

[श्री लक्ष्मी नारायण नायक]

ने खाद उधार ले लिया था, बीज उधार ले लिया था। आज यह जरूरी हो गया है कि सरकार उन लोगों को जल्दी से जल्दी सहायता पहुंचाए जिससे कि वे फसल बो सकें। नहीं तो वे अगली गर्मी की फसल नहीं बो पायेंगे। इसलिए सरकार को उन लोगों की अधिक से अधिक सहायता करने की व्यवस्था करनी चाहिए।

उन लोगों के लिए राहत कार्य भी तत्काल शुरू करने की जरूरत है। इस क्षति में वहां के खेतिहर मजदूरों के पास ऋण शक्ति नहीं रही है। उन्हें गल्ले पहुंचाने की जरूरत है जिससे वे अपना जीवन बचा सकें। मध्य प्रदेश के कई जिलों—सीहोर, विदिशा, दमोह, सागर, रायसेन, सतना, रीवा—में इस ओला वृष्टि से क्षति हुई है। अकाल एरिया घोषित कर तत्काल सहायता की जाये। वहां की जनता का कष्ट दूर हो इसके लिए मैं चाहता हूँ कि केन्द्रीय सरकार तुरन्त उनकी सहायता करे और जो संकट आया है वह दूर हो सके, इसके उपाय करे।

(v) NEED FOR CENTRAL ASSISTANCE TO
MADHYA PRADESH TO MEET THE SITUATION
ARISING OUT OF HEAVY RAINS

श्री निर्मल चन्द्र जैन (सिवनी) : इसी प्रश्न की ओर मैं आपका ध्यान दिलाते हुए आगे की कुछ और बातें कहना चाहता हूँ। वहां पर असमय वर्षा हुई है, बहुत हुई है। जबलपुर और सिवनी जिले में 85 इंच तक वर्षा इस बार हुई है। उसके कारण दो-दो बार दौर्भाग्य करनी पड़ीगी किसानों को। दो बार करने के बाद जब फसल लहलहा रही थी तब ओला-वृष्टि हो गई और जबलपुर और सिवनी तथा मध्य भारत के बहुत से जिले उससे प्रभावित हुए और उसने पूरे मध्य प्रदेश को झकझोर कर रख दिया है।

एक बात मैं विशेष रूप से कहना चाहता हूँ। पिछली बार मध्य प्रदेश सरकार को 35 करोड़ रुपया राहत कार्यों पर खर्चा करना पड़ा था जिसमें से केन्द्रीय सरकार ने केवल पांच करोड़ दिया और तीस करोड़ उसे अपने खाते से खर्च करना पड़ा। अब जो राहत कार्य हाथ में लिए जाएंगे उनमें मैं चाहता हूँ कि आप ज्यादा से ज्यादा अंशदान दें। इस बात की बहुत आवश्यकता है कि तकाबी की जो वसूली की जा रही है उसे तुरन्त निरस्त कर दिया जाए। बैंक लॉज पर जो ब्याज है वह माफ कर दिया जाना चाहिए। बैंकों की तरफ से किसानों से आगे कर्जा वसूल नहीं किया जाना चाहिए। इस प्रकार के आदेश तो कम से कम केन्द्रीय सरकार उनके दे ही सकती है।

वहां इस समय फसल विल्कुल चौपट हो चुकी है। अन्न तथा धान से तत्काल मध्य प्रदेश को इस संकट की घड़ी में सहायता की जानी चाहिए। उसी तत्परता के साथ सहायता की जानी चाहिए जिस तत्परता के साथ आंध्र और तमिलनाडु में हुई क्षति को देखते हुए केन्द्रीय सरकार ने सहायता की थी। उसी तत्परता के साथ मध्य प्रदेश की सरकार को केन्द्र की ओर से अंशदान भी दिया जाए और अन्न सहायता भी प्रदान की जाए।

12.40 hrs.

INTEREST BILL—contd.

MR. SPEAKER: Now, we take up next item. Mr. Patel....

THE MINISTER OF FINANCE AND REVENUE AND BANKING (SHRI H. M. PATEL): Sir.....

MR. SPEAKER: Mr. Venkataraman, you want to object to it at this stage?

SHRI R. VENKATARAMAN:

(Madras South): Sir, this Interest Bill before the House is in part outside the jurisdiction and scope of the Union Parliament. I will briefly explain the well-known provision. You have personally seen also....

MR. SPEAKER: The point is whether it is my duty to decide about the competence or it is the court's duty.

SHRI R. VENKATARAMAN: So, I will not raise it as a preliminary issue. I will raise it in the debate.

MR. SPEAKER: You see it is not proper for me to decide.

SHRI R. VENKATARAMAN: I only want to go on record that I had raised objections to this.

THE MINISTER OF FINANCE AND REVENUE AND BANKING (SHRI H. M. PATEL): I beg to move*

"That the Bill to consolidate and amend the law relating to the allowance of interest in certain cases be taken into consideration."

This Bill seeks to implement the recommendation of the Law Commission of India which submitted its Report in February, 1975 on the revision of the existing Interest Act, 1839. This Act is a very short one; besides a preamble, it contains only one section and a proviso. However, it is a statute of importance, since it prescribes the general law on interest which becomes applicable in the absence of contractual or statutory provisions specially dealing with the subject. The Commission has revised the Act comprehensively so as to make its provisions more precise, specific, unambiguous and juristically satisfactory. The Law Commission has taken the view that it is necessary that the Interest Act, being of general importance, should be a self-

contained statute containing in one place, in an easily intelligible form the relevant provisions, which at present, the ordinary citizen has to gather from numerous judicial pronouncements. Accordingly, it is considered necessary to enact a new Act, in place of the old one, in the light of the recommendations of the Law Commission.

At this stage while commending the Bill for consideration, I shall confine myself to the relatively more important provisions. The Act has been redrafted to ensure that it applies also to the proceedings other than the civil suits. The discretion to award interest is as much needed in relation to other proceedings as in relation to an ordinary civil suit. A written statement would not be necessary before the interest can be claimed under this Act if other conditions are satisfied. Debt has been defined in terms of liability for an ascertained sum of money and includes a debt payable in kind. Interest would also be awardable on damages. Unless there are reasons to the contrary, interest would be payable on damages for death or personal injury. Interest on claims for dower or maintenance and on deposits required by law or contract has been specifically provided for. Similarly, interest on money or property obtained or retained by fraud has also been specifically provided for. The court has been empowered to allow interest at the current rate of interest, i.e., the highest of the maximum rates at which interest is payable on different classes of deposits by scheduled banks.

Sir, I would not like to take more time of this House on the other provisions of the Bill. Sir, I move.

MR. SPEAKER: Motion moved:

"That the Bill to consolidate and amend the law relating to the allo-

*Moved with the recommendation of the President.

[Mr. Speaker]

wance of interest in certain cases be taken into consideration."

Mr. Yadav, are you moving your amendment?—No, he is not moving. Then, Mr. Venkataraman.

SHRI R. VENKATARAMAN: (Madras South): Mr. Speaker, Sir, this is an Act which was passed by the East India Company 139 years ago—nearly 140 years ago—and at the time when it was passed there were no distribution of powers between the Centre, the States and a Concurrent List. The law that was enacted in 1839 continues to be valid till today in spite of the separation of these powers by virtue of Article 372 which protects the existing laws. Now, if you look at the distribution of powers, you will find that under the State List Entry—30 relates to money lending and lenders, Entry 18 relates to Agricultural loans. Then if you look at the Union List you will find that Entry 35 relates to Public Debt of the Union, Entry—39 relates to Post Office savings Bank, and Entry 46 relates to Bill of Exchange and Promissory Notes. Then in the Concurrent List, Entry—7 relates to Contract and Actionable wrongs also come under Entry—7 and Entry—13 relates to Civil Procedure Code. Interest accrues in three different periods. One is before the institution of suit, the second, during the pendency of the suit and the third is after the decree is passed. So far as the second and the third are concerned, they are governed by C.P.C. Section 34. So far as the first part, that is, interest which accrues before the institution of suit, is concerned, the question is which is the competent legislature to deal with interest? Interest is not a substantive right in itself. It is ancillary to another claim, that is to say, if the debt is due then you claim interest on the debt; if the damage is payable you claim interest on the damages. On some other claim an interest fastens itself and interest as such is not an

item and that is why interest is not mentioned in any of the three lists. I want this to be appreciated that interest is only an ancillary to a claim. It may be an ancillary to actionable claim, it may be ancillary to money lending and money lenders or agricultural loans or actionable claims but interest as such is not an item and is not included in one of the three lists. I am making this point because it may not be said that it comes under the residuary list, entry 97 of list I. It is only an item which is a claim by itself that is included as an item. If anything follows as an ancillary claim to some other claim, it cannot be a substantive item and it must go with the item with which it is connected. If it is interest due on money-lending it comes under the State list. If it is interest due on actionable claims, it must come under the Concurrent List. If it is interest due on contract, it comes under the Concurrent List. Therefore, the argument that it will come under the residuary clause under entry 97 will not apply. The State legislature appears to be the competent authority to deal with moneylending, which includes interest payable on debts. If its dues which can be adjudicated by the court, that is, interest payable prior to the institution of the suit (a) in relation to the exact amount which has been declared in the instrument or (b) alternatively under any custom or usage which has the force of law even that is regulated not by the Central List but by the State List. Therefore, to bring a Bill which includes interest payable on money lending within its scope before Parliament and to ask Parliament to legislate on that will be transgressing—I will not say trespassing—the jurisdiction of the Centre. Somehow surreptitiously slowly, the powers of the States are being eroded and unconsciously some of the powers which are vested already with the States are being taken over. It is possible for somebody to ask, what are we to do in case of interest applicable to the whole of India?

For that, article 252 should be invoked. You cannot bring it directly within the competence of the Parliament. As it is, my submission is that while we can legislate on actionable claims and interest due thereon, bills of exchange, promissory notes etc. and on contracts and interest due thereon, we cannot legislate in respect of moneylenders and moneylending, which is under the exclusive jurisdiction of the States. Therefore, this Bill in so far as it seeks to regulate the interest payable before the institution of the suit, is outside the scope of this Parliament and it has to be taken away.

One provision of the Bill says that interest should be paid only in respect of claims which are over Rs. 4000. I do not see why it should be so. It looks as if only a person who has a claim for more than Rs. 4000 is entitled to interest and a similar man claiming less than Rs. 4000 is not entitled to interest this is not in consonance with current concept. They have borrowed it from the report of the Law Commission. The Law Commission has not given any explanation why they have fixed Rs. 4000 as the minimum over which interest is paid. I would like to submit that for the consideration of the Finance Minister, whether he would still like to retain that clause. So far as other points are concerned, they are welcome because it codifies. There are a number of clauses which have been scattered and it brings within one ambit the question of payment of interest. That is my submission. Thank you.

MR. SPEAKER: There is a great deal of debate on the scope of entry 97 of List I. Nobody can easily decide. The Judges have taken different views in the matter.

SHRI R. VENKATARAMAN: I just wanted it to go on record.

SHRI JAGANNATH RAO (Berhampur): Mr. Speaker, Sir, this is a consolidating and repealing Bill which seeks to repeal the Interest Act, 1839. The Bill is not controversial. The point raised by my friend, Shri Venkataraman, was gone into by the Law Commission in its 63rd Report and the Law Commission held the Parliament is competent to legislate on this subject. It is true that money-lending

falls within the State List. There are State Laws. We had earlier the State Governments passing laws in regard to debt relief. This Bill would not take away the powers of the States in respect of the various fields allotted to them under the State List. There were conflicting judicial decisions earlier regarding the interpretation of Section 1 of the 1839 Act, which the hon. mover has mentioned while moving the motion for consideration.

Now this Bill separates the various items which fall under Section 1 of the old Act and it now defines what the debt is. The debt is now defined and mentions about the commencement of the payment of interest under the English Law, the right to claim interest accrued from the date of the cause of action.

MR. SPEAKER: From the date the amount becomes due.

SHRI JAGANNATH RAO: From the date of the cause of action.

MR. SPEAKER: The cause of action is something different.

SHRI JAGANNATH RAO: In 1934, the English Law said, from the commencement of the cause of action, interest is due. Now under this Bill, it is from the date of notice.

MR. SPEAKER: Only in cases where there is no stipulation. That is also the earlier view of the Courts.

SHRI JAGANNATH RAO: Exactly. Where there is a contract to pay interest, it is payable under the terms of the contract. But where there is no specific contract between the parties and where the amount is due, say for instance, damages: what is the position? Damages are no contracts. Even on damages, interest is payable. That is what this Bill makes clear. There was also a difference of opinion about this payment of interest. There was a Lahore High Court decision earlier where it took a liberal view whereas the Calcutta High Court took a narrow

[Shri Jagannath Rao]

view. All these aspects have been considered by the Law Commission and they have liberalised the payment of interest, the cases where interest is payable and these points have been separately drafted as separate clauses so that there will be no controversy in future about any portion of this Bill.

Interest is also payable on damages and Order II Rule 2 of the Civil Procedure Code is also saved. Where the amount is due and where the litigant does not claim, it well it is barred.

SHRI VAYALAR RAVI (Chirajinkil): They do not bar the right of the State to give relief.

SHRI JAGANNATH RAO: Supposing interest is payable to a person who goes to Court and he does not claim it under Order II Rule 2 he is barred from suing subsequently. That is the general law. Also under Section 34 of the Civil Procedure Code, where pendente lite interest is payable, it is at the discretion of the Court. Even then, where there is a contract, interest is to be given during the pendency of the suit also, at the rate of 6 per cent as mentioned in Section 34 of the CPC after the passing of decree. Therefore, this Bill....

MR. SPEAKER: You commend this Bill for acceptance.

13.00 hrs.

SHRI JAGANNATH RAO: I commend this Bill as a simple Bill. It clarifies certain doubts which arose in the interpretation of the 1839 Act. There were conflicting judicial decisions. There was a Lahore Court view and then Calcutta Court view. All these have been examined thoroughly by the Law Commission and the draft of the Bill is based on the draft suggested by the Law Commission in their report. There is nothing controversial about it and I am glad the Finance Minister has brought forward this Bill to replace the antiquated 1839 Act.

MR. SPEAKER: There is only one more speaker on this Bill, Mr. Halder and I will call him after lunch.

13.01 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha reassembled, after Lunch, at seven minutes past Fourteen of the Clock...

[MR. DEPUTY SPEAKER in the Chair]

INTEREST BILL—Contd.

MR. DEPUTY-SPEAKER: Shri Durga Chand.

श्री दुर्गा चन्द (कांगड़ा): उपाध्यक्ष जी, यह कानून जो पेश हुआ है, यह वित्त मंत्री जी ने पेश किया है। यह महज़....

SHRI KRISHNA CHANDRA HALDER: I was told that I would speak on the Interest Bill, after lunch.

MR. DEPUTY-SPEAKER: Mr. Durga Chand, you can speak after Mr. Halder. It seems that the Speaker had called him earlier.

SHRI KRISHNA CHANDRA HALDER (Durgapur): Mr. Deputy Speaker Sir, the Law Commission had recommended the revision of the existing Interest Act, 1839. So, this Interest Bill, 1977 has been brought by the Finance Minister, to replace the Interest Act, 1839. Though it is a small bill, it is of great importance. It determines the general law of interest which will be applicable in the absence of any contractual or statutory provisions. The present bill is a comprehensive one. Clause 3 of the Bill says that for the recovery of any debt, the court will allow interest to the person at a rate not exceeding the current rate of interest. But in the proviso, it has been mentioned that if the

“debt or damages has been repaid before the institution of the proceed-

ings, interest shall not be allowed under this section....”

In Clause 3 sub-section (3) it has been mentioned that this shall not be applied on:

“any debt or damages upon which interest is payable as of right by virtue of any agreement; or

(ii) any debt or damages upon which payment of interest is barred, by virtue of an express agreement.”

But the clause will be applied in cases of:

“dishonour of a bill of exchange, promissory note or cheque, as defined in the Negotiable Instruments Act, 1881....”

In other cases, by this Act, the court will allow interest for the recovery of debts, at a rate of interest not exceeding the current rate of interest.

This is not a controversial Bill. I do not want to take much time of the House. I support this bill.

श्री बुरा चन्द : माननीय उपाध्यक्ष ने, जो पहला इन्टरेस्ट बिल था, वह 1839 में पेश किया गया था। वह इतना बेग था कि उस में कई किस्म की मुश्किलात पैदा हो रही थी। इस लिए ला-कमीशन आफ इण्डिया ने अपनी 63वीं रिपोर्ट में यह रिक्मेण्डेशन दी कि इस इण्टरेस्ट एक्ट को अमेण्ड किया जाय, इस को सिम्प्लीफाई किया जाय, एक्सप्रेस किया जाय, ठीक तरीके से स्पेसिफाई किया जाय, ताकि जो दिक्कतें इस कानून में आ रही हैं, वे दूर हो सकें। इस लिए यह महज सिम्प्लीफाई करने वाला बिल है कि इन्टरेस्ट के मामले में, डमेजज की शकल में या इन्जरी की शकल में, कोर्ट्स को अख्तियारात दे दिये गये हैं, ताकि वे अपने ढंग से फ़ैसला करें। इसमें यह चीज एक्सप्रेसिब है और मैं समझता हूँ कि इस कानून को लाकर सरकार ने बहुत अच्छा

काम किया है। इन्टरेस्ट के बारे में बहुत-सी मुश्किलात पैदा हो जाती थी, कोर्ट्स को भी इसकी इन्टरप्रिटेशन के बारे में मुश्किलात आती थीं, वे अब दूर हो जाएंगी। इस कानून से सभी को मदद मिलेगी।

SHRI VAYALAR RAVI (Chirayinkil): Mr. Deputy-Speaker, Sir, I am generally in agreement with the views expressed by Shri R. Venkataraman on this Bill. The Law Commission which went into this question had recommended revision of the existing Interest Act. But they are a little confused whether it falls within the jurisdiction of the Residuary List or a part of the State List. If you look to Entry 18 of the Constitution, you will find mention of 'agricultural loans'. Agricultural loans are taken by the rural poor and agricultural loans are also liable to interest. In Entry 30, it is provided 'money-lending and money-lenders, relief of agricultural indebtedness.' These all come under the State List. Moreover, if you see the Act, it has been enacted in 1836. At that time, it was meant for His Majesty's Government and his Majesty's Government was not confined to India alone but India was a part of that Government. Later on, after our country became independent and our Constitution came into being, this Act should not have been in operation. So, the Law Commission did not come to any definite conclusion.

Some States have their own legislations regarding indebtedness which include interest. Here, the Law Commission has given definition of interest like this:

“Finally, it may be noted that the word 'interest' is derived from the mediaeval Latin 'interse' and 'id quod interest', and signifies the notion of loss or damage suffered by the claimant as opposed to the usurious conception of reward for money lent—cf. the French phrase *dommages et interests*.”

[Shri Vayalar Ravi]

Even the Law Commission could not come to a definite conclusion that it is purely coming within the purview of the Central Government. I am afraid the Finance Minister has relied purely on the recommendation of the Law Commission. So, I wish the hon. Minister explains beyond the scope of the explanation of the Bill.

I would also like an explanation from the hon. Minister after explaining away the operation of this Bill, the legal competence of the States in this regard. There are many poor people including industrial workers in the States. The indebtedness among the industrial workers is on a large scale all over the country especially in industrial areas. In many industrial areas, workers have taken loans on huge interests. All their increase in the salaries and bonus go towards payment of debt. Unfortunately, neither the State nor the Central Government are taking any measures to give relief to them.

So far as the agricultural indebtedness is concerned, some measures were taken by the previous Government. If a State Government resorts to such measures and if this Act gives an opportunity to file a suit against their indebtedness, the Minister may offer an explanation, "if it exceeds four thousand rupees". I am afraid I am not able to agree with Mr. R. Venkataraman when he questioned the validity or the logic of the ceiling of four thousand rupees. I believe, the ceiling of four thousand rupees provided by this Bill is a good thing which will give a relief to more people, the poor people. This may be an explanation with which I agree.

I wish this must open the scope for the State Governments to make their own enactments for the relief of the indebtedness of the rural poor as they deem fit. My only fear is, when you have a central legislation which is operative all over the country, you are encroaching into the rights of the States to make any such enactment.

The Law Commission has largely dealt with usury, the lending of money, which prevailed even during the medieval times. According to the Law Commission's Report, the British Government also, even a century ago, was very cautious and very determined to stop this kind of usury. That kind of transaction has been prevailing in India as well as in Europe. Even today, even though the enactment was made in 1839, that kind of system exists in the country, may be in some other form. Rural indebtedness in different forms still prevails in the country.

While making this amendment in the existing Act, I wish the hon. Minister could look into the whole analysis, the circumstances and the history of the Interest Act and, particularly, go through Chapter 2 of the Law Commission's Report. Chapter 2 of the Law Commission's Report goes into the history of the system of usury which was a menace to the rural poor. The Law Commission itself says that different Acts had been made during the British period to give relief to the poor people from usury that system of money lending and looting of the poor people. Even today—that is my complaint—it is prevailing in the country in different forms.

I would appeal to the hon. Minister to see what he can do to give a direction to the States to save the people from this kind of menace. As the hon. Members have pointed, there is no controversy about this Bill. I would like to know what is the attitude of hon. Minister to this, The hon. Minister must come forward to give relief to the rural poor as well as the industrial workers from usury, from that kind of indebtedness.

With these words, I conclude.

श्री हुकूम देव नारायण यादव (मधुबनी :)
उपाध्यक्ष महोदय, कानून का जो उद्देश्य
लिखा हुआ है उसमें मैंने एमेंडमेंट इसलिए
दिया था कि—

उपाध्यक्ष महोदय : वह तो मूब नहीं हुआ है। आप यहां नहीं थे।

श्री हुफम बेव नारायण यादव : मैं नहीं था। उस में लिखा हुआ है कि पहले जो कानून था वह बहुत छोटा था। अभी जो कानून बनाया गया है उस में मैं सरकार से जानना चाहता हूँ कि गांव में रहने वाले जो गरीब लोग हैं उनके बारे में आप क्या करने जा रहे हैं, उनको ब्याज में राहत पहुंचाने के बारे में क्या करने जा रहे हैं। कानून आप बनाते चले जा रहे हैं। एमरजेंसी में भी ऋण मुक्ति, कर्ज माफी का काम चला था। लेकिन कुछ नहीं हुआ। वहां पर लोग महाजन से सूद पर रुपया लेते हैं। उनके लिए कोई कानून ही नहीं है। गांवों में देखा जाता है कि जब गरीब आदमी महाजन से पचाम, सौ दो सौ रुपया उधार लेता है तो उस पर रोक, उसका शोषण, उस पर ज्यादाती आदि सब की जाती है। इस तरह की चीज को रोकने के लिए सरकार की ओर से अगर कोई कदम नहीं उठाया जाता है तो उनको न्याय मिल नहीं सकता है। अमली चीज यह है कि जो ब्याज देने वाला है उसको न्याय मिले। बैंक जो ब्याज लेते हैं वह और गांव का महाजन जो लेता है, उन दोनों में कोई मेल नहीं है। महाजन गांवों में बीस रुपये सैकड़ा तक का भी कहीं कहीं ब्याज लेता है। मैं चाहता हूँ कि सरकार की ओर से निर्धारित ब्याज की दर से गरीब को रुपया मिले, इसकी भी व्यवस्था सरकार को करनी चाहिए। उस दर पर गरीबों को कहां कर्ज मिलता है? सरकारी बैंकों से, या सहकारी संस्थाओं से, या कहीं से भी मिलता है? उनको कोई कर्ज मिलने की व्यवस्था नहीं है। तो सरकार कर्ज दे नहीं सकती, तब मजबूरी में गरीब किसानों को महाजन से ही कर्ज लेना पड़ता है शादी विवाह के लिए, बच्चों की पढ़ाई के लिए, दवा दारू के लिए, त्यौहार के अवसर पर और वहां उसको ज्यादा ब्याज देना

पड़ता है। अगर महाजन से कानूनी दर पर रुपया उधार लेंगे तो महाजन कर्ज देगा नहीं। इसलिए ब्याज कानून बनने से ज्यादा जरूरी यह है कि जो ब्याज की दर ही उस दर पर सर्वसाधारण लोगों को, गरीब किसान को कर्ज मिल सके, और सरकार कोई व्यवस्था करे, कोई ऐसी संस्था बनाये जहां से गरीबों को कर्ज मिल सके तभी कोई कारगर कदम हो सकता है। वरना कानून यह बना रहेगा और देहातों में ज्यादा सूद लेने का काम चलता रहेगा। अदालत में जा कर कोई किसी पर केस करे तो वह अदालत तय करेगी अपनी सीमा में। इसलिए जनहित के दृष्टिकोण में मेरा सरकार को सुझाव है कि कोई इस तरह की व्यवस्था होनी चाहिए जो किसान को, गरीब को, भूमिहीन को और मजदूर को सरकार के जरिए जो न्यूनतम ब्याज दर तय हो उस दर पर उनको कर्ज मिल सके तभी कुछ काम बन सकेगा, वरना इस कानून से उन गरीबों को कोई लाभ मिलने वाला नहीं है। यह कानून भी और कानूनों की तरह रद्दी की टोकरी में पड़ा रहेगा और उस गां गरीबों को कोई लाभ मिलेगा ऐसा मुझे नहीं लगता।

MR. DEPUTY-SPEAKER: Shall I ask the Minister to reply now?

THE MINISTER OF FINANCE, REVENUE AND BANKING (SHRI H. M. PATEL): Sir, I am glad to see that really this Bill has not been opposed on its merits. The point that was raised by Mr. Venkataraman and supported by Mr. Ravi was that this is a State subject. But, in fact, that is not so, and the Law Commission in its report has made this very clear. For instance, the Law Commission has examined in the Chapter 3 of its report—the legislative competence of this proposed legislation. In so far as interest is to be awarded on a contractual obligation, the legislation could be said to fall under Entry 7 of the Concurrent List in the Seventh Schedule to the Constitution, namely, contracts. As

[SHRI H. M. PATEL]

regards the provision relating to award of interest on damages, it will fall under Entry 8 of the same list, namely, actionable wrongs. In so far as the provision relates to award of interest, it may be said to relate to the procedure of court and will fall under Entry 13 of the same list, namely, civil procedure. It may be said also that the subject matter of this legislation falls under the residuary Entry 97 in the Union List in the Seventh Schedule to the Constitution, namely, any other matter not enumerated in the List II or List III. So far the legislation does not purport to deal with solely or even primarily or mainly with money lending as such and hence Entry 30 of the State List, namely, money lending or money-lenders would not be directly relevant.

There is no doubt at all that the Law Commission, which went into this matter very exhaustively came to the conclusion that this was fully within the competence of the Parliament to deal with. As I said in my opening remarks, the object of the Bill is very simple: it was to make clear, to simplify the present position. The previous Act which was a short one had in practice led to a lot of inconvenience to everybody, led to a great deal of litigation, and this straightening out of the position would really assist the general public.

It is not a matter in which there is any question of poor or rich. It is merely that interest is something that is legitimately due and by defining it clearly, litigation is avoided. Therefore, it seems to me that this is a Bill which should be welcomed by everybody. It is not something which really can be said to be open to any kind of objection, it is something which is in the interest of all. It is not right to raise an objection on the ground that it is a State subject, which it is not. I think, Mr. Venkataraman himself has pointed out that, if it were to be only a State subject, then any amount of

complications would arise and I think, there would be a great deal more of difficulties. But fortunately it is not so. Therefore, I would commend that this Bill may be accepted.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill to consolidate and amend the law relating to the allowance of interest in certain cases be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: Now, we take up clause-by-clause consideration. There are no amendments to Clause 2 to 6. I shall put them together to the vote of the House. The question is:

"That Clause 2 to 6 stand part of the Bill".

The motion was adopted.

Clauses 2 to 6 were added to the Bill.

Clause 1 (*Short title extent and commencement*)

Amendment Made:

Page 1, line 3, -

for "1977" substitute "1978" (2)

(*Shri H. M. Patel*)

MR. DEPUTY SPEAKER: The question is:

"That Clause 1, as amended, stand part of the Bill."

Clause 1, as amended was added to the Bill.

Enacting Formula

Amendment Made:

Page 1, line 1,—

for "Twenty-eight" substitute.

"Twenty-ninth" (1)

(*Shri H. M. Patel*)

MR. DEPUTY SPEAKER: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill...

SHRI H. M. PATEL: Sir, I beg to move:

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

MR. DEPUTY-SPEAKER: The question is:

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

The motion was adopted.

14.30 hrs.

CHILDREN (AMENDMENT) BILL

MR. DEPUTY-SPEAKER: Now, we take up the Children (Amendment) Bill. Dr. Pratap Chandra Chunder.

THE MINISTER OF EDUCATION, SOCIAL WELFARE AND CULTURE (DR. PRATAP CHANDRA CHUNDER): Mr. Deputy-Speaker, Sir, this is a very important piece of social legislation for the purpose of amendment of Children Act, 1960. I am happy to inform you that the Rajya Sabha has passed this Bill, and as passed by Rajya Sabha, it is now before this House.

As you are aware, children form the most vulnerable group in society and they need the greatest protection and social care. With that end in view, the framers of our Constitution have inserted a special provision in the Directive Principles of State Policy; under article 39, it is provided:

"The State shall, in particular, direct its policy towards securing—

that children are given opportunities and facilities to develop in a healthy

manner and in conditions of freedom and dignity;

and that childhood and youth are protected against exploitation and against moral and material abandonment."

Pursuant to this duty imposed by the Directive Principles, the Parliament, in 1960, passed the Children Act for the purpose of providing for safety and welfare of children in Union Territories. But in acting on the Children Act, it was found that there were certain lacunae. In the main, these lacunae concern the following items:

(1) Rigid classification of children as either neglected or delinquent overlooking the fact that more often than not, delinquency is the result of neglect and has, therefore, to be treated as such.

(ii) the absence of adequate stipulation regarding the maintenance of proper standards of service in Homes meant for correctional treatment of children;

(iii) the absence of a comprehensive after-care service for children who leave the institution after undergoing a period of correctional treatment.

Now, Mr. Deputy Speaker, to meet these lacunae, discussions took place with major voluntary social-welfare organisations and, as a result of such discussions, this Bill had been brought in the Rajya Sabha and, I may tell you Sir, that it has been unanimously passed by the Rajya Sabha.

In brief, these are the major provisions of the Bill. In the definition of 'neglected children' the condition of parents has been mentioned and, formerly, it was confined only to those 'unfit' to exercise a proper care and control over children: but now it has been provided that it is not only those 'unfit' but also those who are not able to exercise proper care and control over children will be brought in.