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14.44-1/2 hrs.

**Title: Combined discussion on the Statutory Resolution regarding disapproval of Unit Trust India(Transfer of Undertakings and Repeal) Ordinance, 2002( No. 5 of 2002) and Unit Trust of India (Transfer of Undertaking and Repeal ) Bill, 2002. (Resolution negatived and Bill passed.)**

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

**"That this House disapproves of the Unit Trust of India (Transfer of Undertaking and Repeal) Ordinance, 2002 (No.5 of 2002) promulgated by the President on 29 October, 2002. "**

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

**"That the Bill to provide for the transfer and vesting of the undertaking (excluding the specified undertaking) of the Unit Trust of India to the specified company to be formed and registered under the Companies Act, 1956, and the transfer and vesting of the specified undertaking of the Unit Trust of India in the Administrator and for matters connected therewith or incidental thereto and also to repeal the Unit Trust of India Act, 1963, be taken into consideration."**

**14.45 hrs (Mr. Deputy-Speaker *in the Chair*)**

**SHRI BASU DEB ACHARIA : Sir, this is the fourth Ordinance which had been promulgated by the Government during the inter-Session period. On restructuring of the Unit Trust of India, this Ordinance was promulgated on 29<sup>th</sup> October, 2002. The summons were issued on 31<sup>st</sup> October, 2002. Just two days before the summons for convening the House were issued, this Ordinance was promulgated.**

**The same wrong practice is being adopted by the Government and one after another Ordinances are being promulgated. There was no urgency as such to promulgate this Ordinance just on the eve of the Session.**

**\* The Bill was introduced on 25.11.2002**

**\*\* Moved with the recommendation of the President**

**Sir, as everybody is aware, yesterday also I referred to a number of observations made by a number of former Speakers in regard to promulgation of Ordinances, particularly, on the eve of the Session. There have been observations by former Speakers starting from Shri Mavalankar that the Government should not resort to promulgation of Ordinances, and Ordinances should not be promulgated just on the eve of the Session. But this Government has promulgated five Ordinances during the inter-Session period.**

**I think, this Ordinance was not at all urgent. We know the problems being faced by the Unit Trust of India. It is the problem of redemption. We discussed it on the floor of this very House when UTI's US-64 Scheme crashed. There was a huge investment and wrong investment by the former Chairman of UTI who was later on arrested. A Joint Parliamentary Committee is also inquiring into the causes as to how that happened.**

**Before that, the Deepak Parekh Committee in 1988, which was appointed by the Government of India, gave certain recommendations. If those recommendations were implemented in time, such things would not have happened. But we have seen that how in the year 2000 the US-64 Scheme crashed.**

**Now, in order to restructure the UTI, the Government is splitting UTI into two units -- Unit-I and Unit-II. What is the purpose behind it?**

**Why Unit Trust of India is being bifurcated into two units? One Unit, that is unit-I, will be exclusively under the control of the Government and Unit-II will be left to the financial institutions, Life Insurance Corporation or other institutions. Thus, this is a step towards privatisation.**

**The Minister has not clearly stated here the necessity to restructure the UTI. While giving reasons for promulgation of Ordinance, it had been stated that over a period of time, certain weaknesses had crept into the UTI. Some of these weaknesses were, high dividend, sale and repurchase price of units unrelated to the actual earnings, and other shortcomings of UTI working which led to fall of net asset value. There was a reduction in the net asset value of the units. The inherent weaknesses coupled with problems of the capital market in March, 2001 resulted in US-64 scheme facing substantial redemption during the months of April, 2001 and May, 2001 forcing temporarily suspension of sale and repurchase of US-64 scheme for a period of six months up to 31<sup>st</sup> December, 2001 and subsequently limited repurchase facility was allowed. In the interest of investors, the Central Government, in December, 2001, decided to meet the differences between administered repurchase prices and NAV.**

**The main intention behind bringing this Bill was to restrict the liability of the Central Government. In view of the urgency**

to restrict the liability of the Central Government and to bifurcate UTI to run UTI-I, called specific undertaking, by an administrator appointed by the Central Government, it has proposed to repeal the UTI Act, 1963 through an Ordinance. Along with restructuring of UTI, by bifurcating UTI into two units, the UTI Act of 1963 is also being repealed. If the Unit Trust Act is repealed, then the objects for which the Unit Trust of India was formed will also go haywire. The objects of UTI have nowhere been stated in the Bill. Since the existing Act is now being repealed, there lies the real intention of the Government.

It has also been stated that the transfer, vesting of initial capital of UTI to the Central Government and refund of the initial capital to initial contributor to such an extent as may be determined having regard to book value, asset liability of UTI, there will not be any new scheme except the existing one, that is US-64. Unit-I will manage the assured return schemes, including US-64, as long as they continue. When this will be over, what will happen to Unit-I?

There is no answer to this in the Bill. I would like to know whether the Unit-I will be wound up. I would request the Minister to clarify this position. Unit-II will manage the market linked schemes which are based on Net Asset Value. Both the entities will come under SEBI's ambit. Unit-I will be managed by a Government appointed Board of Directors but in the case of Unit-II, it will be transformed into a company floated by domestic banks and financial institutions with an initial capital of Rs.10,000 crore, which means gradually Unit-II will be transformed into a private company. That is the main intention of this Government. That is why, just on the eve of the Session, this Ordinance was promulgated.

Sir, UTI had asset value of Rs.42,000 crore on June 30. How would this asset value be divided between these two Units? Rupees seventeen thousand seven hundred and eighty-four crore on account of Net Asset Value-based scheme will be transferred to Unit-II, whereas remaining Rs.25,000 crore on account of US-64 and also 21 assured-return schemes would be with UTI-I which would be ultimately wound up after all the investors redeemed their units in non-NAV based US-64 and other assured-return schemes. I have asked this question as to what will happen when there will be no new schemes. When all the investors redeemed their units, then what will happen to Unit-I? Will Unit-I be wound up then? It is because there will be no need for continuing Unit-I.

Sir, the Government has invested Rs.14,000 crore as a bail out package. This is to meet the liabilities arising out of the difference in NAV and assured-return in the units promised by the Government in December last when US-64 was frozen due to the redemption pressure. In December, 2001, it had promised that the unit holders of US-64 would get administered re-purchase price of Rs.12 per unit up to 5,000 units. I would like to know whether all the unit holders have got back their money. I would request the Minister to clarify this. The current shortfall as a result of US-64 is around Rs.6,100 crore, of which, Rs.1000 crore has been provided this year and the Government will provide Rs.5,100 crore in the next year.

Sir, another important point is about the employees. Now, the Minister has stated that the employees will be transferred to Unit-II.

15.00 hrs.

What will be their service conditions? Will the same service conditions continue? It is said here that officers and other employees of the UTI, other than the Chairman, trustees of the Board and executive trustee, be the officers and other employees of the specified company on the same terms and conditions will be applicable to them before repeal of the UTI Act. How will the employees be divided among Unit-I and Unit-II? Will the employees of both the Units be governed by the service conditions as it is now today before the repeal of the Act? The Government may also clarify this point. Clause 6 of the Bill says:

"Every officer or other employee of the Trust serving in the employment immediately before the appointed day shall become, as from the appointed day, an officer or, as the case may be, other employee of the specified company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Trust if its undertaking had not vested in the specified company and shall continue to do so as an officer or, as the case may be, other employee of the specified company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the specified company within such period."

My question is, how will this be divided among these two Units and what will be the principle adopted by the Government? Will the Government safeguard the interest of the employees after the UTI will be divided into two Units? How could their interest be safeguarded after splitting of the UTI into two Units?

I would inform the Minister that he has not given sufficient reason while reasoning the promulgation of the Ordinance. He has not given sufficient reason and there was no urgency for promulgation of the Ordinance. That is why, I think, this type of an Ordinance is unwarranted, uncalled for and not in the interest of our country.

SHRI JASWANT SINGH: Sir, I am flattered that my good friend, Shri Basudeb Acharia has already read out an advance copy of what I was going to say in this House. But, nevertheless, I will go over to the provisions briefly.

The provisions in the Bill are necessary for a permanent and final solution to the Unit Trust of India and also to distance the Central Government from the UTI and Mutual Fund activities thereby fencing the liabilities of the Unit Trust of India. I emphasise that there is no bail-out of UTI.

I would like to give a brief background so as to place the Bill in its correct perspective.

The Unit Trust of India (UTI) was a statutory Corporation established under the Unit Trust of India Act, 1963 (Unit Trust of India Act) with a view to encouraging saving and investment and participation in the income, profits, and gains accruing to the Corporation from the acquisition, holding, management and disposal of securities. The general superintendence, direction and management of the affairs and business of the Trust is vested in a Board of Trustees which is required to act on business principles with due regard to the interests of the unit holders. The functions of trustees and assets management are vested in the Board.

Over a period time, certain weaknesses crept into the Unit Trust of India. High dividends and sale and repurchase price of units unrelated to the actual earnings and also other shortcomings in Unit Trust of India's working led to a fall in the Net Asset Value (NAV) of the units. These coupled with the problems of the capital market in March 2001, resulted in US-64 Scheme facing substantial redemption during the months of April and May 2001, forcing a temporary suspension of sale and repurchase under US-64 Scheme. This was for a period of six months, that is upto the 31<sup>st</sup> December, 2001. Subsequently, a limited repurchase facility was opened. The Government decided in December 2001 to meet the difference between the administered repurchase prices and the Net Asset Value.

In view, however, of a continuing depressed capital market, problems of the Unit Trust of India persisted. While it was thought necessary to honour the commitments made by the Unit Trust of India to its investors with regard to the US-64 Scheme and Assured Return Schemes, it was also decided to restrict the Central Government's liability. This enjoined distancing from the Unit Trust of India by bifurcating the Trust into two parts (i) UNIT-1 comprising of the guaranteed portion and (ii) UNIT-2 comprising of all NAV based schemes also simultaneously to repeal the Unit Trust of India Act, 1963.

Accordingly, the Unit Trust of India (Transfer of Undertaking and Repeal) Ordinance, 2002 was promulgated on the 29<sup>th</sup> October, 2002. The Bill will replace the Ordinance. The Bill has the following salient features:-

- a. It repeals the the Unit Trust of India Act, 1963;
- b. Transfer and vesting of initial capital of the Unit Trust of India to the Central Government, and refund of the initial capital to initial contributors to such extent as it may determine having regard to the book value and assets and liabilities of the Unit Trust of India;
- c. Vesting on an appointed day the specified undertaking of the Unit Trust of India in the Administrator and other undertakings in a specified company to be formed and registered under the Companies Act, 1956;
- d. Officers and other employees of the Unit Trust of India, other than the Chairman, trustees of the Board and executive trustee, be the officers and other employees of the specified company on the same terms and conditions applicable to them before repeal of the Unit Trust of India Act;
- e. Issuing of directions by the Government with regard to powers and functions and the manner in which the Administrator shall manage the affairs of the specified undertaking. I have also announced capital gains exemption;
- f. Transfer of undertaking into the specified company and specified undertaking will not attract provisions of the Indian Stamp Act, 1899.
- g. Exemption to the specified undertaking from income tax for five years from the appointed day;
- h. Framing of the Scheme for carrying out the provisions of the Bill.

With these words, I commend the Bill to this august House.

MR. DEPUTY-SPEAKER: Motions moved:

"That this House disapproves of the Unit Trust of India (Transfer of Undertaking and Repeal) Ordinance, 2002 (No. 5 of 2002) promulgated by the President on 29 October, 2002. "

"That the Bill to provide for the transfer and vesting of the undertaking (excluding the specified undertaking) of the Unit Trust of India to the specified company to be formed and registered under the Companies Act, 1956, and the transfer and vesting of the specified undertaking of the Unit Trust of India in the Administrator and for matters connected therewith or incidental thereto and also to repeal the Unit Trust of India Act, 1963, be taken into consideration."

**SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA):** Sir, I thank you very much for having given me this opportunity to speak on this Bill.

At the outset, I would like to say that with a heavy heart and pain, we are supporting this Bill. But, at the same time, it is one other mismanagement of the BJP-NDA Government. The Unit Trust of India was initiated during the year 1963 in the background of the Chinese war; when the capital market was at a low level and the industrial investments were at a very low level. So, the Government of India wanted to bring back the normality in the capital market and also investments in the industries. For that purpose, they got the clue from the United Kingdom. In 1931 itself, they initiated this type of a Unit Trust and the Mutual Fund. But even before 110 years, the United States of America had also implemented the same type of a Unit Trust and the Mutual Fund to revive the industrial atmosphere. But this Unit Trust is a unique one.

Pandit Jawaharlal Nehru, in the last days of six months before his demise, as the Prime Minister of India created this Last Testament for the nation. Here, I quote the words of Shri T.T.Krishnamachari, the then Finance Minister, who participated in the debate while initiating this Bill. He said:

**"In countries where the climate of opinion is in favour of the widespread distribution of ownership of industrial and other property, and where incomes and standards of living are also steadily rising, unit trusts enable many individuals, who do not have the ability or inclination to buy securities or to operate in the stock exchanges on their own, to become part owners in industry or other corporate sector bodies carrying on a variety of activities. "**

This is the aim on which the Unit Trust of India was initiated at the time of 1963. What was the aim at that time? The UTI commenced its operation from July 1964. Again, I quote:

**"The Bill is to provide for the establishment of a Corporation with a view to encouraging saving and investment and participation in the income, profits and gains accruing to the Corporation from the acquisition, holding, management and disposal of securities"**

The different provisions of the UTI Act laid down structure of management, scope of business, powers and functions of the Trust as well as accounting procedures, disclosures and regulatory requirements for the Trust.

The main aim was to create a Trust for favourable investment by the small man in the street who can save Rs.100 or Rs.200. Such people can put the money in the UTI. They can purchase the bonds and certificates. In that way, they can put their money in the savings in one way. In the other way, they could be earning through the savings by way of dividend and also profits which are going to accrue. It was going to make a no-profit no-loss account. That was the intention of the founders of this very Act. But what has happened subsequently? It has also come across a lot of problems during these periods. But what was the improvement they have made? After three months of the BJP-NDA Government's coming into power, according to the accounts closed on 31.12.1999, there were 450 lakh unit holders. A sum of Rs.72,698 crore was in the deposit account. What was the initial investment made in 1964? It was simply rupees five crore. The contribution to the initial capital came from the Reserve Bank of India, the State Bank of India and the Life Insurance Corporation of India. At that time, the interest given was 6.1 per cent while the banks were having only a deposit of Rs.367 crore. They were giving only 3.75 per cent to 6 per cent interest. The Unit Trust gathered the investment of Rs.19 crore. What was the position in 1966-67? The automatic investment of income distribution brought about 6.34 lakh investors.

It brought Rs. 92 crore. In the same way, in 1977, the Unit Linked Insurance Plan was launched. During the tenure of Shrimati Indira Gandhi as the Prime Minister, there was a war with Pakistan. During the war and subsequent nationalisation of banks, many banks have come forward for floating bonds to help the poor people. At that time, the Unit Trust of India had come up with more investments in 1980s. In 1980s, there were 10,00,000 unit holders and the total deposit was Rs. 391 crore. In the period between 1981 and 1984, there were 17,00,000 unit holders and the deposit was Rs. 2,000 crore. During the period when India Fund was launched, offshore sales were also made and 128 million pound was collected by way of deposits and the return was 33 per cent.

During the tenure of Shri Rajiv Gandhi as the Prime Minister, in 1988, India Growth Fund brought \$60 million as deposit. In the period between 1986 and 1990, the number of agents has increased from 13,800 to 55,000. In June, 1990, there were 65,00,000 unit holders and the total deposit was Rs. 13,926 crore. Then, the very original and ancient US-64 scheme was launched and that alone brought about Rs. 7,025 crore as deposit. Out of that, the investible amount was Rs. 10,354 crore. The return was 18 per cent and the annual yield was 13.43 per cent. These were the achievements of the Government at that time. In the year 1992, Master Plan scheme was launched and at that time, the World Research Centre, that is, the Guinness Book of World Records mentioned UTI in their 1994 book for the largest number of applications received on a single issue which was 62,00,000. That was the achievement of the Congress Government at that time.

Finally, I would like to draw the attention of the hon. Finance Minister that at present the number of unit holders is 48 millions, the deposit is Rs. 60,000 crore and the number of agents is 93,000. But how is the Government running the UTI now? When the Congress Government was in power, in 1976 the Capital Unit Scheme was launched and in that scheme the return was 42 per cent. In this way, the Unit Trust of India was utilised for the growth of the people. Charitable Religious Trusts and Registered Societies have earned more through the Capital Gains Unit Scheme. In 1983, the Children Gift Growth Fund brought Rs. 1,000 crore in one issue.

Similarly, modern management was the initiation made by the Unit Trust of India. Anticipating future changes and needs, the Unit Trust of India joined hands with other financial institutions to promote organisations that would aim at healthy development of the financial sector in particular and the economy in general. Infrastructure Leasing and Financial Services was established in 1986. Then, Technology Development Corporation was also started in the same year. Credit Rating and Information Services Limited was started in 1987 and in the same year the Stock Holding Corporation of India was also established. Thereafter, Institute of Capital Markets was established. These are all initiations made by the Unit Trust of India.

Sir, in 1992, Girl Child Trust was launched through Rajalakshmi Unit Scheme which was meant only for girls below the age of five years. Then, schemes like Old Age Pension Scheme, Monthly Pension Scheme, etc. were also launched. When there was no social security scheme in India, only the Unit Trust of India had launched such a scheme for giving medical aid for the old people. Then, Senior Citizens Unit Plan was launched in 1993. After that, Grihalakshmi Unit Plan was launched in 1994 which was meant for people who are of 18 years of age. Then, Retirement Benefit Plan was also launched by the Unit Trust of India in which 48 million unit holders were there.

I would like to quote a portion of what the Social Audit Report submitted in 1994, by a committee of experts, said about the Unit Trust of India. It said:

"Almost all the persons interviewed agreed that the Unit Trust of India enjoyed a positive image as an investor-friendly financial institution with complete financial integrity. UTI is regarded as a progressive financial institution managing funds placed at its disposal by investors at a very low cost keeping the expense ratio extremely low and reasonable."

"Even amongst other members of the public who have not invested in any UTI schemes, share brokers, investors in shares, consumer interest groups and its employees, UTI has a good image."

Also according to the Report, UTI's "cardinal strengths are its honesty, security and innovativeness".

The final conclusion is this:

"UTI has been widening its horizon to meet the challenges of a more dynamic and competitive environment. Not only has UTI increased its lending operations and started providing underwriting services in the course of the last ten years, it has also taken up an active developmental role by promoting/co-promoting new institutions."

What is promise made by the Unit Trust? They want to say that after completion of more than 34 years, UTI's burning concern for its small investors has not ceased and it will not, for it is for their better tomorrow that UTI has been created. That trust has been created in the minds of millions of people living in India.

Now what happens? The UTI Investor Services Limited and Securities Exchange Limited (UTI-SEL) was set up in 1993. Everything had happened. They have said:

"A successful institution does not occur randomly. It reflects the vision of its founders and the dedication of those who articulated this vision and set the goals and direction of the organisation. And those, who with utmost sincerity and dedication helped realising it. In the years to come, UTI will have to function in an environment that differs fundamentally from that which prevailed at its inception. The Indian financial market has evolved enormously, both in scope and complexity. UTI has played an important role in this development. This trend will continue in future."

That is the promise given by the UTI.

Now what has happened in one or two days? The only thing is that the purchase of shares took place.

The three-member Tarapore panel has also reportedly found that UTI invested in over 1,000 unlisted companies. But the recommendations were disregarded.

The Standing Committee on Finance, headed by Shri Shivraj V. Patil, last year had also questioned the investment decision-making powers of the former UTI Chairman. The panel is believed to have found too many loopholes, particularly glaring being: private placements in over 1,000 unlisted companies in the form of equity or non-convertible debentures at a high premium.

What is the result? The result is NPAs. Which are the defaulting companies? The top ten defaulters are: Essar Steel – Rs. 550 crore; Jindal Iron & Steel – Rs. 407 crore; Jindal Vijaynagar Steel – Rs. 374 crore; Ispat Industries – 340 crore; Malvika Steel – Rs. 286 crore; Mukand – Rs. 161 crore; Essar Oil – Rs. 125 crore; Usha Ispat – Rs. 123 crore; DCM Limited – Rs. 105 crore and CESC Limited – Rs. 99 crore. The total non-performing assets at present are in the vicinity of Rs. 6,624.37 crore. What is the reason behind this? This is purely mismanagement. It is nothing but mismanagement.

Now I am reading from the Report of the Tarapore Committee:

"The 19 cases included a couple of Reliance group companies, Satyam Computer, DSQ Software, some more K-10 favourites and a few other companies."

What is the result? The Committee has also pointed out that transfer of scrips, when the transferee scheme was short of funds, lead to the creation of negative liquidity. It suspects that services of brokers were used for inter-scheme transfers on verbal instructions. These were clearly violative of UTI's own policy as well as the SEBI's guidelines.

What is the result? It recommended insertion of a watertight clause in 'US-64' to ensure that deviations from the net asset value would not be permitted even for short periods. This is what has been said in the Reports of the Committees which were appointed by the same Government.

What is the strategy which they are taking now? They want to see that privatisation is the result. I want to quote what the Chairman, UTI said:

He wants to say that:

"If the feeling is that by merely privatising the operation of an organisation, you are going to see more efficiency, I maintain that it is a function of management and not the ownership. It does not follow that because something is privately owned, it is necessarily better managed. If that were the case, you would not see NPAs on the books of banks, because of the result of the private sector management."

Now, the thing is that they want to have a strategic management, a strategic person to bail out the UTI. What is the position of UTI now? They have got commitments for so many monthly programmes, crores of rupees are to be paid. I can read all this, but because of paucity of time, I will not do so, but there is so much of commitment for every month and every year in perpetuity to be paid by the UTI to the small people.

What is the result that has been given? They want to have a law, which does not want to apply the original Act. The original Act gives powers under section 40(a) to have the emergency powers of the Chairman. They can rectify it. They have not applied it. There is a power for winding up. I do not suggest the winding up power, but the Government is bringing a law which is just applying section 40 of the original Act, that is, winding up and section 42, that is, liquidation of assets. These are the two things. Now, they want to bring them in some other garb before this august House.

I would like to submit that even the prohibition against the use of name of UTI, which is guaranteed under section 3(a) of this Act is also now given go-by. Why? This very name was living in this country in millions of home. Even they want to give it a go-by. If really there is a proper management of the Government, by the Government and the Finance Department, then why the section 41, that is, power to reconstitute the Board, was not attempted for? If there is a small difficulty, when there is repayment by the Government, why they have not tried for that purpose? Why is the Unit Trust Act being repealed? What is the reason behind it? It is simply because they want to disinvest and they want the millions of employees and agents on the street.

Already many of the things have happened. Many of the PSUs were disinvested. Millions of people are on the street. They do not have any food at all, their families are starving. All the trade unions are agitated, but nothing has happened. Now, they want to bring clause 6 in this new Bill, which assures that for six months alone the salary and benefits will be given and afterwards you have to choose the path. Why is it so?

The UTI has brought up its employees for so many years. With all their proficiency and efficiency, they have got the research unit, they can manage, but these people are asked to go. They are guaranteed only for six months as far as their emoluments are concerned.

In the same way, I would like to draw the attention of the Government that one after the other, the Government is closing all the Government undertakings. Everything is demoralised and now the common man feels that the Government jobs are not made for common people. Even the recruitment has stopped in Government services. The same is the case with our Army. Even the Chief of Naval Staff was asked to go even without an enquiry. That was the scene for the security people. The same way, in the case of public sector undertakings, the salary, bonus, PF, housing facility, children's protection, social security, assurance to the spouse, etc. everything has gone. People are now without anything. In the same way, LIC, GIC is now open for disinvestment and also to private competition. The poor people, the pensioners, etc. who were depositing their money in the savings bank, are also affected. The interest rates are reduced there too. Finally, we fear that the pension may also not be given by the Government. They want to reduce the interest there also from 9.5 per cent 8 per cent or 4 per cent. They want to reduce it. They want the interest on PF to be reduced.

Finally, what is the position now? The net asset value is now reduced. The most noticeable feature of US-64 portfolio was that Rs.10,910.505 crore, that is, 52.98 per cent of net assets had been invested in equity of only 26 companies, eleven of which were new companies

This is the fault of a particular management. Why is people's money looted like this?

In the same way I would like to draw the attention of the Government that a warning signal was given in November 2000 itself, when the UTI released its first quarter figures. The US-64 had suffered capital erosion of over Rs. 2,590 crore or 12 per cent of the total assets under the management. As the UTI Act exempted to disclose its mode of pricing, unlike other Mutual Funds which are obligated to do so under the regulations of SEBI.

Another indicator was the UTI's contrarian approach to the market. They stopped working with the market and started dealing with the operators instead. The UTI began to buy high and sell low.

The fact that the corporates pulled out just before the dividend announcement was certainly a cause for suspicion. This is what the bankers say.

Finally, you want to rely upon the Report of a Committee. The Malegam Committee had warned the Centre just amending the Act and had strongly recommended that the Act should be repealed, to avoid the danger the Government might be left with residual responsibilities under the Act which could result in a public perception of continued Government accountability.

This is the reason for bringing this legislation. That means, the Government has lost the trust and the Government has lost the confidence of the people. By bringing this Bill, you accept that the Government has lost everything and nothing is in your hands. That is why, you want to create Unit I and Unit II by way of selling them to the private enterprises.

Finally, what will happen? The trust on the Government is going to be lost. In the same way, the private sectors are going to take away all the assets which were accrued for the last 34 years with the hardworking of the millions of people, millions of employees and millions of the dreams of the ordinary people.

I would like to resume my seat telling that this is one of the acts of mismanagement. It is the inability on the part of the Government to run a financial institution with all resources at their command but they accept that they cannot manage it, they are poor in management and they are poor in everything.

SHRI KHARABELA SWAIN (BALASORE): Mr. Deputy-Speaker, Sir, I congratulate this Government for bringing forward this Bill. Presently I will congratulate the hon. Finance Minister that the Government has understood the gravity of the situation. It has been understood that sweeping the ills under the carpet will not help the country in any way. It has been understood by the Government that cleaning of the financial sector is to be tackled very urgently.

Sir, the hon. Finance Minister has already narrated the salient features of this Bill. I will not go into them. The point is that now, even though we do not share that the Government is going for a bailout package, the Government is going to pay the differences between the administered repurchase price and the net asset value.

Sir, the point is that all the hon. Members, who have already spoken have said that there are 30 million unit holders. The UTI, as an organisation, has suffered.

Thirty million unit holders have suffered, but my point is this. Why 104 crore of people will have to pay for these 30 million unit holders? Will they go on paying just like that? So it is very good on the part of this Government to distance itself from the UTI. Not only one Committee, but so many Committees like the Waghul Committee, the Deepak Parikh Committee, both in direct and indirect ways, have already told that a time should come when the Government should distance itself from the UTI.

Now, hon. Member, Shri Sudarsana Natchiappan said that it was the NDA Government and, particularly the BJP, which is the cause for all the ills the UTI had suffered. But, you go through the report given by the Deepak Parikh Committee. What did it say? It said, "The higher provisions for depreciation and withdrawal of funds from the reserves to meet the dividend payment for the successive three years from 1995 to 1997, and the issue of bonus shares in 1996 resulted in higher depletion in the reserves." Who was ruling the country in 1995? Who was ruling the country in 1996? Who was ruling this country in 1997? Definitely, it was not the BJP. Definitely it was not the NDA. So, you do not get enough profit to pay 26 per cent dividend to the unit holders. You dig your hands into the reserves, completely dry it up and declare a dividend of 26 per cent. It was such a high dividend. This is one of the main reasons for the sorry state of affairs the UTI has suffered now.

Not only this, but also the consequences of the decline started from 1993 when the Waghul Committee was set up just to recommend as to how to restore the UTI. The negligence of its principal contributor, IDBI, is also one of the major reasons. IDBI was one of the main sponsors. It did not look after the affairs of the UTI as it should have. The concentration of all the powers in the hands of its Chairman is also one of the reasons for which it had to suffer such a loss. Since 1993, nobody did try to implement the recommendations, specifically bringing US-64 under the purview of SEBI. From 1993, nobody, no Government took the initiative in this regard even though it was recommended by so many Committees like the Waghul Committee and the Deepak Parikh Committee.

Sir, as I told you, I will simply not go into the details because the hon. Minister had already narrated all those things. I will just make some suggestions within another five minutes.

Now, the first thing is, for some time, the Unit-II will remain in the hands of the Government. Even though the financial institutions and some banks will be sponsoring a company, it will be in their hand. Virtually, the Government will be the owner. My suggestion is that till it remains in the hands of the Government, a Chinese wall is to be created for appointing separate and independent Fund Manager. The Fund Manager should take the decision, whether to invest or to disinvest, and it should be made on the basis of research and analysis. It should be done on that basis. It is one of the most important factors because of which the UTI had to suffer because the investment decision was totally arbitrary. It was done by the Chairman only. So, it should not be done. It should be given to the independent Fund Managers and they should be held responsible for its success or failure. The debt portfolio investment should be given more importance in case of US-64.

I would make some two or three suggestions within two minutes and conclude.

The LIC, the State Bank of India, the Bank of Baroda and the Punjab National Bank are going to be the sponsors of the new company. They are also having their own mutual funds. So, would there not be a clash of interests between these sponsoring companies and the UTI? This is one of the points on which I would appeal to the hon. Minister of Finance to think over. Earlier, the IDBI also floated its own mutual fund and it could not look after the interests of the UTI because there was a clash of interests since they indulged in a similar type of business.

The recommendation of the Deepak Parekh Committee was that there should be the strategic sale of large equity holdings by the UTI so that the UTI would get a lot of money. Now, when it is going to be divided into two, what would happen to that recommendation? How can there be a bulk sale of large equity holdings? I would appeal to the hon. Minister that he should see to it that this recommendation is implemented and bulk sale is done. So, it should not be divided.

There is a recommendation for having a permanent Chairman. There should be one. If it is going to be run professionally, the new company should have a permanent Chairman but the permanent Chairman should not come on deputation. If he comes from any professional service or even from the IAS, he should resign from that service and should be totally amalgamated into the UTI cadre. He should not again go back to his parent cadre after he completes his tenure as Chairman.

There are criminal, civil, departmental and vigilance cases pending against some officers of the UTI. What will happen to those cases after this Bill is passed? They would have their salary and pension protected but what about these criminal, civil, departmental and vigilance cases? Who would look after them? These cases should not be disposed of immediately. They should not get away with these cases that are now filed against them. So, the hon.



Minister should look into this matter also.

Finally, I fully endorse the view of the Government that if it is not sustainable and the Government is not in a position to give bail out package after bail out package to the UTI, it should distance itself from the UTI. There is no harm in privatising the UTI in the long run. The Government should not hesitate to make the Unit-I a net asset value based scheme. In future, the Government should think about that also.

SHRI RUPCHAND PAL (HOOGLY): Mr. Deputy-Speaker, Sir, I rise to oppose this Bill.

When the Unit Trust of India was set up by the Union Government, the original objective was to mobilise savings. Another objective was to help people who were apprehensive of going to the capital market to invest and take the risk. Thirdly, the common people of the country could participate in the developmental process of the economic democracy through their investments in the UTI.

Here was a mutual fund. I do not know whether they would agree to calling it a mutual fund or not but for all practical purposes it was a mutual fund. It had its phenomenal growth and it is a unique institution, which has grown over the last several decades. This instrument was used by the Government for developmental purposes and also for intervention in the capital market. Even a few days ago, I found that when the UTI was selling, the RIL suffered the most on account of the UTI's selling.

It is because UTI had sold four crores of shares and RIL, etc., which, after a merger, were quite worried. They were crashing. So, is the situation that whenever UTI had been selling, the companies like ITC, Hindustan Lever and many others, I am not mentioning all of these companies, had to face the realities. Rs. 2,617 crore is the UTI's stock holding in Reliance Industries only.

The next is ITC, the third one is Infosys, Hindustan Lever, Larsen and Toubro. They are the largest companies and whenever UTI had been selling, they were in difficulty. You call it result of bail package or not, UTI is not selling. There is stability and their interest is protected. That this was a case of trust, the confidence of the common people, as they have been depositing their hard earned money in it. Why is it so? First, they consider it to be a Government organisation. They may say that they had the sponsors like the IDBI, LIC, SBI and others. But when it came to the real test, they say "we are not the sponsors." In the Act it is said that the Government is setting up this Corporation for a definite objective. It is mentioned that it is a non-profit making organisation. The social security objective was the main objective. It was mentioned in the reply at that time by the then Minister of Finance that it is a non-profit organisation. The Government did not contribute even the funding also. The Government did not contribute the initial capital at all and now they say that they will privatise. Who are they to privatise? It is not a public sector undertaking. Is it a public sector undertaking? The hon. Minister owes an explanation. UTI is a unique Corporation; it is not a public sector undertaking because the Government did not contribute a single pie to it.

According to the Act, it was the Reserve Bank, which also had its own way of arranging the initial capital. Now, over the years, there has been mismanagement and the Government had a role to play. You might have seen in the assured scheme and many other things, there is a term 'guarantee' by the Government of India. The public perception is that it is a Government organisation. Whenever there is any difficulty – maybe in 1998, maybe earlier, maybe later, the Government will come out with some package. You may call it a bail-out package, you may call it something else, but the relationship between the Government and this Trust was so much in the minds of the people that instead of keeping money elsewhere, they preferred to keep their money in this Trust. They had suffered a lot in the non-banking institutions like the plantation companies and other vanishing companies. Then, there is a continuous reduction in the interest rates in small savings. The people were not sure as to what to do.

Sir, in July 2001, they have stopped the dividend and a lot of issues had come in relation to US -64. Still, unexpectedly, people did not go for redemption. There have been millions of people who kept their money and are waiting till May 2003 when Rs. 10/- subscription will become Rs. 12/- only. Such is the trust that in spite of all these things which are happening, people continue to have their faith in the Unit Trust because they believe that it is Government backed as they have suffered in private companies in the pre-nationalisation bank days, in the pre-nationalisation insurance, etc. Even very recently about 6,000 companies have vanished with public money. The Government is told to find out about them, but the Government said that they do not know their addresses.

The Government has no addresses of these people who have looted the public money. There is the example of plantation companies.

So, the people have no alternative but to put their money in safe places where they consider it to be secure, safe and also earn reasonable return. Of course, through mismanagement the debt equity ratio had been distorted in such a manner that at a point of time, UTI particularly US-64 had created its own difficulties. But the Government of the day – I am not mentioning whether this Government or that Government – had a role to play. This is a question that I have been repeatedly asking that the Government, in the matter of regulator's performance, in the matter of

bodies which are appointed by them, approved by them and organised by them have a responsibility and particularly they have a responsibility to the people of this country. Why is it so? It is because the people in India, or countries like India have very little social security. If you go to the developed countries or Norway and Sweden and many other developed countries, the social security there is such that their main objective is to consume, to spend, going on spending and spending. So, their economy is of a different pattern.

But in our country, in the upper middle class, in the middle class and among the salaried people, they save some amount in the savings that they considered to be safe and they put them in the Unit Trust – be it the assured scheme, be it the US-64 and such other schemes. The pensioners, the old people, the senior citizens thought that here is an area where their money is safe. But ultimately it was found that it was not so. It was being misused. Under whose instruction has this been happening?

When the US-64 was going to be in distress, they had full knowledge. So, the people, the organisations, the big industries had been continuing to withdraw their money even in April and May when the real difficulty came in July only. So, they had insider knowledge. How could they have the insider knowledge? If anyone is responsible, the Government must have some knowledge about it. But they did not come out with the facts. How could these people, these organisations, these industries have prior knowledge that this is going to happen with regard to this US-64 scheme?

What I want to say is that – is there no other alternative than repealing this one. There have been suggestions, there are references. The Waghul Committee report, the Deepak Parekh Committee report, the Malegaon Committee report – there are umpteen number of reports on how to mobilise savings. What is the Government thinking about savings? They are speaking about 10 per cent or 9 per cent or 8 per cent growth. How much savings are required for achieving eight per cent growth? According to the latest estimate of a renowned economist, no less than 31 to 32 per cent of national savings are required. What is our national savings today? From 25 per cent it has come down to 22 per cent. It is declining.

Now the Government is proposing to take away whatever exemptions, whatever tax incentives and all these things that were there under Section 88 of IT Act. What will the people do? Is it encouragement to mobilise national savings? Our national savings are being allowed to be controlled by foreigners, by private operators; creating monopoly control over our national savings. Now there is another endeavour, another mischief which is going to be committed by this Government. What will happen after this split? The UTI-I is the US-64 and the assured scheme are there. What do they say?

Even the other day the Finance Secretary is on record that it will not issue any fresh US-64 units. That means it will be a close-ended one. It is already a close-ended one.

It is because after the repurchase, after the redemption, the units extinguish if there is no new scheme. If that is the thinking of the Government, it is going to have a natural death. The Unit I will have natural death and Unit II has a declared death by handing it over to the private sector. Actually, UTI as such – with this split or by this split, whatever you call it – is going to be destroyed. The winding up is going to take place and that is the goal of this Government. Why? Will it serve in any way this Government? It is the best mutual fund till today. You will hand it over to the private mutual funds. Are they any better than UTI mutual fund? The Minister may mention one thing, but I am amazed at how Unit II is being handed over to, maybe, LIC, SBI, BoB or PNB. They have their own mutual funds and according to SEBI guidelines, one who is having mutual fund is never allowed to have another mutual fund. How can they manage another mutual fund? The Minister owes a reply. It is against the very basic principle of SEBI. How can they do it?

The Government did not contribute even a farthing to this. It was public money and phenomenal growth has taken place because of public trust, public faith in it. People know that the backing of the Government is there. With that perception, whether right or wrong, they invested in it. Later on, the Minister may explain anything. Because of that trust – till now, there is trust – it is a giant. Such a giant was proposed to be split by the World Bank in one small observation made elsewhere. The large industries in the finance sector appropriating public money, defalcating and looting have been out against the UTI.

The Standing Committee on Finance had made appropriate recommendations about the authority and power of the Chairman and how the Board could be made more transparent, have more democratic functioning and be made more accountable. Very responsible recommendations have been made which are under the consideration of a very important committee. I am not going to that part. Being a Member of that Committee, I am not supposed to make any observations about anything, but because the disaster is going to take place, I appeal to the Government that this is not the right way. There have been very important suggestions made by very important people that instead of repealing it, there can be made some amendments and loopholes can be plugged. This has been an instrument in the hands of the Government whenever there was very serious difficulty in the capital market – volatility or otherwise. This Unit Trust of India had been supporting the important industries of this country and also people, till

now, continue to have trust and faith in UTI which they are not having elsewhere.

The Government should keep in view the social security position, keep in view the trust of 30 million or three crore people. There are others also and if you take into account the whole number of families, what is going to happen to the social security of these families? Now, the Government had been providing tax incentives through the budgetary process, encouraging savings. This will be a disaster. Privatisation is not a panacea. Some people just go on speaking about privatisation, privatisation and privatisation. What has happened in the U.K.? Margaret Thatcher had gone for privatising the British Railways. Now, there is a re-thinking about nationalising of the British Railways. What is happening? When Norway was told to privatise, they said 'no'. When Sweden was told to privatise, they too said 'no'. In France also, they are not privatising important sectors. Of course, they are providing more autonomy. ...(*Interruptions*)

DR. NITISH SENGUPTA (CONTAI): They nationalised and then privatised. ...(*Interruptions*)

SHRI RUPCHAND PAL : Why should you do it? You must convince the nation. That is your problem. You are trying to enjoy the best of both the worlds. You are being a part of the Government and at the same time, you are opposing it also. ...(*Interruptions*)

**16.00 hrs.**

MR. DEPUTY-SPEAKER: Dr. Nitish Sengupta, next is your chance and you can speak at that time.

SHRI RUPCHAND PAL : Even when a German company sought permission to operate in the telecom sector in the U.S., the Minister knows it, what happened to it? The U.S. Government said 'no' to the German company. They speak of multilateralism, but what they are indulging in is only protectionism. Now, in our country, the giants are being weakened. This is a sin being committed by them on the nation and they will be never condoned for this that they are weakening these giants by splitting and by all these other things. I think, still there is time; they should rethink, and wait for the important recommendations of the Committee. Instead of giving the opportunity to the important Standing Committee to scrutinise and help the Government, they are taking the Ordinance route. I am prepared to give you an alternative; please give me the time. Please send it to the important Standing Committee, and I am prepared to give you the alternative as to what has happened elsewhere and how the UTI can continue to be the most unique institution in the interest of the nation, in the interest of the people, in the interest of our development and for fulfilling our Plan goals.

Look at the way this Government is working. The UTI had been a trendsetter in the capital market. In the absence of the UTI, the foreign institutional investors will drive the market. We have the experience of the last scam. Whose purpose or interest you are going to serve by this measure, I do not know. I oppose this move. I think, the Government owes an explanation to the nation about the rationale for this repealing, about the rationale for this splitting because world over, there is a move for consolidation. Now, we are splitting our giants, we are splitting the General Insurance, and we are splitting the UTI. Whose purpose will it serve? There is consolidation the world over. In consolidation, the equity, the stock-holdings of united UTI could have more leverage. Now, they will be weakened. I suspect the motive of this Government. They will split, according to the individual interests of the industrial houses. This would weaken the leverage, the strength of the united UTI.

I again appeal to the Government that this consolidation should be made through restructuring and not by weakening this giant UTI by splitting it.

DR. NITISH SENGUPTA (CONTAI): Mr. Deputy-Speaker, Sir, I thank you for giving me this opportunity.

Sir, I rise to support this Bill. Although I have some reservations on the approaches in the Bill, but still I support it for the simple reason that it does show that the Government is no longer throwing out those unit holders to the street practically, as seems to be the case last year. Last year, in April-May, when the Unit Trust of India, all of a sudden, decided to suspend the operations, of U5-64, to postpone redemption and not declare dividend, it was a black day in India's corporate history. This sort of thing has never been known before. The UTI grew up in very peculiar circumstances. In 1960s, when it was set up, the idea was that a lot of normal investors would like to avoid the tumble of the share market. They do not know enough about buying shares and investing in them. Therefore, the need for a Mutual Fund created by the Government was felt, which will then take their money and invest it in the share market. That was the genesis of the UTI. Then, under some successive and very outstanding Chairmen,

people like James Raj, R.S. Bhat, G.S. Patel and, of course, M. Pherwani, it rose to greater and greater heights. They did show a certain rare standard of moral rectitude, corporate ethics, and strict adherence to fiduciary principles. For Unit Trust investment was a very difficult thing.

They would not invest in any ordinary company on the basis of a rosy picture that was presented. I happened to be in charge of administration of the UTI for five years in the first phase of my service in the Finance Ministry. In those days it was never conceivable that Unit Trust would invest in a company like the Himachal Futuristic, which was not known at all and had no track record, and sink a sum of Rs. 1,400 crore on the basis of rosy projections. This was the fall out of the sudden abolition of the CCI on the basis of NAV and profitability guidelines about share pricing and introduction of free pricing, for which Indian conditions were not suited at all. There is no question of the UTI investing its Unit-64 money that has been contributed by the small investors to the UTI for their safety to a company without track record. The Unit Trust became like, as it was known in the good old days, a '*Company ka kagaz*'. The East India Company papers were held to be the model for efficient and balanced long term investment. So, for UTI to invest money in companies like the Himachal Futuristic was out of the question. I do not know as to why that was done. This mystery has never come out in the open. According to one newspaper report, the then Finance Minister advised the Chairman, UTI to invest in the State of Uttar Pradesh since the State was a backward one. UTI funds are not meant for investing in backward areas. It is meant to give good returns to the small investors who have reposed their faith in that Organisation.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): All those investments have resulted in Ms. Mayawati becoming the Chief Minister.

DR. NITISH SENGUPTA : Let us not go into such things. It was a black day. The Unit Trust had increased its dividend declaration from about seven to eight per cent to 15 to 16 per cent and had set a record of sorts. But suddenly it was found to be in a kind of pitiable condition. It was given out that this July, 2001 decision was done without the knowledge of the Finance Ministry. I refuse to believe that. Having had some knowledge of the prevailing practices, I cannot believe that the Finance Ministry did not know about such a bold decision of the Chairman of the UTI. If that was done without the knowledge of the Finance Ministry, then that reflects even more the sorry state of affairs. There were a section of people in the Finance Ministry who used to say why the Government should show preference for Unit Trust. If a private sector mutual fund goes into liquidation, then the Government does not come forward to bail it out. So, why should it be done in case of the Unit Trust? I said that the Unit Trust is a creature of the Government. People have their faith in this Organisation. I would like to congratulate the present Finance Minister because he has at least come out and established the principle that Government is still underwriting the Unit Trust.

Sir, now I do not know why there is an apprehension amongst some friends in the Opposition that this is necessarily a prelude to privatisation. Nowhere in the document it has been mentioned that it is going to lead to privatisation. The Unit Trust was a peculiar body, a statutory corporation of 1964 Act where there was a principal fund holder, initially the RBI – those were later transferred to IDBI, LIC and a few others -- and the Government really did not have any shareholding. But the Government's underpinning has been there all along.

Sir, having said so, I am not very happy about this splitting of the UTI into two organisations – (1) for those schemes that guaranteed returns to the investors and (2) the NAV based schemes. Then, the expression '*Administrator*' smacks of a heavy dose of bureaucracy. Should there be an Administrator? Why can it not be given to a company, floated under the Company's Act, with the Government's entire shareholding taking charge of it? Now, I am not very sure whether it is right at this moment to have this concept of splitting the UTI into two parts, one dealing with the schemes that ensure returns to the investors and the other dealing with the NAV-based schemes. To my mind, it will lead to complications. There are legal complications in this. Separating these two things would be a difficult proposition. Even if it is too late, I would still advise the hon. Finance Minister to resort to simpler means. There is a reference of a provision for having a specific company.

Well, have that specified company and transfer all these schemes to that specified company. Let it run. Let, for the time being, the Government hold all the shares in that company and carry on.

SHRI RUPCHAND PAL: That cannot be done.

DR. NITISH SENGUPTA : Anything can be done by law.

SHRI RUPCHAND PAL : Proportionately they will have to be given first.

DR. NITISH SENGUPTA : Okay. Let them be given. Nothing wrong in it.

The point is, I am a bit apprehensive of expressions like Administrator. Administrator can be there in a kind of temporary situation. Is it the idea that the Administrator will be there for some time and thereafter it will go to the normal corporate pattern? I would request the Finance Minister to examine this aspect once again and see, if it is

possible even at this stage, to really do some rethinking on this subject.

My friend Shri Rupchand Pal said that the terms are being guaranteed to employees for six months only. I read the provision. It applies only for those employees who decide to opt out. For them only the existing emoluments, terms and conditions, will remain for six months because they have decided to opt out. Those who are not opting out, I think, need not be under any apprehension that their service conditions will be disturbed.

I do once again congratulate and compliment the hon. Finance Minister and the Government for at least dispelling the impression that Government was leaving the unit-holders as orphans. It was a very serious situation for years. All of us have suffered badly. The incomes of a lot of people - who are pensioners, widows and others, who were literally depending on the US-64 - have been suddenly reduced to half, and sometimes even to a quarter. For them it will come as a boon. They would feel that the Government is, after all, not throwing them on the street and that the Government is underpinning its responsibility for the unit-holders.

With these words, I once again congratulate the Finance Minister. I support this Bill but do request him to take into consideration some of the concerns I expressed, if it is not too late already.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Mr. Deputy-Speaker, Sir, though from the Congress party we support the Bill, we have certain observations to make. We support this Bill for the sake of the investors, especially the middle-class investors, who could be protected.

I do not know whether I should congratulate the Minister, sympathise with the Minister, or feel pity for the Minister. Here is a Minister, a good friend of ours, who is doing *prayashchitta* according to the Hindu religion, for the deeds of his predecessor. This House had been a witness to the Adjournment Motion moved by me on July 2<sup>nd</sup>, on UTI scam. This House is a witness today to the *prayashchitta* being done according to the resolution of the National Executive of BJP of 29<sup>th</sup> July, 2001.

My dear friend Kharabela Swain is not here. He said many things. On 29<sup>th</sup> of July, 2001, the BJP National Executive passed a resolution. That resolution criticises the Government. It says:

"The recent crash of US-64 scam has shaken the confidence of around two crore small investors, endangered resource mobilisation efforts for development purpose. In this context, the party would like to suggest that immediate steps should be taken to restore confidence of the small investors and also bring the UTI within the ambit of SEBI guidelines and make its transactions more transparent and accountable. In this background, the party would like to appeal to the Government for initiating immediate corrective steps including strict vigilance on functioning of the entire functional system and also empowering the SEBI on the lines of Securities Exchange Commission of US."

I do not know how, and to what extent, the spirit of this resolution has been responded to. The resolution says, 'immediately' on 29<sup>th</sup> July, 2001. Today it is 28<sup>th</sup> November, 2002.

My dear friend Kharabela Swain tried to accuse the Congress party. I am not trying to score political points here. In many matters you can certainly find fault with the previous regime which ruled this country for more than 45 years. If something wrong is there, naturally it has to be corrected. People corrected it.

But I can say with all humility at my command that the dream of Pandit Jawaharlal Nehru and the goal that T.T. Krishnamachari mooted in that Act on the day when he brought that piece of legislation about 38 years ago, have been shattered due to lack of vigilance, due to lack of the understanding of the Indian Government's Finance Ministry operating from North Block to the functioning of several institutions including that of the Unit Trust of India.

Sir, can this Government claim that it governs when it admits on the floor of the House or even outside that 'they had no knowledge of the situation inside the UTI and one fine morning they also, like every other citizen, heard over TV or read in the newspaper that the 2<sup>nd</sup> July action was taken by the then Chairman, UTI, Mr. Subramaniam.?' This is the kind of statement that this Government makes. They do not know how to govern the nation. They are not accountable; they are not responsible. They lack responsibility and accountability to the House of the People, that is, Lok Sabha.

If the statement of his predecessor was correct, then why did he today confess in the Statement of Objects and Reasons? What is the reason of the Ordinance? I quote it from the Statement of Objects and Reasons. There, in para 2, it is written:

"Certain weaknesses crept into the UTI over a period of time "

Tactfully, he has not referred from which period to which period those weaknesses crept in. But those facts are with us.

He further admits in para 2, and I quote:

"High dividends and sale and repurchase price of units unrelated to the actual earnings and other shortcomings in UTI's working led to fall in Net Asset Value (NAV) of the units. These inherent weaknesses coupled with the problems of the capital market in March, 2001"

They do not say as to what happened in the capital market.

It is further written:

"and May, 2001 forcing temporary suspension of the sales and repurchases under US-64 scheme for a period of six months up to the 31<sup>st</sup> December, 2001. Subsequently, a limited repurchase facility was allowed in the interest of investors. The Central Government decided in December, 2001 to meet the difference between the administered repurchase prices and the NAV."

Sir, the Government admits that they were in the knowledge of certain weaknesses. The Government admits that over a period of time the things were happening and they were seized of the matter. But they could not prevent the black day of 2<sup>nd</sup> July. It has been well narrated by their colleague, Dr. Nitish Sengupta, the former Secretary, Planning and the former Secretary, Revenue in the Ministry of Finance, who said, "who can articulate better than me having known the inside of it?"

The Finance Ministry acknowledged before the nation that they had no knowledge at that time as to what was happening inside the UTI. But here, they are very categorical and candid to say that they understood it and they were seized of the matter as to what was happening inside the UTI. This is how his predecessor replied the other day and this is how he is defending the Government today. I call it a *prayashchit*. Thank you for the *prayashchit*.

Now, Sir, the Joint Parliamentary Committee is investigating the matter. So, I would not like to make any comment on the entire episode of the scam. On who is responsible; who is accountable; and who will be found guilty, I would wait for the observations of the JPC and then make comments.

Sir, I would not have touched the politics today but since Shri Kharabela Swain tried to hit -- whenever he speaks he always finds ills from the day one of the Congress regime -- I am forced to say that they have no medicine to cure themselves. I hope, the time will come again that we will have to provide the medicine or the people will provide the medicine.

Why had this Ordinance been issued? This has been issued just to avoid going to the JPC for further scrutiny. They have issued this Ordinance even without waiting for the JPC Report to be placed before the House. The Ordinance was tried to be promulgated earlier also. But it could not be done. One of the reasons is that the Gujarat Election days are knocking and they know and fear that the small investors will cry in the streets saying where their money is. That is why this Ordinance had been issued.

A great columnist Ms. Neerja Chowdhary did rightly say that 'it is the middle-class wave which brought down Rajivji from the power; it is the middle-class wave which took Atal Bihariji in the power; and the same middle-class wave, which has suffered, which is agitated and which has been betrayed in the UTI Scheme, will teach them a lesson.' That is why the Government felt that some arrangements should be made quickly.

I consider UTI is the right word, is the trust and faith reposed by millions of the people of this country as their own temple, mosque or church which you have demolished on 2<sup>nd</sup> July by your act of omission and commission. You have come forward. We will help you. We will support you that at least a sense came to you to protect the investors to the extent possible, though they are shattered. I can cite many letters, which I forwarded to you, Mr. Minister, written to us by a number of investors. Retired army officers, retired personnel, middle class teachers and others have written us letters asking about their money. They have calculated as to how much they will be losing on account of this. Only yesterday I got a letter from a retired Brigadier who says that he is losing Rs.77,000 because of this. This matter has also been referred to you and you have replied to one letter. You have asked the UTI to investigate the matter dated November 20, "Chairman, UTI has been instructed to attend the matter and convey the factual position". There are so many schemes like this where people have been affected.

I share one concern of Shri Rupchand Pal. You may convince in whatever way you like to the House, but Unit-II will ultimately lead to the private sector. You may provide Unit-I as an umbrella to protect, but Unit-II will lead to private sector. I do not know what will happen at the end of the day. Let the future Sessions of Parliament witness the

situation and deal with it in whatever manner they like. I am not touching the accountability part today because I am waiting for the JPC report.

My dear friends from BJP accused the Congress saying that the process started long before because the reserves were taken out to pay the dividend. Is it the only fact? The ill started not from 1992. I can give you the figure. In 1989-90 the unit capital was Rs. 7,025 crore and dividend was 18 per cent; Rs. 1,264 crore dividend and net income is Rs. 1,289 crore. Dividend means what and is given to whom? It is given to the investors who invest the money. Do you feel jealous if they have got 20-22 per cent? I could understand if the Government of those days paid money in terms of dividend by making the Unit Trust bankrupt or taking out reserves? No, it is not so. I can prove with facts that it started in your regime from 1997, partly 1998 and 1998-2001. You may go through the statistics. There was devastating withdrawal to the tune of Rs. 4,000 crore before the date of redemption, without the knowledge of the Finance Ministry or without the knowledge of anybody. There is a gentleman who works in the Finance Ministry, a Joint Secretary in charge of this. Every month UTI had to give a report. You have posed a picture to the nation as if you knew nothing and tried to unnecessarily accuse Congress, as if without accusing Congress you cannot digest your food. So long as you live, you have to accuse us, otherwise your food will not be digested.

I would like to tell you that this scam started taking an ugly shape from 1997 onwards and came to focus in 1999 when the first rescue package was announced and in 2001 it blasted. It was one of the greatest scams on the earth and in India after 37 years. Now the rescue operation Bill has come. That is why I say that I sympathise with the Minister. He is trying to make the damage control to the extent he can. We will deal with that matter later on.

My dear friend Shri Swain is a good parliamentarian. He always comes well prepared with facts and speaks good things. Which are the areas where the UTI was advised to invest? Essar, Zee--telefilm, Vespan. These are sub-investment groups where the Chair gave stricture not to invest in them. But they went on investing in it day-in and day-out. Those have been taken care of later on by the Finance Ministry. Normally we do not say such things here but today I must congratulate a good number of bureaucrats in the Finance Ministry. They are equally patriotic as we claim to be

They tried to give their advice from time to time both inside the UTI, in the restructure of UTI, and also in the Ministry of Finance. But if we, the political masters, yield to the pressure of other forces outside the North Block, we compel them to swallow our designs. We do not listen their advice. But if the officers do not listen to our advice, they become the most unfavoured persons of ours and they go elsewhere and sometimes in oblivion.

#### **16.26 hrs. (Dr. Laxminarayan Pandeya *in the Chair*)**

I know that the distinguished Members of the JPC from all sides of the House must have done a great job and their report will give us a new direction in future how to proceed in regard to financial institutions of our country, especially UTI.

I do not want to talk about the role of FII in the stock market. I said it yesterday also but the Minister did not reply to me. But I still hold the view that the stock markets in India have become the casinos of FIIs. They come in the morning, operate for a few hours, the whole nation dances to their tune, and they go back. So long as the Government is not in a position to control it, I do not know what will happen to our future.

Sir, I only wish that after this Bill becomes the law, the Minister would ensure the protection of the interests of the employees of UTI. I am saying this because we supported the Insurance Bill with the same spirit. My dear friends, Shri Rajsh Pilot and Shri Madhavrao Scindia are no more. Many a times, they raised this issue. They asked you many a times whether the employees will be protected. The reply was in affirmative. But I know what is the fate of the employees of GIC and other insurance companies. Their days are numbered in these institutions. They are just struggling. At that time, the same assurance had come to us from the Treasury Bench that the BALCO will be taken care of and that in the disinvestment package, the workers are protected. But we know how the workers are crying. All the people from Delhi have been shifted elsewhere, thereby compelling them to resign. I only wish UTI employees should not face any such disaster. Mr. Minister, you must ensure the House that you will protect them. You have tried to protect the investors, though, I know the investors will not be protected. They will get some compensation from your end. The Net Asset Value realisation and the gap that has been made will not give them their due return. Around Rs.4,000 crore have been siphoned off. We raised this issue. When Shri Subramaniam was sacked and taken into custody, why did you not come up with an Ordinance to realise those Rs.4,000 crore which were taken away. You did not come out with an Ordinance before Parliament. Was it not an indirect patronage to those who siphoned off the money from UTI? You failed to do that. The Government did not consider it necessary to bring that Ordinance before Parliament. It gives rat smell to all the people of the nation that you are not functioning in a transparent manner with a transparent objective.

Mr. Minister, we are supporting the Bill only because if we put an obstruction, I know, that you will go to Gujarat and

elsewhere और आप लोगों को कहेंगे कि हम आपको बचाने के लिए कुछ इंतजाम कर रहे थे लेकिन उसे सोनिया गांधी ने रोक दिया। हम आपको रोकेंगे नहीं, लेकिन इनवैस्टर बचेगा, आप नहीं बचेंगे। इस सदन में आप 6, 8 या 10 घंटे, जितनी चाहे, डिबेट कर लें, हम तैयार हैं और अपोजीशन आपकी बात को यहां भले ही एकसैप्ट कर ले, आप सदन के अंदर तो बच सकते हैं, लेकिन बाहर नहीं बच सकते हैं। आप चाहे कितने ही प्रयास कर लीजिए, सदन के बाहर आपको माफ नहीं किया जाएगा।

**श्रीमती जस कौर मीणा (सवाई माधोपुर) :** माननीय सभापति महोदय, मैं भारतीय यूनिट ट्रस्ट (उपक्रम का अंतरण और निरसन) विधेयक, 2002 का पुरजोर समर्थन करती हूँ और मैं उम्मीद करती हूँ कि मध्यम वर्गीय जनता को संकट से उबरने के लिए यह एक अत्यन्त महत्वपूर्ण विधेयक सिद्ध होगा। यूनिट ट्रस्ट देश का सबसे बड़ा साझा कोष है।

इस साझा कोष में सबसे अधिक धन मध्यम वर्गीय परिवारों का है।

मैं आपके माध्यम से निवेदन करना चाहती हूँ कि इस ट्रस्ट में जो भी धन निवेश करते थे, उन निवेशकों के मन में दो प्रकार का गर्व था—पहला गर्व यह था कि जो धनराशि वे निवेश कर रहे हैं, वह सुरक्षित है और उसका उपयोग देश की विकास योजनाओं में होगा। इससे अलावा जो अनुत्पादक धन उनके पास पड़ा हुआ है, उसका भी उपयोग उत्पादन के क्षेत्र में होगा। इन्हीं दो गर्व भावनाओं के साथ जुड़ी हुई मध्यम वर्गीय जनता यह सोच रही थी कि इस क्षेत्र में वह हर तरह से सुरक्षित हैं। लेकिन सन् 1990 से लेकर 1998 तक के कार्यकाल में भारतीय यूनिट ट्रस्ट के निवेशकों के समक्ष एक अंधेरा छा गया। इस संबंध में मेरे से पूर्व बोलने वाले सासंद भाइयों ने एक बात कही थी कि इस अध्यादेश को लाने की आवश्यकता आज ही क्यों हुई, इससे पहले क्यों नहीं हुई ? मैं उनका ध्यान हार्द मेहता के कार्यकाल की ओर दिलाना चाहती हूँ। जब यू.टी.आई. के तीन हजार करोड़ रुपये गायब हो गये थे, तब उनकी आंखें नहीं खुलीं ? उस समय उन्होंने इसके बारे में नहीं सोचा, उस समय इस पवित्र व्यवस्था की ओर, इस वित्तीय संस्था के प्रति उनकी निगाह नहीं गयी ? उनका यह आरोप कि वर्तमान सरकार सबसे बड़े घपले में साझीदार है। मैं सभी माननीय सदस्यों का ध्यान इस ओर दिलाना चाहती हूँ कि सन् 1990 से लेकर 1998 तक यू.टी.आई. के क्षेत्र में जो कुछ भी हुआ, उस समय तत्कालीन वित्त मंत्रियों के इस्तीफे क्यों नहीं लिये गये, उस समय उनकी खिचाई क्यों नहीं की गई ?

मैं समझती हूँ कि अधिकांश कार्यकाल कांग्रेस के वित्त मंत्रियों का ही था। उसके बाद जो तत्कालीन वित्त मंत्री रहे, उन्होंने यू.टी.आई. के क्षेत्र में झांकने की कोशिश भी नहीं की। इस दशक में शेयर बाजार का कार्यकाल तीव्रगति से आया। उस कार्यकाल में यू.टी.आई. के शेयर किस तरह से बेचे गये, इसकी भी तरफ शायद उन्होंने ध्यान नहीं दिया। मैं यह कहूँगी कि जिस समय सट्टेबाजी का दौर आया, उस दौर के अंदर यू.टी.आई. की घटती साख उन मध्यम वर्गीय लोगों के लिए अभिशाप साबित हुई और एक संकट बनकर उनके सामने खड़ी हो गई। एन.डी. ए. की सरकार ने इस पर बड़ी गंभीरता से सोचा और इस संकट के निवारण के लिए उन्होंने यू.टी.आई. को दो भागों में बांटकर एक कुशल प्रबंधन की रूपरेखा तैयार की। उस कुशल प्रबंधन की रूपरेखा के संदर्भ में हमारे पूर्ववक्ता ने एक प्रश्नचिह्न लगाया है।

मुझे अफसोस है कि हमारी प्रबंधकीय व्यवस्था जो बहुत ही सुदृढ़ है, आज उस पर उन्होंने प्रश्नचिह्न लगाया है। **अ.ए. (व्यवधान)** बीच में हस्तक्षेप करने वाले अपने विद्वान साथी से मैं कहना चाहूँगी कि सरकारी कर्मचारी हो, पेंशनर हो या जो भी छोटे-छोटे निवेशक हैं, वे सभी यूनिट ट्रस्ट के क्षेत्र में विश्वास रखते थे और आज भी उनका विश्वास बना हुआ है क्योंकि हमारी सरकार ने एक पैकेज देकर उन निवेशकों के विश्वास को बनाये रखा है। मुझे उम्मीद है कि मंत्री जी अपने उद्बोधन में या अपने अंतिम सम्भाषण में मेरी बातों को जरूर शामिल करेंगे।

यू.एस.-64 का जो प्रावधान था, वह मध्यम वर्गीय लोगों को कर व्यवस्था से बचाने के लिए था। मेरा कहना है कि इसे पुनः लागू करने के लिए आप विधेयक पर पुनर्विचार करें। मैं सोचती हूँ कि जो मध्यम वर्गीय जनता है, वह हमारे देश में सबसे अधिक है। उच्च वर्गीय जनता जिसे क्रीम कहते हैं, वह 1964 से लेकर 1998 तक क्रीम खाकर क्रीमी बन गयी है। उनकी तरफ इसमें ध्यान न देकर मध्यम वर्गीय परिवार के धन निवेश के लिए एक सशक्त और विश्वसनीय व्यवस्था इसमें आहूत करें। जिसकी प्रबंधन व्यवस्था इस तरह की हो कि इसका जो भी चेररमैन रहे, उसकी जवाबदेही हो। यदि कार्यकाल में कोई घोटाला होता है या धन का दुरुपयोग होता है तो कठोर से कठोर दंड देने का उसमें प्रावधान हो।

साथ ही मैं यह भी कहूँगी कि जो कर्मचारी इसमें कार्यरत हैं और जो इससे प्रभावित हुए हैं, उन सबके विश्वास को बनाए रखने के लिए भी इसमें कोई व्यवस्था की जाए। धन्यवाद।

**डॉ. रघुवंश प्रसाद सिंह (वैशाली) :** सभापति महोदय, यू.टी.आई. से संबंधित विधेयक आ गया। यह ऐसे समय आया है जबकि पार्लियामेंट की संयुक्त समिति यू.टी.आई. घोटाले की जांच कर रही है। जांच के बाद प्रतिवेदन नहीं आया और अध्यादेश आ गया, फिर बिल आ गया। इससे हम लोग भारी शंका और खतरा महसूस कर रहे हैं। **अ.ए. (व्यवधान)** यू.टी.आई. का विधेयक 1963 में पारित हुआ था और 1 फरवरी, 1964 से लागू हुआ। पुराने जमाने में मध्यमवर्गीय लोग पैसा बचाते थे, कोई कोठी में रखता था, कोई गाढ़ कर रखता था, कोई बलिस्ता में रखता था, कोई सोना खरीद कर रख देता था जिससे पैसा जमा रहता था। देश चलाने वाले लोगों ने महसूस किया कि उस पैसे का इस्तेमाल होना चाहिए, यह अच्छा काम है। इसीलिए यू.टी.आई. का गठन हुआ। इसकी शुरुआत 5 करोड़ रुपये से हुई और 70,000 करोड़ रुपये तक इसका कारोबार बढ़ा। यू.टी.आई. पर लोगों का बड़ा भारी विश्वास था कि यह सरकारी संस्थान है, इसमें कोई हेराफेरी, गड़बड़ी नहीं होगी और रुपया डूबने वाला नहीं है। इसलिए गरीब आदमी, मध्यमवर्गीय लोग अपना पेट काट कर पैसा बचाते और उसमें लगा देते थे। यहां इन्वैस्टर के पक्ष वाले लोग नहीं हैं। इस तरह वह पैसा देश के सार्वजनिक काम में, उद्योगों में और शेयर बाजार में लग जाएगा या पूंजी की बढोत्तरी होगी या निवेशकों को लाभ होगा। लेकिन सरकार के हस्तक्षेप, कुप्रबंधन, ट्रांसपेरेंसी के अभाव से, ऐकाउंटबिलिटी के अभाव से इसमें घोटाला हो गया।

उस समय के वित्त मंत्री ने शुरू में कहा कि हम नहीं जानते। इस तरह के कैसे मंत्री हैं जो यह नहीं जानते कि उनके विभाग में कितना घोटाला हो गया। इसलिए वह असत्य था। मंत्री जी के यहां से कभी जुबानी, कभी लिखित निर्देश होता गया, मंत्री जी का हस्तक्षेप हुआ जिस वजह से घोटाला हुआ। उस समय हंगामा उठा कि पी.एम.ओ. से सूचना गई तो साइबर स्पेस का घोटाला हुआ। उत्तर प्रदेश, लखनऊ में पूंजीपति, जाली कम्पनी वाले लोगों ने मिल कर पूंजी हड़प ली, हेराफेरी की। इस तरह यूनिट ट्रस्ट, जिस पर लोगों का भरोसा था, विश्वास था, उस समय के वित्त मंत्री श्री यशवंत सिन्हा के चलते यूनिट ट्रस्ट यूनिट भ्रष्ट हो गया, उससे लोगों का डिस्ट्रस्ट हो गया। लोगों का विश्वास उठ गया और वे अपना पैसा निकालने लगे जिससे वह ठप्प हो गया और परिणाम यह हुआ कि यू.टी.आई. समाप्त हो गया। दो करोड़ मध्यमवर्गीय लोगों की पूंजी डूब गई, लोगों में त्राहि-त्राहि मचने लगी। उस पर जांच कमेटी बनी। जांच कमेटी की रिपोर्ट आ जाती लेकिन कोई रिपोर्ट नहीं आई। पता नहीं बीच में किस बात के चलते ऐसा सोचा गया कि इसे दो खंडों में बांट दिया जाएगा तो ठीक हो जाएगा। कांग्रेस वाले भी कभी-कभी गलत काम का समर्थन कर देते हैं जिससे गड़बड़ी हो जाती है। कौन दावा कर सकता है कि यू.टी.आई. को दो खंडों में बांटने से जो यूनिट ट्रस्ट भ्रष्ट और डिस्ट्रस्ट हो गया, उसमें लोगों का विश्वास पैदा हो जाएगा।

यहां खारबेला स्वाई जी नहीं हैं चले गये, वे दीपक पारिख कमेटी और किसी कमेटी ने, किसी सक्षम संस्थान ने कहा कि यूनिट ट्रस्ट को दो भागों में बांट देने से, पुराना कानून खत्म कर देने से ठीक हो जायेगा। किसी कमेटी के लिए सरकार दावा करती है तो बताये कि किस कमेटी का विभिन्न नाम है। दीपक पारिख ने कहा, यह कह रहे थे। दीपक पारिख कमेटी ने नहीं कहा कि इसका बंटवारा किया जाये। केतन पारिख कमेटी ने कहा होगा, यह हम समझ सकते हैं। सब नाम सब जगह चल रहे हैं, लेकिन दो खण्डों में बांटने से लोगों में इतना भारी भय और आतंक है कि एक नम्बर तो अपने आप खत्म हो जायेगा और दो नम्बर फिर प्राइवेटाइज हो



जायेगा।

प्राइवेटाइजेशन का भारी खतरा है, जब से एन.डी.ए. सरकार आई है। प्राइवेटाइजेशन, धनपशु और जितने लुटेरे हैं, उन्हीं का बोलबाला है और उन्हीं के मुताबिक सब काम हो रहा है। ऑल इंडिया बैंक एम्प्लाइज एसोसिएशन के लोगों ने बड़ा भारी प्रदर्शन किया। उन लोगों को एक खतरा है, उनका एक नम्बर सवाल था कि बैंक कहीं प्राइवेटाइज नहीं हो जायें और उसी के खिलाफ वे लोग आन्दोलन पर उतर गये हैं। वे आशंका जाहिर कर रहे हैं कि जिन लोगों ने लूटा, जिन लोगों ने खतरा किया, उन्हीं के हाथ में यह सब चला जायेगा तो क्या होगा। जो रक्षक रहेगा, वही भक्षक होगा। पहले जिसने नाश किया, उसी के हाथ में देने की साजिश चल रही है। इसलिए सरकार यह बतायें कि किस कमेटी के जरिये से, कहां से यह तरकीब आई कि इसे दो खण्डों में विभाजित कर देने से समाधान हो जायेगा। हम लोगों को आशंका है कि यूनिट नम्बर एक के पुराने कानून को खत्म करके जो नया कानून ला रहे हैं तो पहले नम्बर वाला तो अपने आप खत्म हो जायेगा और दो नम्बर जो यूनिट बनाएंगे, उस दूसरे नम्बर से लोगों को आशंका है, भारी भय व्याप्त है कि उसे फिर प्राइवेटाइज कर देंगे। अगर प्राइवेटाइज कर देंगे तो जिन लोगों ने लूटा, जिन लोगों ने मामला गड़बड़ किया, हेराफेरी की, उन्हीं के हाथों में यह संस्थान चला जायेगा तो लोगों को क्या होगा। बैंक में जो पैसा लोग जमा करते थे, उस पर इण्टरैस्ट घट रहा है। जसवन्त बाबू मंत्री होकर आये थे तो यह लगा कि कुछ सुधार होगा। यशवन्त सिन्हा तो बिगाड़ कर चले गये। इन्होंने मध्यवर्गीय लोगों को जहां-तहां कुछ राहत मिली, ऐसा लोगों ने बताया है कि ये कुछ प्रस्ताव लाये। फिर भी बैंकों में जो पैसा जमा हो रहा था, वह घट गया। पी.एफ. का इण्टरैस्ट घट गया, सारे कर्मचारी लोग बचाकर कुछ जमा करते थे तो अब कहां जमा करें, कहां निवेश होगा और कहां से पूंजी उपलब्ध होगी। फिर पुराने जमाने की बात होगी कि लोगों को सब संस्थानों में अविश्वास हो जायेगा। फिर लोग कहां जमा करेंगे, फिर लोग मिट्टी में गाड़कर लोटे में बन्द करके रखेंगे ताकि कोई चुराये नहीं। इससे जहां की तहां पूंजी जाम हो जायेगी। पूंजी जाम हो जायेगी तो देश की अर्थव्यवस्था का क्या होगा। इसीलिए लोगों के मन में बड़ा भारी भय व्याप्त है, लोगों में अविश्वास है। पहले लोगों का यूनिट ट्रस्ट में बड़ा भारी विश्वास था। यूनिट ट्रस्ट की एक यू.एस. 64 स्कीम चली थी, एक मास्टरगेन चला था, एक मास्टरगोल्ड थी, कई नामों से 60-70 स्कीम चली थीं। हम लोग भी सभी का नाम नहीं जानते हैं, हम देहात के आदमी हैं। हम जाली काम में नहीं पड़ते, लेकिन यूनिट ट्रस्ट खतरे में है। नॉन बैंकिंग वाला जे.वी.जी., हीलियस, कुबेर और पर्ल इंडिया, पता नहीं किस-किस नाम से लोगों को ठग रहे हैं कि तीन वा में पैसा दुगना कर देंगे। लोगों ने लोभ में अपना पैसा जमा कर दिया, जिसे वे लेकर भाग गये। वहां एक मार्कोस हुआ है, लेकिन यहां कितने मार्कोस हैं, पता नहीं। हमें खतरा है कि बैंक वाला कहीं रुपया लेकर न भाग जाये। यशवन्त सिन्हा को एन.डी.ए. वाले लोग समझ गये, तो लोगों ने बदला-बदली की। अब जसवन्त सिंह जी आये हैं, हम लोग इन पर भरोसा करते हैं कि कुछ ठीक काम करेंगे। पहले इतना जाल जंजाल बनाया है, इस जंजाल से कैसे निकल पाएंगे। फिर जो निवेशक लोग हैं, उनका विश्वास कैसे जमेगा, उनका कैसे संरक्षण होगा? 14-15 हजार करोड़ तो सुनते हैं कि देश के खजाने का दान-खाते हुआ है, जो लूटा, उस पर कोई कार्रवाई नहीं हुई, कोई नहीं पकड़ा गया। सुब्रहमण्यम को जेल में डाल दिया गया तो सुब्रहमण्यम को बहाल कर देने वाला आदमी कैसे बाहर रहेगा, यह हम जानना चाहते हैं?

यदि कानून से बाहर जाकर हम किसी गड़बड़ी किए हुए व्यक्ति को छोड़ दें तो उसके लिए हम भी कसूरवार माने जाएंगे। इसी तरह से कानून के तहत एक्साइज के घोटाले में श्री वर्मा को जेल में डाला गया था, लेकिन उसका नतीजा क्या हुआ, यह सब जानते हैं। वित्तीय प्रबंधन को लोगों ने चौपट कर दिया है। जब संसद की संयुक्त समिति की घोटाले की जांच कर रही थी, तो बीच में ही यूटीआई को भागों में बांटने की बात की गई। इसमें 2500 कर्मचारी हैं, जो 70,000 करोड़ रुपए का प्रबंधन करते थे। वे लोग भी भयभीत हैं कि निजीकरण से हमारा क्या होगा। इसलिए सरकार आश्वासन दे कि उसका निजीकरण नहीं होगा और यूनिट-1 भी बंद नहीं होगा। जानकार लोग बताते हैं कि यह तो अपने आप बंद हो जाएगा। अभी नीतीश सेन जी बोल रहे थे। ये वित्तीय मामलों के विशोऽ हैं। इन्होंने भी आशंका जाहिर की थी और यह भी कह रहे थे कि दो खंडों में बांटने से क्या लाभ होगा और कैसे सुधार होगा, हमें भी पता नहीं है। गुजरात के चुनाव नजदीक हैं, उस पर भी इसका असर पड़ने वाला नहीं है। यहां के सब मार्कोस कब यहां से रुपया लेकर दूसरे देशों में चले जाएं, इस बात की आशंका है।

इसलिए मैंने जो सवाल उठाए हैं, माननीय मंत्री जी उनका उत्तर दें और हमें आश्वस्त करें कि ऐसा कुछ नहीं होगा। मैं इस विधेयक का विरोध करता हूं, क्योंकि इसके पारित होने से बहुत बड़ा खतरा पैदा हो जाएगा।

**SHRI G.M. BANATWALLA (PONNANI): Thank you Mr. Chairman Sir. This Bill is nothing but an attempt on the part of the Government to run away from its responsibilities or liabilities. I must take and I do take strong exception to this particular thing. Whether it is the question of UTI-I or UTI-II, finally a device has been found out by the Government to run away from its responsibility.**

**It should be clearly understood that it was because the UTI was related to the Government, it was because of the perception that was allowed to grow that UTI has the backing of the Government, that those of the middleclass, the senior citizens and such other weaker sections entrusted their savings to the UTI. Now, finally, the Government wants to run away from the responsibility.**

**Of course, the Government has been very candid in saying that the twin objectives of the Bill are: it is for the Government to restrict its liability and it is for the Government to distance itself from the UTI. The UTI will be bifurcated into UTI-I and UTI-II.**

**16.49 hrs (Dr. Raghuvansh Prasad Singh in the Chair)**

**In the case of UTI-I, the Government wants to restrict its responsibility. In the case of UTI-II, the Government wants to simply wash away totally and entirely its hands. This is an economic fraud being played by the Government upon the helpless people like the middleclass, the senior citizens and such other people.**

**On the basis that the UTI has the backing of the Government, they entrusted their hard earned money to the UTI. And now at this critical juncture, the Government wants to wash away its hands. There is no question that economic propriety lies in it that the Government must accept full and complete responsibility for all the plans and the schemes of the Unit Trust of India, and not try to jettison the weaker people who have been led down the garden path.**

**Mr. Chairman, Sir, the Government has tried to do this through an easy route, the Ordinance-route. It is trying to get away from the strict scrutiny of this House, the Standing Committee and so on.**

**Every one has spoken about the undesirability of this 'Ordinance Raj' that we are having. The Government has promulgated Ordinance after Ordinance, an Ordinance even on the eve of the Session. But this undesirability of the Ordinance-route is doubly compounded in the case of the present UTI Ordinance because this Ordinance repeals an Act of Parliament; an Act that was adopted by the Parliament after due deliberation is sought to be repealed through an Ordinance. Wherein now lies the sanctity of this House, I ask Mr. Chairman, Sir, wherein lies the sanctity of the**

Parliament? Wherein lies the sanctity and respect of this House when the legislative measures adopted by this House are to be summarily repealed through an Ordinance? Here also is the question of an Ordinance that deals with the question of the hard earned savings of the middle class, of the senior citizens and such other people. They have been totally devastated. The trusts and charitable institutions, because of the perception that the UTI has the Government backing, invested their corpus in the UTI. Today, even these trusts and charitable institutions have suffered a great loss because of the erosion of the net asset value. What does this loss to them mean? It means curtailment in their charitable acts with respect to the poor people; on the one hand there is a dearth of social measures and on the other hand there is the impairing of the financial capacity of the trusts and charitable institutions also to look after the poor people. I must take and I do take a strong exception to this Bill and also to this Ordinance. The Bill cannot turn a Nelson's eye  
...(Interruptions)

**MR. CHAIRMAN :** Please conclude.

**SHRI G.M. BANATWALLA :** Mr. Chairman, Sir, I have just begun my speech. Let me place my point of view across.

Sir, the Bill cannot turn a Nelson's eye to the misery that has been inflicted upon the middle class and such other people.

It cannot turn a Nelson's eye to the loss inflicted wilfully and deliberately upon the UTI by those responsible for investment decisions. Their decisions have been colourable and they must be brought to book. Here, in the Bill, I see hardly any provision with respect to their liabilities. Of course, I have given notice of an amendment which I shall move at the appropriate stage. But it is necessary that the economic offence is viewed seriously and deterrent punishment must take place.

Now, clause 9 provides for a Board of Advisers. But then, it is unfortunate that the exact role of the Board of Advisers and the relationship between the Administrator and the Advisers have not been clearly spelt out in the Bill. Sub-clause (1) of clause 9 says, "That the Board of Advisers is to advise and assist the Administrator." On the other hand, sub-clause (1) of clause 10 says, "The Administrator may, on the advice of the Board of Advisers, transact any of the following kinds of business." Now, is it compulsory for the Administrator to transact the business only on the advice of the Board of Advisers? Then, does the Board of Advisers have an overriding power over the Administrator? The matter is not clear. Wherein lie the overriding power? Is it with the Administrator or with the Board of Advisers?

Sir, in the past, we had also come across situations where this concept of Board of Advisers had never worked harmoniously and properly, and it has been difficult to fix the accountability also. This matter needs a further study and a clarification on the role between the Administrator and the Board of Advisers.

The Government has come down harshly, I must say, upon what is called UTI-II or the specified company, to which the UTI's unit schemes and plans mentioned in the Schedule-II will be transferred. A distinction has been created. Not only the unit holders of the unit schemes and plans of UTI-II have been jettisoned, not only have they been thrown away while all along they thought that the UTI has the backing of the Government, but also the UTI-II has been discriminated. Several benefits made available to the UTI-I will not be available to the UTI-II. For example, tax benefits extended to the UTI will continue in respect of UTI-I, but not in respect of UTI-II. Similarly, the transfer to UTI will enjoy exemption from stamp duty. This is denied on transfer to the UTI-II. Further, any guarantee in favour of the entire UTI will be available to the UTI-I but it will not be available to the UTI-II.

17.00 hrs.

I would say, this is nothing but an economic fraud. In the beginning, all the unit holders of the UTI thought that they were equal and that the UTI had the backing of the Government but now this discrimination has been created.

There are my amendments also on this particular aspect, which I shall be moving at the appropriate time.

I have also to draw the attention of this House and the Government to two particular schemes of the UTI. They are the Senior Citizens' Unit Plan and the Unit Scheme for Charitable and Religious Trusts and Registered Societies. These schemes have been transferred to the UTI-II. Here, I must plead that in the case of senior citizens and in the case of charitable institutions, the Government has to come forward with full protection so that they are not made to suffer.

The concern of the employees of the UTI have also to be addressed. I would suggest that the Government hold talks and proper dialogue with the employees in order to assure them that they would not suffer.

Mr. Chairman, Sir, the eclipse or the disappearance of the giant like the UTI, which was a trend-setter in the capital market, would be to the benefit of only the private undertakings and multinationals in our country. The responsibility for this sad state of affairs would lie squarely on this Government.

**SHRI AJAY CHAKRABORTY (BASIRHAT):** Hon. Chairman, Sir, the Government of India has taken a decision to split into two parts the largest mutual fund of the country, that is, the Unit Trust of India in order to give one half of the schemes to the private sector.

This Government is a Government of Ordinances. One after another, they are promulgating Ordinances, bypassing and excluding Parliament and without consulting the Standing Committees.

On the 29th October, 2002, this Ordinance has been promulgated in order to bifurcate the oldest and largest mutual fund,

Unit Trust of India, into two separate entities – one is the Assured Income Return Scheme and the other for open-ended schemes, where the former would go to the public sector and the latter would be with the private sector. It is also provided in this Bill that the existing employees, including officers would be divided and a part of them sent to the private sector.

The Unit Trust of India has been created in 1963 by enacting a law, by this Parliament. At the time of enactment of that law of 1963, the then hon. Prime Minister Pandit Jawaharlal Nehru and the then hon. Minister of Finance Shri T.T. Krishnamachari assured the nation that through this law the interests of the common people and middle classes would be protected. I consider this act of the present Government a reversal of that assurance given by the then Prime Minister and the then Minister of Finance in 1963 in this august House. It is nothing but a betrayal of the interests of the common people of our country and the assurance that was given by the Government in this House when the Unit Trust of India was created.

The common people, middle class, lower middle class and millions of people are investing their savings in the Unit Trust of India. But this Bill, which is brought by the Government, is nothing but a betrayal of the interests of the common people who have invested their savings in the public sector institution under the Government of India.

Sir, the people are living in the farthest corner of the country, in the villages. They are not bothered about the UTI or anything because all their emphasis from morning to night is to earn their bread, to maintain their livelihood and their children. They do not know what is Unit Trust, US-64, etc. But now everybody, even the people who are living in the farthest corner of the country, know about the US-64 and the Unit Trust of India because it is famous for the scam. So, it is my conviction that Unit-I, which is now under public sector, will wind down very soon. It is under the clinical death and ultimately it will go in the normal death and Unit-II will be in the private sector. I do not know, but this is the policy of the present Government to transfer everything, to sell the country and to hand over everything to the private sector. All the profitable concerns are being transferred to the private sector.

Sir, by the present Bill, the Government wants to achieve their motto and their goal to transfer the Unit Trust of India to the private sector. It is also provided that the employees who are working in the Unit Trust of India including the officers will be transferred to the private sector. I do not know what will be the fate of the employees and officers working in the Unit Trust of India. There are a number of employees who are working in the Unit Trust of India. After transferring them into Unit-II, that is, private sector, what will be the fate of the employees?

Sir, my hon. friends have asked the hon. Minister to assure this august House that the interests of the employees would be protected by this Bill. However, I do not believe the assurance of this Government because this Government has decided to sell out everything, to transfer everything to the private sector. So, in view of this position, as I have no time to describe all these things, I cannot support this Bill.

I am very much confident that this Bill will not protect the interests of the common people. This Bill will not protect the interests of the employees. The middle class, the lower middle class, the senior citizens, the pension holders are depositing their money in the bank. However, the interest rate is coming down. The same is the case with the US-64 Scheme. The middle class and the lower middle class people are facing a lot of problems due to US-64 Scheme, etc., of the Unit Trust of India. So, I do not believe the assurance of the hon. Minister.

Sir, with due respect to the hon. Minister, this is not the policy of the hon. Minister, but this is the policy of the NDA Government to sell out everything and to privatise everything. So, my conviction is that this Bill will not protect the interests of the common depositors like middle class and lower middle class as well as the interests of the employees also.

Sir, instead of supporting this Bill, I oppose this Bill very firmly.

**THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH):** Sir, at the end of this debate, I am very grateful to the hon. Members that they have so kindly shared their views with the Government and benefited the Government with their observation, with their criticism and also with their advice.

I must, at this very stage itself, quite clearly share with you, Sir, that I am not here on a fault-finding or a blame-attribution exercise. My endeavour has been to find a solution to a rather complex problem and that is how I have addressed the responsibility and shall, God willing, continue to do so.

On a very broader and on a much larger canvas, I am putting just two opening thoughts in regard to the situation in which we found the Unit Trust of India. Firstly, it is my view that in periods of transition from a highly regulated, controlled economy to freer markets, there will occur incidents of this nature where the casualties of institutions will take place in the absence of strong regulatory mechanisms.

It is my conviction, which I have stated often, that the freer the markets the stronger the regulatory mechanisms ought to be. Free market is not a synonym for a free for all and, perhaps, on this account – without any fault-finding or blame attribution – as part of the learning process curve of all of us in public life, some of these difficulties in regard whether to Unit Trust of India or other banks or other organs of the fiscal mechanisms of the State took place.

In Unit Trust of India case I have been reflecting on what happened. In its initial stages, when the Unit Trust was established in 1963 it was a monopoly and indeed, the aims and objectives, were noble aims and objectives. They were with a view to service a large section, providing them with an opportunity of investment which was sound, which was as reliable as would be the Reserve Bank of India on which those that did not either have the attributes or the inclination or the time – they could simply place their funds upon trust and that is why US-64 acquired the kind of commitment from the citizens in investments that it did.

There occurred somewhere with Unit Trust as we progressed, as independent India progressed, down the line, somewhere there occurred what I would call a schizophrenic split in the personality of the Unit Trust of India; somewhere we all lost a clarity of view as to what exactly was the Unit Trust of India – was it a mutual fund, was it, as it was originally intended a combination of a mutual fund as also of a social security system or was it an agency for development funding.

As we progressed down the line it began to do all these activities. It began to engage in development fund activities; it began to engage even in retail investments. If you were to examine the portfolio of the investments made by the Unit Trust of India over a period of time, you find that this really is what happened. It moved away from its original purpose and it began to spread its investments in a manner which really could not be sustained. It introduced the element of assured return scheme. No mutual fund can guarantee an assured return and if it guarantees an assured return, then it is not a mutual fund because a mutual fund is essentially a fund based on market operation and, therefore, somewhere down the line, conceptually this is how and where – without blame attribution or fault-finding – I am really trying to find the substance of where things went wrong.

This is where, I believe, things went wrong. It is not any one particular phase that we can find fault with. An hon. Member asked whether I am responsible for what happened in my Ministry. I had to answer this question before the Joint Parliamentary Committee as well. I held my earlier charge in a different job. I had the honour and pleasure of saying so and I say it again, Sir, that for anything wrong that happens in my responsibility, only I am responsible and for anything right that happens, those who work with me in the Ministry are the ones to be credited for it. Now, I have said so to the Committee also. It does not mean, therefore, that for every small mistake or misdemeanour, the Minister has to be up-braided. As a Minister, certainly, conceptually I am responsible for what happens in my Ministry. I was being charged, I cannot remember by whom, with this attitude. I do not have this attitude.

Broadly, Sir, there are five questions. I am not going to go into individual queries that have arisen, if you would permit. As my good friend, hon. Shri Rupchand Pal is currently a Member of the Committee that is looking into this particular matter, the queries that he has raised or the observations that he has made are the queries or observations to which I had the occasion to respond to when I appeared before the Committee, largely and not all. Therefore, if Shri Rupchand Pal would permit, I would not really respond to them. But otherwise, there are five broad questions that have arisen and I will endeavour to respond to each of them.

The first thing which, of course, the mover of the Statutory Resolution for Disapproval of the Ordinance and various other hon. Members have said is why Ordinance was promulgated. Now here, in this context, when I got the responsibility, which was in the month of July, we were faced with a situation as indeed has been provided in the explanatory statement and also the purpose. I had addressed the responsibility and it was decided within the Ministry that we must ring-fence and seal as it were the liabilities of the Government in regard to Unit-64, which holds a place in the entire hierarchy of investments in India which is nearly unique. There is no other investment like Unit-64 because that is really the depository of all the middle class, widows, widowers, pensioners etc. I believe, Sir, that the Government has a responsibility which it cannot and must not, in other regards, shirk. That is why, I have said often what, after all, is the Unit-64. When an observation is made that we are committing to protect all this, but we are not doing this in the other spheres, I would submit that in the case of Unit Trust of India, as hon. Members themselves recognise and point out to me, it is the citizens' money that has come into the Unit Trust of India. Irrespective of whether it is Unit-64 or any other scheme, it is the citizens' money. The citizens have, therefore, in that sense placed that money upon trust, with the Government. That is why, it is called Unit Trust of India. Having placed it upon trust, it is my bounden duty to manage it. If I am unable to manage it for any number of reasons, which are extraneous and beyond my control or otherwise, then it is my bounden duty to stand by the investment being a citizens' investment because I have said so.

When the citizen invested, I said, "Invest in this scheme, I will give you the following tax benefits." Unfortunately, for circumstances beyond our control or for whatever reason, when the scheme falters, the Government can then not say that now I am withdrawing my hand. That is why, I had to immediately take steps to seal it as it were, to contain and to reference the Unit-64, as also the Assured Return Scheme, and not the Net Asset Value-based Scheme. I will come in a minute about bifurcation because that is the other question.

Thereafter, having identified what the Government's commitment is, the Government's commitment is to the Government assurance – the assurance to certain aspects of the Unit Scheme, like the Assured Return Scheme – I fence and separate Unit-64 because the Government, thereafter, must distance itself from market operations, which are the Net Asset Value-based market operations, which were subsequently started by the Unit Trust. That is where the third element was to segregate the Net Asset Value-based Schemes which are really market operated schemes. The Net Asset Value, as in any Mutual Fund, is the Net Asset Value on account of important investments in the market and how the market has operated. The Government cannot be, then, in that sense, a market borrower. That must be separated; the unit part of it must be separated. That was the guiding principle, no matter what other reasons you attribute now. This is, after all, a political body. I can understand the hon. Members will attribute extraneous considerations, like pending elections in one State or another. As you know, in the Union of India, elections take place some time or the other, all the time. This was really the

purpose behind it.

Thereafter, we had to take several steps. Between the decision and the stage where I have come now of bringing the Ordinance and the Bill to the Parliament, several steps had to be taken because this is a complex financial fiscal exercise. I will only share some of them. For example, the Net Asset Value-based Scheme is a Scheme that has to be in accordance with SEBI regulations because that is a Mutual Fund now. In 1963, when we came in, in that, Unit Trust of India was the only Mutual Fund. There was no competition. Now, I have the figure here, there are 37 Mutual Funds operating in the country, and the SEBI regulations for the Mutual Funds are in place. The total assets of these 37 Mutual Funds are over Rs. 1,13,000 crore, and the Unit Trust's share is only Rs. 44,000 crore out of this. Of course, it is the largest of it all. Large numbers of Mutual Funds have come in. Therefore, those having come in, I had to first find the sponsors for the Net Asset Value-based Units, which is the Unit-II, and we have identified the sponsors because according to SEBI rules, you have to have a sponsor, you have to have a trustee company and you have to have a management company. This is where the conflict of interest does not take place. In SEBI, they have introduced a sponsor, a trustee company and a management company as regulations for the functioning of Mutual Funds. Therefore, there will have to be three separate stages and three separate levels. The management company cannot be the trustee company; the trustee company, in turn, has to have sponsors. We have to have sponsors, we have to establish a trustee company and we have to establish a management company.

For all these we had to go and obtain the approval of the Reserve Bank of India. Therefore, I am not going into all these entire chain of steps that we had to take. The permission of the Reserve Bank of India, the Registrar of Company, the Department of Company Law, the registration with SEBI, signing of the Memorandum of Understanding, a great deal of meticulous abidance of regulations had to be obtained. There was, in fact, no time to lose.

Sir, I do wish to very clearly and candidly share with the hon. Members that in the rough and tumble of the Capital Market, I could not afford any further fall or devaluation in the status of the Unit Trust of India. I do believe that this has served the purpose. We took a decision in July that this is the step that we would take. Within days of my getting the responsibility, I had to prepare a scheme before I could go to the Cabinet. In preparing the scheme and in all those preparatory steps, it took me a certain time to go to the Cabinet, which I could go, if recollect right, only in September. Between September and now, I am happy to share with all of you, the net flow in Unit Trust has crossed Rs. 3,000 crore, when net flow into the Unit Trust for twelve months last year was only about Rs. 2,700 odd crore. This was the position for the last twelve months. In three months, the net flow into Unit Trust has crossed Rs. 3,000 crore. It is a reflection of the citizens renewed confidence in the Unit Trust. I am not going into other figures of how the Unit Trust is now valued as the number one Mutual Trust in the country. It is now valued as the number one Unit Trust. Again the Unit Trust has regained its position. That is why we had to have the Ordinance.

Why was there an Ordinance? I have explained the reasons. It is because I had to separate the market functioning, the mutual fund operations, which are Net Asset Value based, and that which the Government has committed to, the Unit-64, which is the unique position and the assured return scheme. We have segregated them. They have now become Unit – I and Unit – II.

Welfare of employees is a question that a number of hon. Members have raised. I would like to categorically and clearly assure all the hon. Members that we will take care of all employees. This is a categorical and specific assurance in the House as also in the Bill itself.

There was a question raised in regard to management as to who will manage the Unit – I. Why does the Government propose to have an Administrator and Advisors? Why does the Government not have somebody else? At the present moment, in this entire reform and re-organisation, I have a very able officer from the Ministry of Finance who will ably steer all these activities for Unit – I. We would continue to have an Administrator. He will be assisted, as per the provisions in the Bill, by a Board of Administrators. If the Government so wants, Unit – II, which is the Net Asset Value based market operated mutual fund; we would have to re-vamp the management by a professional management who would be obtained from the best possible sources.

DR. NITISH SENGUPTA : Would this Administrator be an *interim* arrangement?

SHRI JASWANT SINGH: We would have the Administrator for Unit – I currently and until I am unable to sort out all aspects. We would endeavour to professionalise it.

DR. NITISH SENGUPTA : The Chairman of the UTI is a competent person.

SHRI JASWANT SINGH: I have just said so myself. But it would be improper for me to say anything on this. It is not my function.

SHRI PRIYA RANJAN DASMUNSI : The Parliament will not decide about it.

SHRI JASWANT SINGH: It will not be possible for the Parliament to decide who does this. That is an executive function.

On conflict of interest, a question was raised that as LIC, Punjab National Bank, State Bank of India, etc, are in fact the promoters and they too have their smaller mutual funds, there will be a conflict of interest. There cannot be a conflict of interest precisely because this is a three-tiered activity. You have the sponsors, you have a trustee company, and you have an asset management company. Then they have to be governed by the SEBI regulations exactly. So, to the extent

that it is humanly possible to devise a scheme which eliminates conflict of interest, we have done so.

I have with me some detailed queries. A question was asked about Section 41 of the Unit Trust Act. Under Section 41, the Board of the Unit Trust can be reconstituted, but only after paying the whole of the initial capital to the contributing institutions. As per the Bill, the initial capital will be repaid when we do the needful.

**DR. NITISH SENGUPTA :** The share capital is very little.

**SHRI JASWANT SINGH:** It is very little.

The hon. Member has enquired about the Administrator. I have answered that. I have answered the question on the purpose of the Unit Trust after repeal also.

Hon. Banatwalla *sahab* enquired about the powers and functions of the Administrator and said that they are not defined. Under Clause 9, the Advisors are there to advise and assist the Administrator. Under Clause 20, the Government can prepare a scheme - which should be tabled in Parliament - to provide how Unit-I will be managed. Not everything is always contained in the text of the Bill proper. A great many things thereafter follow in the rules and regulations.

It was enquired as to why guarantee is available to Unit-I and not to Unit-II? It is because Unit-I, as I have explained at some length just now, will be owned and managed by the Government which has to provide guarantee to the existing investors. Unit-II has to and will be operated like any other market-driven mutual fund. I have to abide by SEBI regulations. I cannot provide to Unit-II, which is a market operated mutual fund, the same provisions as I have recommended for Unit-I. I have, to the extent that I can, answered all the queries.

सभापति महोदय, मैं आपको आश्वस्त करना चाहूंगा, आपने कुछ विचार रखे थे। हमारा प्रयत्न होगा कि इस योजना के तहत जो कुछ त्रुटियां, कमियां रही हैं, जिनकी ओर आपने इंगित किया, उन्हें हम दूर करें, इसीलिए यह सारी योजना बनाई गई है।

I recommend that the House grant its approval and consider the Bill.

**SHRI SHIVRAJ V. PATIL (LATUR):** Sir, I rise to say that we are going to support the Bill. However, in the course of the reply given by the hon. Minister, certain things have been stated by him and we would like to be very clear on those points. We do not blame the present Minister or the former Finance Minister. We blame the Government. It is not the individuals, it is the Government, it is the system that we are blaming.

This scam came to light long back. Why did we wait for so many months to take remedial steps?

Having waited for so many months to take the remedial steps, we come before the House with an Ordinance. Is it a correct method? The Constitution provides that in exigencies, Ordinances can be issued. That is a principle. But the fact that there was an exigency, there was a reason for using this provision, bringing this Bill before the House through Ordinance route, has to be explained. But I am not finding fault with that also. If it was not done then and if it is done now, and done expeditiously, why should we find fault with it?

But two statements which have been made by the hon. Finance Minister are bothering me a little. I do not know whether I have understood him correctly or not. The hon. Minister said that in free market economy, the institutions are going to fail and we shall have to provide more restrictions to see that the institutions do not fail. What does that mean? If a statement like this is made, well, it bothers us. If the institutions are not going to be with the Government, if the institutions are going to be in the hands of so many people, and if they are going to fail, who is going to suffer? It is the person who is keeping the money in these institutions is going to suffer. Who is going to benefit? The persons who are going to benefit are those who are unscrupulous, who get the money and establish the industry. Well, we should support those who want to establish industry. Even if sometimes, they face some difficulties, we should see that they come out of those difficulties.

But if there are persons who take the money not to return but to grab the money, and because of that, these institutions are going to fail in the free market situations or conditions, well it is a very bothersome thing. And, if a statement is made by the hon. Minister, well, it will encourage some of such people to say: "well, this is a part of the system; you shall have to live with it." Somebody may do it and then come before the House and say that 'this is part of the system, we have to live with it. What can we do?' If this kind of a psychology is created, it is going to be very dangerous .

My second point is this. Probably, the hon. Minister was trying to say that they cannot assure the returns to all the persons who are depositing the money. That is why they are going to have Unit Trust-I and Unit Trust-II. Unit Trust-I is going to assure the returns and Unit Trust-II is not going to assure the returns but leaving it to the investors to take the opportunity to earn the money, or lose the money also. No assurance is given under the Unit Trust-II. But if the Government thinks that no assurance can be given in such matters, well, it is a very dangerous proposition.

There is only the small man, the middle-class person who saves his money by pinching his stomach, by not spending the money, saving the money and depositing it and helping with that kind of deposit to develop the country. Well, these kind of persons will suffer and unscrupulous persons will benefit out of it. Was that what the hon. Minister wanted to say? I do not think, he wanted to convey that. But this came out of it, and if he assures the House and the people that this will not be allowed, we will be satisfied.

SHRI RUPCHAND PAL : Mr. Chairman, Sir, three questions have not been clarified.

First, it is being publicly stated that ultimately Unit-II will be privatised over a period of time. For this, some specified time frame is also being pronounced that from three to five years, it will be privatised.

Sir, there is some responsible Paper -- it is on record -- saying that by May-June 2003, it will be privatised. Such an observation is actually diminishing the value of units that are there in the Unit-II. Why is the privatisation being spoken out publicly?

Long ago, we have seen that whenever there was a discussion about disinvestment of BPCL and HPCL, in the share market the prices crashed.

So, it is going to happen and after a period of time, even Rs.400-500 crore will not be the total value of Unit-II. So, why this privatisation is being talked about right now?

Secondly, I would like to know whether the schemes in Unit-I are to be stopped altogether. Although in clause 20 of the Bill it says that the Central Government may by notification in the official Gazette make a scheme for carrying out the provisions of this Act, it is being said that it will be close-ended. After redemption the whole units will be totally extinguished and there will be no new schemes. If there is no new scheme, what is going to happen to Unit-I which will be under administration of the Government?

Lastly, what will be the nature and use of the asset infrastructure of Unit Trust of India after this Bill? How will the already existing infrastructure of this monolithic body be made use of? This asset of infrastructure has been built up over the years. These are three issues on which I seek clarification.

SHRI JASWANT SINGH: I think these are perfectly valid queries and in fact I welcome the opportunity to clarify these.

Firstly, I will respond to what my distinguished colleague, with whom I have had the pleasure of working for several Lok Sabhas now, has said. Why did we not take the remedial steps earlier and now we have come forward with an Ordinance? It is because Ordinance was necessary, otherwise it would not have been there. You can always find fault with us in this scenario. A remedial course of action was attempted at that time and that remedial course of action did not succeed rather than persistent with what not or what had not succeeded, a decision was taken much before to come with this. You can always find fault in this regard because Ordinance by itself is always a very difficult decision to convince the Parliament about. That is the nature. The nature of Parliament will always question the Ordinance, as it should question. I could do no more on that count.

On the second question I am extremely misunderstood. I said, free market is not a synonym for free for all. The freer the market the stronger the regulatory mechanism that we need. If we do not have strong regulatory mechanism then as the free market operations proceed we are likely to have casualties. To prevent casualties you have to have a very strong simultaneous regulatory mechanism. That is the intent of what I had said. I am an advocate of indeed free enterprise and free market but free markets and free enterprise cannot take place unless there are very able, strong and effective regulatory mechanisms. This is actually an example of the absence of strong regulatory mechanism that has brought about this situation.

Thirdly, regarding the assured return scheme, let me be very categorical. Unit-I has Unit-64 scheme and all assured return schemes. The Government is fully committed to protecting Unit-I and the assured return schemes. On Unit-I there is no ambiguity, none whatsoever, neither in our intent nor in our statement, nor how we will conduct ourselves in future. We will fully support Unit-I, which comprises of Unit-64 and the assured return scheme. Unit-II is net asset value based. Investments in mutual funds by investors are made with a view to benefiting. Some times mutual funds give a very good return.

At other times, they do not give such good returns. Investors take that risk for the sake of earning higher benefits. So, the mutual fund which is Net Asset Value based, and it is going to operate on the market in accordance with SEBI regulations; that no assurance is required from the Government neither any ring fencing on Unit-I which is of Unit-64 and all assured return schemes. We are committed to fully supporting that. There is no ambiguity in that regard.

Hon. Shri Rupchand Pal spoke of privatisation. I think this is referring to what I said, though I should not be referring

to it.

SHRI RUPCHAND PAL : A very responsible person has stated publicly that it is going to be privatised.

SHRI JASWANT SINGH: The declaration of intent that it will be privatised is that in three to five years down the line if the situation arises, we could consider an option which involves disinvestment in this part. It is mutual fund. But to, therefore, assume that the Government is starting with privatisation in mind will, in fact, therefore, not be justified.

On the other two questions about Unit-I that if you are not going to issue any more new schemes, at some day and at some stage, then Unit-I would really and eventually come to an end. I do not want to predict what will happen in future. But the response that I have received from the investor in just three months – September, October, and November – resulted in almost Rs.3,000 crore inflow into units which persuades that I am not going to talk about demise of Unit-I at all. I am not going to commit myself to what new schemes the Government might bring. It is because it is going to be in operation. That has to first come from the administrator to the Government. I cannot and I could be wrong on my part to announce any kind of schemes for Unit-I or for that matter for Unit-II unless all this has been fully examined. But I am certainly not announcing the demise of Unit-I as you are predicting.

SHRI RUPCHAND PAL : I am not predicting. I want your assurance that in case of such enthusiasm amongst the public, you would go on having new schemes.

SHRI JASWANT SINGH: But you are apprehending. I do not wish to either announce or to rule out anything. I want only Parliament's consent to the Bill. Thereafter, the management, based on the experience and the re-assertion of public confidence, can come to me and say that this is what we wish to do.

On the infrastructure, I recognise that it is a big infrastructure that has been developed over the last 40 and odd years by the Unit Trust. The separation of Unit-I and Unit-II has yet to be fully effective. It will be very carefully worked out. It is not, as if, the infrastructure is going to be arbitrarily parcelled between one or the other. This infrastructure is a component of the assets of the Unit Trust proper and in the separation of the assets between Unit-I and Unit-II, this will be fully safeguarded and taken care of.

SHRI RUPCHAND PAL : I am referring to professionals and other staff also.

SHRI JASWANT SINGH: I know that. I referred to all that.

Sir, I have, to the best of my ability, answered all the queries. I do appeal to Shri Basu Deb Acharia to withdraw his motion of disapproval so that we can then take up the next legislative work.

SHRI BASU DEB ACHARIA (BANKURA): Even after the hon. Minister's clarification in regard to the promulgation of the Ordinance just on the eve of the Session, I am not still convinced. He has stated that the Ordinance would have been promulgated much earlier because the scam took place in 2001. The Government got enough time to rectify the existing lapses. But why did the Government choose the Ordinance route? This is not the only example. There are a number of examples. The Government is now choosing the Ordinance route thus avoiding the Parliament and the Standing Committee. The scrutiny of the Standing Committee also will not be there in this route.

He has also stated as to why the Unit Trust of India is being bifurcated into two units. He has also stated about our apprehension. This is not only our apprehension but the apprehension of the people also that this bifurcation is being done to privatise Unit-II where the Government will have no responsibility. He very clearly and categorically stated that there would be no scheme except US-64. So, what will happen? He has stated that the situation has changed during the last three months, even before the promulgation of Ordinance. The Ordinance was promulgated only on 27<sup>th</sup> October. Before that, suddenly the situation had changed. The situation has changed because of Government decision to restructure the Unit Trust of India.

The Government could have come with legislation, brought it before the House and, after debate and discussion in this House, the Bill could have been passed in this House. That opportunity has not been given to the House because if an Ordinance is promulgated, it has to be replaced by a Bill within two months. That obligation is there and thereby, the House does not get an opportunity to debate and discuss the legislation.

I also feel that there was no urgency to promulgate an Ordinance and there lies our objection. I am not withdrawing because I have withdrawn the other Statutory Resolution. How many Ordinances will be promulgated during the Inter-Session period? Yesterday, he said that it was unprecedented. They have never said that a number of Ordinances were promulgated. So, I do not find any reason to withdraw my Statutory Resolution.

SHRI P.H. PANDIAN (TIRUNELVELI): Mr. Chairman, Sir, after the issuance of the summons for the Session to the Members, can the Government promulgate an Ordinance? That is the point. It is because on the 31<sup>st</sup> October the



summons were issued. Two days prior to the Session the Ordinance was promulgated. After the issuance of the summons, Parliamentary process starts. So, I want a ruling on that. Can the Government promulgate an Ordinance after the issuance of the summons to the Members?

SHRI BASU DEB ACHARIA : There are a number of rulings and observations by former Speakers regarding whether an Ordinance can be promulgated just on the eve of the Session.

SHRI P.H. PANDIAN : After the issuance of the summons by the Secretariat to the Members, can an Ordinance be issued because the process is set in motion?

SHRI JASWANT SINGH: Sir, I am not going into the strict legality of it. There are, of course, instances where Ordinances have been issued even after summons were issued or when one House of Parliament was in Session. I am mindful of the fact that Ordinances should not be issued. But in this case the fact remains that the Ordinance was issued on 29<sup>th</sup> and the House was summoned on the 31<sup>st</sup>. It was two days later.

SHRI BASU DEB ACHARIA : The Cabinet took the decision to summon the House at least ten days before.

SHRI JASWANT SINGH: I do now know how my good friend, Shri Basu Deb Acharia, knows what happened in the Cabinet. The Cabinet actually met on the 31<sup>st</sup> to take this decision.

SHRI BASU DEB ACHARIA : When did the Cabinet take the decision to summon the House?

SHRI JASWANT SINGH: It was on 31<sup>st</sup>.

SHRI BASU DEB ACHARIA : Was it on 31<sup>st</sup>? The day the Cabinet met, on the same day the House was summoned. The summons were issued. This is not the fact.

MR. CHAIRMAN : Are you withdrawing the Statutory Resolution?

SHRI BASU DEB ACHARIA : I cannot withdraw. I am not withdrawing this time.

MR. CHAIRMAN : The question is:

"That this House disapproves of the Unit Trust of India (Transfer of Undertaking and Repeal) Ordinance, 2002 (No. 5 of 2002) promulgated by the President on 29 October, 2002."

*The motion was negatived.*

MR. CHAIRMAN: Now, the question is:

"That the Bill to provide for the transfer and vesting of the undertaking (excluding the specified undertaking) of the Unit Trust of India to the specified company to be formed and registered under the Companies Act, 1956, and the transfer and vesting of the specified undertaking of the Unit Trust of India in the Administrator and for matters connected therewith or incidental thereto and also to repeal the Unit Trust of India Act, 1963, be taken into consideration."

*The motion was adopted.*

MR. CHAIRMAN: The House will now take up clause-by-clause consideration of the bill.

The question is:

"That clauses 2 to 5 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 5 were added to the Bill.*

SHRI BASU DEB ACHARIA: *Sir, we are walking out in protest.*

**17.59 hrs**

*(At this stage, Shri Basu Deb Acharia and some other  
hon. Members left the House.)*

**Clause 6- Provision in respect of officers and  
other employees of Trust**

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

Page 4,—

*after line 31, insert —*

**"(8) Whoever, being an officer or other employee of the Trust (including a trustee of the Board, the Chairman and executive trustee), is found guilty of any decision or act committed willfully and with adverse impact on the Trust or its unit-holders or of any fraudulent or unfair practice relating to the business of the Trust shall, in addition to any punishment under the Indian Penal Code (45 of 1860), be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.**

**(9) It shall be the duty of the specified company and the Administrator of the specified undertaking to identify any officer or other employee of the Trust (including a trustee of the Board, the Chairman and executive trustee) against whom there are reasonable grounds for punishment under sub-section (8) and submit their names to the Government for further enquiries and legal action." (1)**

MR. CHAIRMAN: I shall now put amendment No. 1 to clause 6 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendment was put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

*The motion was adopted.*

*Clause 6 was added to the Bill.*

**Clause 7 – Appointment of Administrator to  
manage specified undertaking**

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

Page 4,--

*after line 38, insert --*

"Provided that any person who has been a trustee of the Board, the Chairman or executive trustee of the Trust shall not be appointed as the Administrator. " (2)

MR. CHAIRMAN: I shall now put amendment No. 2 to clause 7 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendment was put and negatived.*

**18.00 hrs.**

MR. CHAIRMAN: The question is:

"That clause 7 stand part of the Bill."

"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 - Board of Advisors**

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

Page 5,--

*after line 37, insert*"

"Provided that any person who has been a trustee of the Board, the Chairman or executive trustee of the Trust shall not be appointed to the Board of Advisors." (3)

MR. CHAIRMAN: I shall now put amendment No. 3 moved by Shri Banatwalla to the vote of the House.

*The amendment was put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 9 stand part of the Bill."

*The motion was adopted.*

*Clause 9 was added to the Bill.*

*Clauses 10 and 11 were added to the Bill.*

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Clause 12 - Concession etc. to be deemed to have

Been granted to specified undertaking

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

Page 7,--

a. line 5,--

*"after "specified undertaking"*

*insert "or the specified company "*

b. line 6,--

*after "specified undertaking"*

*insert "or the specified company, as the case may be" (4)*

MR. CHAIRMAN: I shall now put the amendment No.4 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendment was put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 12 stand part of the Bill."

*The motion was adopted.*

*Clause 12 was added to the Bill.*

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**Clause 13 - Tax exemption or benefit to continue to have effect**

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

Page 7,--

a. line 9,--

*after "specified undertaking"*

*insert "or the specified company"*

b. line 11,--

*after "specified undertaking"*

*insert "or the specified company " (5)*

MR. CHAIRMAN: I shall now put amendment No.5 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendment was put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 13 stand part of the Bill."

*The motion was adopted.*

*Clause 13 was added to the Bill.*

*Clause 14 was added to the Bill.*

### **Clause 15 – Exemption form stamp duty**

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

Page 7, line 20,--

*after "Administrator"*

*insert "or the specified company, as the case may be" (6)*

Page 7,

*after line 20, insert "€"*

"(2) In respect of the units issued by the Trust under the Senior Citizens Unit Plan and the Unit Scheme for Charitable and Religious Trusts and Registered Societies 1981, the specified company shall be bound to repurchase or pay on redemption the amount at which the unit was purchased by the unit-holders from the Trust or the amount as per the Net Asset Value as on the date of repurchase or redemption, whichever is higher, and where the repurchase or redemption is made at more than the Net Asset Value, the difference shall be paid to the specified company by the Government." (7)

MR. CHAIRMAN: I shall now put amendment Nos. 6 and 7 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendments were put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 15 stand part of the Bill."

*The motion was adopted.*

*Clause 15 was added to the Bill.*

*Clauses 16 to 25 were added to the Bill.*

*The Schedule I was added to the Bill.*

*The Schedule II 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 be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*

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