

Pakistan has been concentrating their troops all along our borders. There have also been a number of border violations for the last two months and these violations are continuing. In addition to this, there have been number of air violations in the J and K sector. There has also been a number of infiltrations from Pakistan into J and K State. Several bomb explosions have taken place in the State of Jammu and Kashmir. Unauthorised arms and ammunition have been unearthed in many places in J and K. There is documentary proof to show that Pakistan has been encouraging these saboteurs to create disorder in the State. Increased acts of violence by the extremists have been in evidence in J and K and other States.

The Home Minister had appealed to the State to take immediate measures to prevent such violence. It has become imperative that the Central Government should take necessary steps and help the affected States for checking activities of extremists. These elements are encouraging and assisted by foreign countries for creating disorder in our country.

Hence it is necessary to take proper measures to stop such activities.

- (vii) Need to develop coal resources in the State of Orissa and constitute a coal development authority for effective Coordination in the Production of Coal

SHRI HARIHAR SOREN (Keonjhar) : The total coal deposits discovered in Orissa are estimated to be of an order of 2900 million tonnes according to a recent survey. But it will take at least 5800 years if the production of coal continues at the present level. Last year only 51,01,000 tonnes of coal was produced from those coal fields. The huge quantity of thermal grade coal discovered in Orissa can be utilised for power generation through thermal power station for one hundred years. At least 10,000 MW of power can be generated every year by utilising the available coal. The largest quantum of thermal grade coal in the country is available in Talcher and Ib valley coal fields in Orissa.

The coal resources in Orissa are spread over an area of 4500 sq. kms but lease has been given for the drilling of coal in 7367

hectares of area only. The production of coal has not started in all those area. There is a tremendous scope for the exploitation of coal in larger areas of the State. Therefore, I demand that a high level coal development authority should be constituted for maintaining effective coordination in the production of coal. At the same time, I request the Government of India to take necessary steps for the development of coal resources in the State of Orissa.

12.17 hrs.

UNIT TRUST OF INDIA (AMENDMENT) BILL

[English]

MR. DEPUTY SPEAKER : Now we will take up Item No. 7.

Shri Janardhana Poojary may continue his speech.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : In continuation of my reply, I state that the Unit Trust of India is a premier institution. If you take the performance of the UTI into consideration, the gross income of the Unit Trust of India was one crore and 53 lakhs of rupees in the year 1965. Now, in the year 1985, the gross income of the UTI has gone upto Rs. 257 crores. In fact, last year the gross income of the Unit Trust of India was Rs. 142.64 crores. This represents an increase of over 80 per cent if you just compare it with the figures of last year.

It would be better, if I highlight the performance of the Unit Trust of India. This institution offers to all the unit holders safety and also liquidity of investment and high returns. In the year 1965, the dividend declared under the main unit scheme was only 6.1 per cent. Last year, the dividend declared under the same scheme was 14.2 per cent. When I say that it gives safety and liquidity for the investment and high returns, I am comparing it with the investment in the private sector where there is no safety and security for the investors because there is an element of risk involved in those investments.

[Shri Janardhana Poojary]

Now coming to the performance, the number of small unit holders was 1.32 lakhs in 1975 and now this has been increased to 17 lakhs. As I have made it clear yesterday, the figure of the small unit holders out of the total constitutes 87 per cent. These small unit holders hold small units, where the investment is less than Rs. 10,000. And about 70 per cent of these unit holders belong to even a smaller category whose units do not exceed an investment of Rs. 5000. So, here we are helping small unit holders and we are promoting savings as well as the investment. The entire policy of Government of India is oriented towards growth as also to promote savings and investment, thereby cutting down the disparities both social and economical. Now, I will point out the performance with regard to reserves. What was the safety that was involved and the amount that has been provided as reserve? The reserves and provisions of the UTI which stood at 58.31 crores in 1981 has increased to Rs. 298.47 crores in 1985. This represents an increase of 98.9 per cent over the previous year's level of Rs. 150 crores, whereas this year's provision so far as the reserve is concerned is Rs. 298.47 crores. There is an increase of 98.9 per cent. That comes to about 99 per cent. This is the performance of the Unit Trust of India.

Now Sir, whether we owe responsibility to this institution or not it is the duty of the institution to grow and to serve the people of this country. The hon. Member Madhav Reddyji has made one point yesterday saying that this UTI is going to enter this bullion market and also it contains the provision for dealing in gold. For the information of the hon. Members, I would like to tell that there is no provision in the Act for enabling this UTI to enter this bullion market as well as to deal with gold and any other metals.

Now coming to the intention of the Act whether it is to become the real estate dealers, there also, I can assure the hon. Members the intention of the legislation is not to allow the Unit Trust of India to enter the real estate business. But when you are going for construction work and also when you are going to finance for the housing purposes, when the element of purchasing of the land is also there. Without land you cannot have housing facilities and also

construction work. In this respect, there is an enabling provision under the Act to enable this UTI to go for the purchase of land and to own that land also. The hon. Member has stated that it should be the effort of the UTI to go to the assistance of the State Governments also. I would like to tell the hon. Members that even in Andhra Pradesh also, the Industrial Housing Development Corporation has not assistance from this UTI and also for the construction of the houses for the police personnel. This is the performance of the UTI and if we have to give any credit for the performance, I would say the credit for best performance should go to the UTI. In the beginning itself, the hon. Member from Andhra Pradesh has made it a point that the performance is good, but we should not destroy it. Here also I would tell the hon. Member that more responsibility has been given to UTI and they must show better performance. And if you kindly look into the past performance, we can say that this institution has made its efforts to show the performance to the nation. Let us encourage it. Let us give some pat to the institution instead of demoralising it. Whenever there is a good performance, let us give some sort of encouragement. I think that it is the spirit of the House also to encourage this institution.

Now coming to the point that has been made by hon. Member Dagaji saying that more fund has been provided for writing off the debts, here I would say that only Rs. 17 lakhs have been provided for writing off the debts. If you consider the investible resources of Rs. 1261 crores, the amount that has been provided for writing off bad debts is Rs. 17 lakhs. This is a small amount. This amount is not economically bad. It is recoverable and when it is recovered it is going to give back the profit to the Unit Trust of India.

Another point made by Shri Daga was that unclaimed dividends are there to the extent of Rs. 2.17 crores. This has accumulated over a period of 21 years. There are so many reasons for the accumulation. Some people have not given their correct address, and some also could not produce succession certificates. It is not the fault of the UTI. We can say that whenever a dividend is declared, on the same day it is declared to the party. In no other institution, as

far as my knowledge goes, dividend is declared on the same day, and crediting of the amount is also done on the same day. This is the performance of UTI.

About this Rs. 2.17 crores pointed out as the cumulative amount remaining as unclaimed dividend, I can say that during the last seven years, UTI was able to declare a dividend of Rs. 416.33 crores under its main insurance scheme alone. This amount also is a very small one. It is the endeavour of the UTI, I can assure the hon. Members, to settle this claim very quickly. This is the assurance coming from us. We are going to monitor it also. As far as I know, there is practically no delay in declaring the dividend, and also in making the payment.

One of the other main points highlighted is that UTI should go to rural areas, and that efforts should be made in this direction. I also share this view of the hon. Members. Efforts are made to take this business to rural areas. For the benefit of hon. Members, we can say that we have already launched a scheme called PURA, *i. e.* Promotion of Units in Rural Areas, for selling these Units through the fertilizer dealers association and their units. Through them we are selling the Units, and purchasing them also. Further, we have got petrol bunks throughout the country. Through IOC'S outlets also, we are selling them throughout the country, including rural areas. Even Railways have been approached, to sell them in railway stalls. Negotiations are going on with the Regional Rural Banks. Through their entire network also, we are selling and purchasing Units. As the hon. Members know, there is the network of branches. We have about 29,837 branches in rural areas, and they constitute about 58.5%. Through post offices also we are conducting this business.

I can assure the hon. Members that efforts will be made in the rural areas to see that this business goes to the rural folks also. In addition, we have already appointed 90-odd Chief Representatives in 130 districts. They are going to open some of their branches. Through these institutions also we are spreading our business in the rural areas. More commission has been given to the rural agents—*i. e.* an additional 0.25%—who do business in the rural areas.

SHRI H. A. DORA (Srikakulam) : I would like to make a suggestion.

MR. DEPUTY SPEAKER : Let the Minister finish.

SHRI H. A. DORA : I want to make a suggestion.

MR. DEPUTY SPEAKER : Let him finish his speech.

SHRI JANARDHANA POOJARY : Afterwards we can do that. As I stated, even though there is a criticism that has come, that has been advanced from the opposition side that we are running from the public sector to the private sector and economy is going to be affected and other things, I can assure the House...

SHRI AMAL DATTA (Diamond Harbour) : That has also come from the Congress Benches.

SHRI JANARDHANA POOJARY : I can assure the House that we are not running from public sector to private sector. On the contrary, we have to see the economic policy of the nation. As I stated, the gamut of the economic policy of the entire country is oriented towards growth, towards promotion of the savings and investment thereby reducing the disparity. There also, I can assure the hon. members that development in the country would be accompanied by equity and social justice.

SHRI AMAL DATTA : This assurance I am hearing from the last 35 years.

SHRI JANARDHANA POOJARY : That has been followed also. I can tell the House that we are going to remove social barriers that oppress the weak and there will be a direct attack on the poverty. We are going to intensify our battle against poverty and thereby our economic policy will be towards socialism. As I stated yesterday, this is the concept of our socialism. With these words, I conclude.

SHRI H. A. DORA : The philosophy appears to be to eradicate poverty in this country. The philosophy is, as I can gather from the reply of the hon. Minister, that it is not only essential to construct factories

[Shri H. A. Dora]

and projects for the development of the country but also eradicate poverty. Why can't this amount from the Unit Trust be utilized for constructing rural houses for the rural poor in the country.

SHRI JANARDHANA POOJARY : I have made it very clear that there is an enabling provision for giving loans for housing, and already we have provided an amount from the Unit Trust of India for the purpose of housing, and even for construction of houses. Already that has been done. I fully agree with you. It is the intention of this legislation and this is what we have provided. We are going to invest there. Even loans will be given to small unit-holders, and it will be done through the banks and various other financial avenues that are available.

SHRI E. AYYAPU REDDY (Kurnool) : The Minister has not answered the specific point made out by me. The Original Act prohibited the Unit Trust of India from making investment in immovable property. Now, on account of that, the Unit Trust of India has not suffered at all. On the other hand it has made a very good progress. You, yourself, have stated that its profit has goes up. There is no data to show that there is a necessity for you to make investment in the immoveable property. Why is this reversal of policy? What is the basis for you to come to the conclusion that the Unit Trust of India must also enter into the real estate business?

SHRI AMAL DATTA : They must develop national Capital regions.

SHRI JANARDHANA POOJARY : I can appreciate the spirit of the hon. member's point saying that we should go in for housing, for the construction of houses where can we construct houses? We cannot construct houses in the air. There should be available. This is enabling provision. That is why we have clearly stated that we are not going to enter into real estate business. Only thing is we are going to enter it wherever it is possible. This is only an enabling provision. That is why we have to purchase the immoveable property.

MR. DEPUTY SPEAKER : The question is :

"That the Bill further to amend the Unit Trust of India Act, 1963, be taken into consideration."

The motion was adopted.

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

Clause 2. Shri Mool Chand Daga.

Clause 2 (Amendment to Section 2)

SHRI MOOL CHAND DAGA (Pali) : I beg to move :

Page 1, line 13,—

add at the end—

"including its subsidiaries"(1)

The Bill mentions only the General Insurance Corporation and its subsidiaries. I say that there are certain other companies like the New India Insurance Company, National Insurance Company, Oriental Fire and General Insurance Company which should also be included. I have, therefore, moved this amendment, that the companies including the subsidiaries should be including. It says that under the Act a particular provision has been laid down. I say that this is a bad law. If you just pass a law which refers to certain other acts, it is not correct. It should be self-contained. And, therefore, the word, 'subsidiaries' should be included.

SHRI JANARDHANA POOJARY : We have already included the General Insurance Corporation, and that includes the subsidiaries also. So, there is no need for adding this sentence.

MR. DEPUTY SPEAKER : Has Shri Daga the leave of the House to withdraw his amendment? Are you withdrawing?

SHRI MOOL CHAND DAGA : What are the reasons he has given? I say that it should be self-contained. It should not refer to some other Act. And what about the subsidiaries?

MR. DEPUTY SPEAKER : Can I put it to the vote of the House?

SHRI MOOL CHAND DAGA : If the Minister does not agree, it is all right.

MR. DEPUTY SPEAKER : Are you withdrawing? Is it the pleasure of the House that the amendment moved by Shri Mool Chand Daga be withdrawn?

HON. MEMBERS : Yes.

Amendment No 1 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : The question is :

“That Clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY SPEAKER : Clause 3. Shri Mool Chand Daga. Are you moving your amendment?

SHRI MOOL CHAND DAGA (Pali) : I beg to move :

Clause 3 (Amendment of Section 4)

Page 2, line 23, —

after “refund” insert “within thirty days”. (2)

I say that the amount must be refunded within period of thirty days, otherwise it can be kept for months together. So, I have laid down limitation. Why should we not accept the amendment to refund the amount within a period of thirty days?

SHRI AMAL DATTA : If it is a computer it should be within seven days, not thirty days.

SHRI JANARDHANA POOJARY : The contribution certificate should be surrendered by the Unit holder. Unless he surrenders, the payment cannot be made. If they delay even then, it is different thing. There is practically no delay now for refund. On the contrary, it is in the interests of the unit holder.

SHRI AMAL DATTA : Then you should accept the amendment.

SHRI JANARDHANA POOJARY : For example, if you are in a position to surrender your Unit certificate you will get the refund.

SHRI AMAL DATTA : Date of the payment should be there.

MR. DEPUTY SPEAKER : It is the pleasure of the House that the amendment moved by Shri Mool Chand Daga be withdrawn?

HON. MEMBERS : Yes.

Amendment No. 2 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : The question is :

“That Clause 3 do stand part of the Bill.”

The motion was adopted.

Clause 3 was added to the Bill.

MR. DEPUTY SPEAKER : Now we come to Clause 4. Shri Mool Chand Daga. Are you moving your amendment?

SHRI MOOL CHAND DAGA (Pali) : I beg to move.

Clause 4 (Insertion of new Section 14A)

Page 2, line 39,

add at the end—

“and it shall be approved by the Board within three months.”(3)

If the Chairman, whose appointment is wholetime is there, under that circumstances if it is necessary for him to taken immediate action, in respect of any matter which is within the competence of the Board and if it is in the interest of the Unit holders, then that is all tight. I say that once a decision has been taken, then the Board can set out what action has been taken and the situation in which it was taken and I say that it should be placed before the Board and it must be approved by the Board. You have taken a certain decision. But that decision must be placed before the Board and then what is the harm in it, because a decision has already been taken? If you do not want to accept any amendment, then it is a different matter. My suggestion is that if the Chairman has taken a decision without colling the meeting of the Board, that decision must be placed before the Board and it must be approved by the Board. Sometimes it may happen that the Chariman may take a view which is not reasonable. Why should it not go before the Board for approval?

SHRI JANARDHANA POOJARY : Shri Daga's amendment is that the management's decision shall be approved by the Board within three months. I say that once in every two months there shall be the meeting of the Board and it will be approved before three months.

SHRI MOOL CHAND DAGA : I withdraw my amendment.

MR. DEPUTY SPEAKER : Has Shri Daga leave of the House to withdraw his amendment to clause 4 ?

Amendment No 3 was, by leave,
withdrawn.

MR. DEPUTY SPEAKER : The question is :

"That clause 4 stands part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 (Substitution of new section for section 19)

SHRI MOOL CHAND DAGA : I beg to move :

Page 3, line 11,

add at the end—

"including loans to Central Government and State Government employees for construction of houses on first or second mortgage" (4)

Page 3, line 22,—

after "with" insert "societies;" (5)

Page 3, line 49,—

add at the end—

"and managing the issues of shares" (6)

Page 3, line 11,

add at the end—

"including loans to Central Government and State Government employees for construction of houses on first or second mortgage, Housing Companies, Venture Companies and Industries in backward areas" (10)

SHRI C. MADHAV REDDI : I beg to move ;

Page 3, line 1,

after "advances" insert—

"to any Central or State public sector undertaking" (9)

Page 3, omit lines 12 to 17. (11)

Page 3, line 19,

after "advance" insert —

"or under-writing of equity shares of any company" (12)

Page 3, omit lines 40 to 45. (13)

SHRI E. AYYAPU REDDY : I beg to move :

Page 3, line 11—

omit "or otherwise" (14)

SHRI MOOL CHAND DAGA : Sir, yesterday the hon. Minister of State for Finance had said that we must provide loans to the housing companies. I have suggested this amendment because more houses are needed in India and people want loans against their houses. Then there are certain scientists who take up certain ventures and start their profession. Why should we not give them loans ? So, I have suggested the words "including loans to Central Government and State Government employees for construction of house on first or second mortgage, Housing Companies, Venture Companies and Industries in backward areas." We want that the backward areas should be developed. Therefore, I say that those who want to set up their industries in the backward areas, money should be given to them. These are my suggestions. The hon. Minister had very loudly said yesterday that he supports this. Then why does he not accept it ?

SHRI C. MADHAV REDDI : Sir, clause 5 is the main clause which lays down the policy of the Bill. As I explained yesterday, I am opposed to this because it means diversion of funds to non-productive channels. In spite of Minister's assurance, I am sure that these funds are going to be utilised for unproductive purposes. The funds of the UTI should be utilised as industrial finance and not for construction of buildings or for constructions of estates and things like that because these funds can be used

only for industrial finance, either for underwriting of equity shares or for direct subscription to the companies and so on and so forth. For the first time, we are opening flood-gates which is very very unfortunate and which should be objected to by everybody.

Secondly, in sub-clause (4), even in the industrial finance there is a function that we have given to the commercial banks which have got a number of branches all over the country. That function is being taken away or is being given to UTI, which is very unfortunate because if UTI is going to finance bills, discounting hundis and things like that, then how is the Government going to supervise these operations? Banks are in a position to supervise the functioning of the industries because where there is an industry, there is a branch of the bank nearby and they are in a position to provide working capital better than the UTI sitting in Bombay or somewhere and trying to operate from there. This is very very unfortunate and this banking function should not be duplicated...
(Interruptions)

SHRI AMAL DATTA : Banks are supervised by the Reserve Bank.

SHRI C. MADHAV REDDI : Yes, but in this case it is not so. Secondly, I am sure that this facility is going to be utilised by big business house sitting in Bombay. They want to utilise the funds of the UTI. Their eye is on this. That is why I am very strongly in opposition to these two clauses.

SHRI E. AYYAPU REDDY : Sir, my amendment is purely on the basis of the words "granting of loans and advances upon the security of any movable or immovable property or otherwise". My amendment is that the word 'otherwise' is irrelevant and contradictory to the previous statement. This is just like saying wise or otherwise, tall or short, man or otherwise. If you are going to restrict it to investment on security, then the security of movable or immovable property is all right, but what does 'or otherwise' mean? Why should we have that clause at all? The security of movable property or immovable property one can understand, but 'or otherwise' means with security or without security. That means the Board is capable of giving money to anybody and on whatever terms it likes, and the Chairman,

having emergency powers, can invest in any manner he likes. So, this word 'otherwise' has got great potentiality for mischief, because it has no restriction. The previous sentence is having a restriction meaning that 'it must be on security' and that is lost by using the word 'otherwise'. Therefore, my amendment should be accepted.

SHRI JANARDHANA POOJARY : I had explained yesterday also. To be brief I can tell the hon. Members that the loans and advances relate to industrial and other advances to unit holders. As the hon. House is aware the Housing loans are given to the employees by the Central Government and the State Governments. There is already a provision in regard to that. So, it cannot be given to them. But as you are aware, the Government have got some authority and the HDFC and other bodies have got housing loan facilities. Here also, about the point which has been raised by the hon. Members, I spoke yesterday and today also and have given them the reply. Therefore, I do not want to make a further submission.

MR. DEPUTY SPEAKER : Mr. Mool Chand Daga, do you want to press on your Amendments?

SHRI MOOL CHAND DAGA : No, Sir. I do not now press for any of my Amendments to this Clause.

MR. DEPUTY SPEAKER : Has Shri Mool Chand Daga leave of the House to withdraw his Amendment Nos. 4, 5, 6 and 10?

SEVERAL HON. MEMBER : Yes.

Amendments Nos. 4, 5, 6 and 10 were,
by leave, withdrawn.

MR. DEPUTY SPEAKER : I would now put Amendment moved by Shri C. Madhav Reddi to the vote of the House.

Amendment Nos. 9, 11, 12 and 13 were
put and negatived.

MR. DEPUTY SPEAKER : I would now put Amendment moved by Shri S. Ayyapu Reddy to the vote of the House.

Amendment No. 14 was put and
negatived.

MR. DEPUTY SPEAKER : Now the question is ;

"That clause 5 stand part of the Bill."

The Lok Sabha divided.

Division No. 1]

[12.59 hrs.

AYES

Anand Singh, Shri
Arunachalam, Shri M.
Athithan, Shri R. Dhanuskodi
Azad, Shri Bhagwat Jha
Azad, Shri Ghulam Nabi
Baghel, Shri Pratapsinh
Bairagi, Shri Balkavi
Bansi Lal, Shri
Bhagat, Shri B. R.
Bhagat, Shri H. K. L.
Bhakta, Shri Manoranjan
Bhoi, Dr. Krupasindhu
Bhoye, Shri S. S.
Bhuria, Shri Dileep Singh
Buta Singh, S.
Charles, Shri A
Chavan, Shrimati Premalabai
Damor, Shri Somjibhai
Das, Shri Anadi Charan
Dennis, Shri N.
Desai, Shri B. V.
Dhariwal, Shri Shanti
Dighe, Shri Sharad
Digvijaya Singh, Shri
Gamit, Shri C. D.
Jadeja, Shri D. P.
Kamla Prasad Singh, Shri
Kaushal, Shri Jagan Nath
Kinder Lal, Shri
Kuchan, Shri Gangadhar S.
Law, Shri Asutosh

Malviya, Shri Bapulal
Mane, Shri R. S.
*Masudal Hossain, Shri Syed
Mehta, Shri Haroobhai
Mishra, Dr. Prabhat Kumar
Mishra, Shri Uma Kant
Mohanty, Shri Brajamohan
Murthy, Shri M. V. Chandrashekara
Mushran, Shri Ajay
Namgyal, Shri P.
Nawal Prabhakar, Shrimati Sunderwati
Paswan, Shri Ram Bhagat
Patel, Shri C .D.
Patel, Shri U. H.
Patil, Shri Uttamrao
Patil, Shri Veerendra
Poojray, Shri Janardhana
Prabhu, Shri R.
Purushothaman, Shri Vakkom
Rajeshwaran, Dr. V.
Rajeswari, Shrimati Basava
Rajhans, Dr. G. S.
Ramachandran, Shri Mullappally
Ramamurthy, Shri K.
Rao, Shri J. Vengala
Rath, Shri Somnath
Reddi, Shri C. Madhav
Sahu, Shri Shiv Prasad
Sakargaym, Shri Kalicharan
Shanti Devi, Shrimati
Sharma, Shri Nand Kishore
Shastri, Shri Hari Krishna
Shivendra Bahadur Singh, Shri
Singaravadivel, Shri S.

*Wrongly voted for AYES.

Singh, Shri Lal Vijay Pratap
Singh Deo, Shri K. P.
Soren, Shri Harihar
Sultanpuri, Shri K. D.
Suryawanshi, Shri Narsingrao
Thungon, Shri P. K.
Tomar, Shrimati Usha Rani
Tombi Singh, Shri N.
Tytler, Shri Jagdish
Yadav, Shri Shyam Lal
Yadava, Shri D. P.
Yogesh, Shri Yogeshwar Prasad
Zainul Basher, Shri

NOES

Acharia, Shri Basudeb
Appalanarasimham, Shri P.
Bhattam, Shri S. M.
Choubey, Shri Narayan
Datta, Shri Amal
*Dhillon, Dr. G. S.
Dora, Shri H. A.
Ghosh Goswami, Shrimati Bibha
Kalanidhi, Dr. A.
Penchalliah, Shri P.
Rao, Shri A. J. V. B. Maheswara

Rao, Shri Srihari
Reddy, Shri E. Ayyapu
Reddy, Shri P. Manik
Riyan, Shri Baju Ban
Tulsiram, Shri V.
Yadav, Shri Vijoy Kumar

MR. DEPUTY SPEAKER : Subject to correction's the result** of the division is Ayes : 77; Noes : 17

The Motion was adopted.

Clause 5 was added to the Bill.

Clause 6 (Insertion of New section 193)

SHRI E. AYYAPU REDDY : I beg to move :

Page 4, line 29,—

for "without prejudice to" substitute—*notwithstanding*" (15)

Page 4, line 30,—

after "Transfer of Property Act, 1982," insert "Code of Civil Procedure, 1908 and the Companies Act, 1956"

Page 4, line 44,—

after "such other particulars" insert "and on payment of such court fees" (17)

Page 5, after line 19,—insert—

"Provided that where an order is passed under sub-section (3) or sub-section (4), the court shall order it to be published so as to allow.

*Wrongly voted for Noes.

**The following Members also recorded their votes ;

AYES : S/Shri K. Natwar Singh, J. Chokha Rao, Chintamani Jena, Bharat Singh, Ram Ratan Ram, R. Jeevarathinam, Dr. G. S. Dhillon, S/Shri Amitabh Bachchan, Sundarraaj, Punam Chand Mithabhai Vanakar, Lala Ram Ken, Mahabir Prasad Yadav, Jujhar Singh, Alkha Ram, Vilas Muttemwar Ch. Sunder Singh, S/Shri Prakash Chandra, C. P. Thakur, C. K. Kuppuswamy, Mohan Lal, Sarfraj Ahmed, Dr. K. G. Adiyodi, S/Shri P. A. Anthony, Nandlal Chowdhary, Murli Deora George Joseph Mundackal, K. R. Natarajan, R. M. Bhoje, Ram Samujhawan, Jagdish Awasthi, Naresh Chandra Chaturvedi, K. N. Pradhan, Mankuram Sodi, Raj Mangal Pandey.

NOES : S/Shri N. V. N. Somu, Masudal Hossain Syed, Vijaya Kumar Raju, Shrimati N. P. Jhai Lakshmi, Dr. T. Kalpana Devi, S/Shri C. Janga Reddy, C. Sambu, Dr. G. Vijaya Rama Rao.

[Shri E. Ayyapu Reddy]

bona fide third parties who have titled right or any other interests in the machinery or equipment or other property of the company or body corporate to state their right or interests and take such steps as they may deem fit to safeguard their own right or interests."

Page 5,

after line 31, insert—

"Provided that where any claim is preferred by a third party, the court shall investigate into the merits of the claims and pass such orders it may deem fit."
(19)

Page 5, lines 33 and 34,—

for "and the provisions of the Code of Civil Procedure, 1908 shall as far as practicable apply to such proceedings."

substitute--

"in the matter prescribed."(20)

MR. DEPUTY SPEAKER : Do you want to speak on your amendments ? If so, you can do it now.

SHRI E. AYYUPU REDDY : Sir, unfortunately the hon. Minister has not offered to give any explanation as to why this new procedure has been devised in the Bill. Originally there was no such special procedure so far as the Unit Trust of India is concerned for the recovery of the dues. All public financial institutions must have the same type of procedure for recovery of their dues. Your banks stand on the same

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footing as the Unit Trust of India. They lend money and they have to recover money from various units. So far as banks are concerned, let it be even the Industrial Bank of India or the Reserve Bank of India or any other scheduled bank, it has to merely file a suit in a civil court, obtain a decree against the defaulting party, execute the decree and recover the money. Now, there is only one departure from it, that is, in the case of the Industrial Finance Corporation Act, 1984, which enables the Industrial Finance Corporation directly to take over possession of the property or to bring the property to sale. That has been provided in the Act.

Then, so far as State Financial Corporations are concerned, there is a provision whereby the financial corporations are required to go and file an application before the State Government and then obtain a certificate and then recover the amount as arrears of land revenue. That we can understand because they are State Financial Corporations and this is the Industrial Finance Corporation under the special provisions because the funds belong practically to the State. So far as the banks and the Unit Trust of India are concerned, they stand on the same footing. Therefore, why should you make a distinction and provide for a separate provision whereby they are asked to go and file an application before the High Court and obtain an *ad interim* injunction ? The court has not been given any discretion either to grant an injunction or to refuse an injunction. The court shall grant an injunction. That is what has been provided in the Act. This is rather very peculiar, and I think it will offend Article 14 because if anybody challenges that there is no such necessity for devising a special procedure for recovering the amount so far as the Unit Trust of India as against any scheduled or nationalised bank is concerned, then this will not stand the test of Article 14 of the Constitution. It must be notwithstanding anything provided in the Code of Civil Procedure. The Code of Civil Procedure requires that a party must go and file a suit and then obtain a degree and attach the properties. Under this clause you have not even said, "Notwithstanding anything provided in the Code of Civil Procedure and notwithstanding anything provided in the Companies Act." Sir, we are shortly getting the Sick Industries Act also. There also we have got a Board and then an appellate board. All these things are leading to confusion. The various procedures are leading to confusion. Suppose the same company has defaulted to the financial corporation under the Industrial Finance Corporation, they will straightaway attach it and take away the property. If it owes some amounts to the State Financial corporations, they will go and obtain orders to recover the amounts as arrears of land revenue. If it is a scheduled bank, it merely files a suit and then asks for an application for attachment of the property. Therefore, there is a lot of confusion so far as the procedures to be adopted by various public

institutions are concerned. This has to be clarified.

There is another point. That is, so far as third parties are concerned, they are not given any opportunity to make out their claim. Under this, the Unit Trust of India can go and straightaway say, the machinery can be sold away or the machinery can be attached or the machinery can be handed over. This is the provision which is contained in the Act, Suppose a third party has got a right in the same machinery, he is not even given an opportunity to come and prove his claim. That is a lacuna which is likely to make this provision unconstitutional. Therefore, please consider these aspects and my amendments, at least the amendment regarding allowing an opportunity to a third party to prove his claim; where he has got a genuine claim before the court, must be accepted.

SHRI JANARDHANA POOJARY :
Sir, here the purpose of the legislation is to get the speedy recovery of the dues. Now, the hon. Member has made a point saying that an opportunity should be given to these people. Sir, a beginning has been made here. Now your point is that these people should be given sufficient time and sufficient opportunity also. When we are giving small loans of say Rs. 300 or Rs. 500 to the poorest man, it could be recovered without going to the court, it could be recovered without that procedure and the property could be auctioned also and seized also. But when these people are given big loans, should be given opportunity for the big people? Why can't we start with it? Let us have a beginning through this Bill. When the poor people could be immediately hauled up and the recovery is immediately done as arrears of land revenue, why can't we also apply the same principle to these people? Let us have a beginning in the case of these people. Let us see how the system works.

SHRI E. AYYAPU REDDY : The recovery of land revenue Act would be made applicable to...

MR. DEPUTY SPEAKER : Are you withdrawing your amendments or not withdrawing?

SHRI E. AYYAPU REDDY : He has not answered my point.

MR. DEPUTY SPEAKER : The amendments moved by Shri E. Ayyapu Reddy are put to the vote of the House.

Amendments Nos. 15, 16, 17, 18, 19 and 20 were put and negatived.

MR. DEPUTY SPEAKER : The question is :

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

MR. DEPUTY SPEAKER : Now, Clauses 7 to 11. The question is :

"That clause 7 to 11 stand part of the Bill."

The motion was adopted.

Clauses 7 to 11 were added to the Bill.

Clause 1, Enacting Formula and the Title.

MR. DEPUTY SPEAKER : The question is :

"That Clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

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

MR. DEPUTY SPEAKER : Now, the Minister may move that the Bill be passed.

SHRI JANARDHANA POOJARY : I beg to move :

"That the Bill be passed."

MR. DEPUTY SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.