. Sampath, are you moving your Amendment No.3 to Clause 3?

DR. A. SAMPATH: Yes, Sir, I beg to move:

"Page 2, line 14,--

after "is situated",

insert "unless there is a specific agreement between the drawer and the payee regarding the place of jurisdiction"." (3)

Anyway, I hope that this will not be a futile exercise. Do not play with the jurisdiction of the hon. courts, whether it is the lower court or the higher court. Sometimes, of course, by defeating their own conscience, the Treasury Benches may be able to defeat my amendment. But they cannot defeat their own conscience. There will be a day when the common man will point his finger towards you.

HON. DEPUTY SPEAKER: I shall now put Amendment No. 3 to Clause 3 moved by Dr. A. Sampath to the vote of the House.

The amendment was put and negatived.

HON. DEPUTY SPEAKER: Shri N.K. Premachandran – not present.

The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 Insertion of new Section 142A

HON. DEPUTY SPEAKER: Dr. A. Sampath, are you moving your Amendment No.4 to Clause 4?

DR. A. SAMPATH : Yes, Sir, I beg to move:

"Page 2, line 29,--

after "that court",

insert "unless there is a specific agreement between the drawer and the payee regarding the territorial jurisdiction". (4)"

This Amendment No. 4 is for Page 2, line 29. It is for Clause 4 sub-section (2), line 29.

That is:

"all subsequent complaints arising out of Section 138 against the same drawer shall be filed before the same court, irrespective of whether those cheques were presented for payment within the territorial jurisdiction of that court."

What I would like to insert here is, after the words 'that court', 'unless there is a specific agreement between the drawer and the payee'
...(Interruptions)

SHRI NISHIKANT DUBEY (GODDA): Sampathji, move your amendment or withdraw it.

DR. A. SAMPATH: Nishikantji, then you move the amendment. I will sit down. You can play the role at both places, at the Treasury Benches and here also.

HON. DEPUTY SPEAKER: Mr. Sampath, address the Chair.

DR. A. SAMPATH: So, I would like to insert here after the words "that court", 'unless there is a specific agreement between the drawer and the payee regarding the territorial jurisdiction.' It is a very pertinent legal point. My friends in the Treasury Benches have some experience in law. I am not saying it to advocates only. They know it very well. We are entering into something which is a flaw. It is also unconstitutional if we are going to pass this Bill in this way. So, I may be permitted to move this amendment.

HON. DEPUTY SPEAKER: I shall now put Amendment No.4 to Clause 4 moved by Dr. A. Sampath to the vote of the House.

The amendment was put and negatived.

HON. DEPUTY SPEAKER: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

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

SHRI JAYANT SINHA: I beg to move:

"That the Bill be passed."

HON. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

15.37 hrs

MESSAGE FROM RAJYA SABHA

AND

BILL AS PASSED BY RAJYA SABHA □