

-RL/DC-HMS/20/3.00

**MR. DEPUTY CHAIRMAN:** Thank you. You also took less time. You took only seven minutes in place of eight minutes. Thank you very much. Every Member is now... (Interruptions)...

**SHRI SUKHENDU SEKHAR RAY:** I ring the bell while sitting there. ... (Interruptions)...

**MR. DEPUTY CHAIRMAN:** I did not do that. No, no. I did not want to do that. It is good that every hon. Member is very much cooperating to the extent of speaking less than the time allotted to him.

**SHRI TAPAN KUMAR SEN:** I will cooperate by taking his time. ... (interruptions)...

**MR. DEPUTY CHAIRMAN:** I have no problem. Next is, Shri A.U. Singh Deo. I hope you will also follow the same example.

**SHRI A.U. SINGH DEO (ODISHA):** Sir, of course, this Bill is to be supported and we support it too. The Amendment Bill 2017 amends the Insolvency and Bankruptcy Code which was enacted to find a time-bound resolution for ailing and sick firms. The enactment of Code in 2016 had bought in very high expectations that things would stabilize, but they have not. The Indian banking sector has been grappling with the issue of Non

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Performing Assets and increasing credit costs over the past few years. Sir, according to the RBI's data, NPAs were three per cent of gross advances of all banks in India in 2013.

**(THE VICE-CHAIRMAN, SHRI T.K. RANGARAJAN, in the Chair)**

By 2016, they had grown to 9.3 per cent. The increase was much more for nationalized banks i.e., from 2.9 per cent in 2013 to 13.8 per cent in 2016. As compared to private banks, the NPA raised from two per cent of gross advances in 2013 to 3.1 per cent in 2016. The PSBs have a bad loan ratio. That is almost twice as bad as their private counterparts and has led to contraction in the credit growth of the private sector. Sir, the NPAs of PSBs have increased to 7.33 lakh crores as of June, 2017 from 2.78 lakh cores in March, 2015. Top five banks together- SBI, PNB, BOI, IDBI, Bank of Baroda account for a share of 47.4 per cent totaling to Rs. 393,154 crore. According to CARE ratings, as of end September, 2017, NPAs in the Indian banking system made up around 9.85 per cent of total loans. The pile-up of unsustainable corporate credit is huge. The unprecedented slowdown in credit growth, despite rate cuts, indicates to economic slowdown. The critical element for the economy now is a speedy resolution and how to rectify and bring down the level of gross NPAs. Sir, the Government needs

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to introspect as to why even after more than a year of its implementation, the Code has not been successful in dealing with growing NPA crisis. The Code is in its early stages of implementation with the first case resolved in August, 2017, for which we all look for details. Institutions under the Code, such as Information Utilities to handle financial information related to debtors are still being set up and insolvency professionals are still being trained. We would still like to know the definition of insolvency professionals, their credentials and what they really need to do. Sir, 300 cases have been registered under the Code as per my information, some of which have been challenged in the High Courts. ...(Interruptions)...

**THE VICE-CHAIRMAN (SHRI T.K. RANGARAJAN):** You can take one minute more.

**SHRI A.U. SINGH DEO:** Sir, if I have only one minute more, then, I need to cut short my points. Sir, the other Members have brought in aspects of insolvency professionals, people who value companies, and there is a long list of people who are being left out from participating in purchasing new companies.

(Contd. by KS/2P)

**SHRI A.U. SINGH DEO** (contd.): While the intention to exclude such persons is good, all bad loans may not be the result of willful default, diversion or misappropriation of funds in a market. In an economy, there are cases of failure, there are change in the market conditions, severe competition, change in technology and policies of the Government. So, we really can't debar everybody from participating in new companies like it has been suggested by other speakers before me that the foreign companies would then take hold of what is available in this country. Sir, insolvency resolution is a commercial process and banks and financial institutions and financial institutions should be allowed to take informed decisions keeping the best business interests in mind. They should not be compelled to reject the offer of existing promoters, mainly because under their control the company had defaulted except where there is an allegation of willful default or misappropriation of funds.

Sir, the need of the hour is to amend the law to ensure that only deserving candidates are allowed to bid for stressed assets under the Corporate Resolution Plan. Therefore, I recommend that such restrictions should be applied on a case-to-case basis rather than imposing a general prohibition. The Insolvency and Bankruptcy Board should be empowered to

examine such cases where a prohibition is applicable. It can't be a general rule, Sir. We heartily support the Bill. But I do feel that certain amendments are needed to be put in. A larger picture has to be put in place. I hope the hon. Minister, who is very capable, would look into the suggestions made in this august House today. Thank you.

(Ends)

**श्री हरिवंश (बिहार) :** उपसभाध्यक्ष महोदय, इस सरकार ने पिछले तीन वर्षों में ब्लैकमनी के संबंध में, बैंकों को मजबूत बनाने की दिशा में, इरादतन बैंकों का पैसा डुबाने वालों के खिलाफ जो कानून बनाए हैं, मैं उनका स्वागत करते हुए यह मानता हूँ कि यह कानून भी उसी दिशा में एक महत्वपूर्ण कदम है, इसलिए मैं इसके समर्थन में खड़ा हुआ हूँ।

महोदय, मैं उल्लेख करना चाहूँगा कि मैं एक वकील के रूप में नहीं- क्योंकि गांधी जी मानते थे कि जिस समाज में वकील या डॉक्टरों की संख्या अधिक है, उनके बारे में नए ढंग से सोचना चाहिए, कुछ नया प्रयास होना चाहिए। मैं जेपी आंदोलन से जुड़ा रहा, मैं उसी अर्थ में इसके बारे में बात कर रहा हूँ। यह बिल या जो ऐसे बिल आए हैं, मैं मानता हूँ कि इसके पीछे की स्पिरिट बहुत महत्वपूर्ण है, हमें उस पर गौर करना चाहिए। Institutions और खास तौर से financial institutions की credibility को restore करने, जो credibility पिछले कई दशकों में कम हुई थी, उसको ठीक करने का एक गंभीर प्रयास है, कैसे? पिछले कुछ दिनों से भारत में Bitcoin की बड़ी चर्चा है।

मैंने इस बारे में सदन में भी सुना है, इससे संबंधित सवाल सुने हैं और बहस में भी इसके बारे में सुना है। इसका जन्म कैसे हुआ है और यह किस तरह से थ्रेट है, जिसको हमें एड्रेस करना चाहिए, मैं उस पर संक्षेप में दो चीजें कहना चाहूंगा। 2008 में जो दुनिया में credit crisis हुआ, जिसमें Lehman Brothers डूबे, तो पूरी दुनिया में एक तरह की financial अराजकता पैदा हुई। उस वक्त लोगों ने कहा, “Trust of millions in various traditional institutions is finished.” तब पांच लोगों ने कोशिश की और 2008 में लोगों ने digital currency बताया। उनमें से एक सज्जन Nakamoto थे। उन्होंने 2008 में software रिलीज किया सिर्फ Self-contained Monetary System called Bitcoin. आज उसका कलैक्शन 19.4 billion dollars है। हम यह समझें कि इसके पीछे का इरादा क्या है? सर, मैं तीन दिन पहले का 'न्यूयार्क टाइम्स' quote कर रहा हूँ कि ये लोग टेक्नोलॉजी के माध्यम से क्या करना चाहते हैं, जिसके बारे में हम सबको मिलकर सजग होना चाहिए। They force human societies to question the utility or the need of trusted third parties such as banks, governments, newspapers, brokers, centralised exchanges, regulatory agencies, etc. इस तरह से सरकारों से लेकर बाकी institutions की credibility को कमजोर करके कैसे टेक्नोलॉजी एक दूसरी दुनिया बनाना चाहती है, जिस पर कुछ ही लोगों का आधिपत्य होगा, वैसी चीजों को खत्म करने का काम, जैसे रिसोर्सेज़ को restore करने का काम यह बिल करता है, मैं इसलिए इसके समर्थन में खड़ा हुआ हूँ।

महोदय, मैं यह कहना चाहूंगा कि यह बिल क्या एड्रेस करता है, पहले से स्पष्ट है कि जिन भारतीय प्रमोटर्स ने अपनी कम्पनियों का बहुत खराब ढंग से प्रबंधन किया, फिर भी वे उन पर नियंत्रण नहीं छोड़ना चाहते। एक के बाद एक- एक कानूनी दांवपेच से वे अपनी पुरानी सम्पत्ति पर कब्जा जमाए रखना चाहते हैं। इस कानून से यह खराब इरादा-मोटिव रखने वाले लोगों पर पाबंदी लगेगी।

(LP/2Q पर जारी)

LP-KGG/3.10/2Q

**श्री हरिवंश (क्रमागत) :** इस कानून के बाद एक प्रमोटर ने, मध्यम वर्ग के एक प्रमोटर ने ट्वीट करके कहा, जिसको मैंने अखबारों में पढ़ा कि doubtful promoters को अपने पुनर्वास के लिए भी rehabilitation की योजना प्रस्तुत करने का अवसर नहीं दिया जाना चाहिए। यह Insolvency and Bankruptcy Code का दुरुपयोग होगा। बोली की प्रक्रिया को भी बोली आमंत्रित करने से पहले स्पष्ट किया जाना चाहिए। यह कानून यह काम कर रहा है, इसलिए हम इसके समर्थन में खड़े हैं। मैं यह स्पष्ट करना चाहूंगा कि सिद्धांत एवं व्यवहार में कानून का मकसद क्या है? कानून का मकसद है कि ये जो आदतन कानून तोड़ने वाले लोग हैं, उनमें कानून का भय पैदा हो। इस मुल्क में क्या हो रहा था? हम अपने फाइनेंशियल इंस्टीट्यूशन्स को किस रास्ते पर ले जा रहे थे? चार्वाक का जो दर्शन है, "ऋणं कृत्वा घृतं पिबेत्", लोग बैंकों का सार्वजनिक पैसा ले रहे थे और सरकारें पैसा दे रही थीं। मैं अनेकों उदाहरण गिना सकता हूं कि कैसे चेयरमेन्स की नियुक्तियाँ होती थीं, कैसे सरकारी या राजनीतिक हस्तक्षेप से बड़े

घरानों को पैसे दिए जाते थे। इसमें bank officials, wilful defaulters , ये सभी लोग शामिल थे। अभी माल्या के केस में भी सेबी पर जाँच के दौरान एसएफआईओ की जो एक रिपोर्ट आई है, उसमें Serious Frauds Investigation Agency में साफ दर्ज है कि कैसे पोलिटिकल इंटरवेंशन्स से लोन दिये जाते थे और ये पैसे डूबते थे। इन कानूनों से कम से कम यह स्थिति बने कि लोगों में यह भय पैदा हो, जो wilful defaulters हैं, उनमें भय पैदा हो।

महोदय, आज से पाँच वर्ष पहले, 2012 में यह स्पष्ट हो गया था विजय माल्या, किंगफिशर एयरलाइन्स के लिए कर्ज चुकाना संभव नहीं है, यह भी क्लियर हो गया था कि ये धंधा चलाने की स्थिति में नहीं हैं, कुछ समय बाद यह भी निर्णय हो गया कि बैंक विजय माल्या की संपत्ति नीलाम करके अपना बकाया वसूल कर सकते हैं, लेकिन ये पैसे नहीं आए। उन पर 9000 करोड़ रुपये बकाया थे, आज यदि उनमें interest जोड़ दें तो पता नहीं कितने करोड़ रुपये होंगे? एक्सपर्ट्स कह रहे हैं कि कुल 300 कंपनियों में से 200 कंपनियों के बंद होने का खतरा है, 12 बड़ी कंपनियाँ हैं, जो आज दिवालिया होने की प्रक्रिया से गुजर रही हैं, उन पर 2.5 लाख करोड़ रुपये बकाया हैं। जिन छोटी कंपनियों को लेकर चिंता हो रही है, उनमें बारे में कानून के विशेषज्ञ कहते हैं कि छोटी, मंझोली कंपनियाँ दिवालिया कानून के ..(व्यवधान)..बस एक मिनट। वे पुनर्गठन के दूसरे तरीकों का सहारा ले सकती हैं। इसमें Scheme for Sustainable Structuring of Stated Assets हैं।

महोदय, मैं अंत में दो-तीन बातें कहना चाहूंगा कि भारतीय उद्यमी कर्ज लेकर खा जाने, जिस कंपनी के नाम पर कर्ज लिया, उसे दिवालिया बना कर कर्ज को चुपचाप ज्यादा फायदे वाले धंधों में डाल देने का काम कर रहे थे। आरबीआई और केंद्र सरकार ने जो कदम उठाए हैं, वे हिस्टॉरिक हैं। यह फॉरनर्स को आमंत्रित नहीं करता, बल्कि निजी क्षेत्र में जो कुछ खास परिवार..(व्यवधान).. ऐसी संपत्ति को डुबाते थे, उनको बंद करके प्रोफेशनल्स को आमंत्रित करता है। ..(समय की घंटी)..इसलिए हम इसके समर्थन में खड़े हैं, धन्यवाद।

(समाप्त)

**SHRI TAPAN KUMAR SEN (WEST BENGAL):** Mr. Vice-Chairman, Sir, at the outset, I would like to make two comments. In 2016, we adopted the Insolvency and Bankruptcy Code and not even one year is over, again, you came for an Amendment. I don't agree with the perception of Bhupenderji, my friend here that that reflects how the Government is closely monitoring. No, it reflects an over-haste by the Government without due diligence in handling such a crucial issue where public assets are being frittered away by big corporates; we need to think on how to arrest such a situation. I think, the Insolvency and Bankruptcy Code is one of the important legislative instruments. Much more due diligence was required.

**Uncorrected/ Not for Publication-02.01.2018**

I don't object to the very purpose which is written in the Statement of Objects and Reasons, to prohibit the unscrupulous persons being benefited at the cost of creditors. You want to prevent that. So, you have kept a negative list of those who can't be resolution applicants. I think, this is the major purpose. You have inserted that in Section 29A. Again, the point of absolute absence of due diligence is reflected. My previous speakers have already detailed it out and I don't like to repeat and waste the time.

I want to deal with two major issues. Those aspects need to be taken into account so that while making a negative list, it should not be such that you don't get an appropriate resolution applicant or invite unnecessary litigation in delaying the entire resolution process to the detriment of everybody's interests. (Contd. by KLS/2R)

KLS/KLG/2R-3.15

**SHRI TAPAN KUMAR SEN (CONTD):** And also the money will not go. My main concern on this, it is reeling in my hand that the whole Insolvency and Bankruptcy Code procedure in the background of FRDI Bill that is already in the domain that this haircut concerns me very much. The banks and financial institutions money is put in certain enterprises and it fails. The

banks are not getting their money. This is public money. Here whenever this whole concept of haircut comes and when I hear and see media reports that haircut goes to the extent of 75 per cent in certain cases, then the whole intention, the whole purpose as written here to prevent the unscrupulous to get benefit at the cost of creditors, becomes a total suspect. I think the Government must rescue us from such suspicion that that is not the intention. Where does remain the question of prohibiting unscrupulous persons when you are keeping it a guarded secret, the list of willful defaulters whose character has already been defined by the Reserve Bank of India? Definition has already been defined. If you keep that a guarded secret and, at the same time, you are telling that our purpose is to prevent the willful defaulters, the purpose becomes a suspect. I think that needs to be cleared and clarified. This is number one. Number two, why should there be a haircut? Why at all should there be a haircut? After all public money has been taken; public money has come back to the source. Sir, who failed, they must be punished. In whatever way, they should be punished and, at the same time, the venture can again be revived and revitalized. That can be altogether a separate exercise and for that existing legislative instruments are there. The whole financial system and the whole

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credit system are already there to take care of that aspect. There cannot come any point of sacrifice on the part of the creditors, mainly the financial institutions. Unless that is ensured, I think the credibility of the whole exercise is put thoroughly at stake and ultimately what is written here that to prohibit the unscrupulous persons being benefited at the cost of creditors, while writing that as objects and reasons, the exercise is exactly...

**THE VICE-CHAIRMAN (SHRI T.K. RANGARAJAN):** Please conclude.

**SHRI TAPAN KUMAR SEN:** I am just concluding. I think these aspects must be made very clear. If it is not done with an apprehension that if company will close, people will lose jobs, I think companies will continue to be closed and banks, will also continue to lose their money and public, whose money is in the banks will continue to suffer. This is the pattern of entire economic fallacy which was being developed in the previous regimes. (Time-bell) In the context of this, the efficacy of this particular legislative instrument has to be understood and, accordingly, it should be duly amended, duly corrected to take care of the apprehensions that have been expressed by us here. Due corrections are required here. It must be time bound. I think this Bill itself should ensure it and I request our Finance Minister to ensure a concrete clause to prevent any kind of haircut on the

**Uncorrected/ Not for Publication-02.01.2018**

part of the banking financial institutions. They are all public sector institutions. No private company is suffering like that. I think that must be ensured. With these words, I conclude my observation on this Bill. Thank you.

(Ends)

**श्री सतीश चन्द्र मिश्रा (उत्तर प्रदेश)** : सर, हमें तीन मिनट का समय देना, ऐसा लग रहा है कि अगर किसी वकील को और वह नेता हो, उसको अगर सबसे बड़ी पनिशमेंट देनी हो, तो यह देनी चाहिए कि वह तीन मिनट में अपनी बात खत्म कर दे।

**SHRI T.K. RANGARAJAN**: You take five minutes.

**श्री सतीश चन्द्र मिश्रा** : यह सबसे इम्पॉसिबल चीज होती है, जो करने के लिए कहा जाए। (2एस/एसएसएस-एकेजी पर जारी)

SSS-AKG/3.20/2S

**THE VICE-CHAIRMAN (SHRI T. K. RANGARAJAN)**: You can take five minutes.

**SHRI SATISH CHANDRA MISRA**: That is what I am seeing over here. But still, looking into the time frame, I will straight away flag certain things for the consideration of the hon. Finance Minister and for clarification, if required, while stating in the beginning itself, that we are supporting the Bill and we

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want the Bill to be passed. I was in the Select Committee also. We had gone through the entire process of the drafting of the Bill. Several issues came up. It was also contemplated that certain issues of this nature can come. But it was not thought that there will be a situation where persons, who are disqualified, who are siphoning off the money, taking away thousands of crores of money come from another gate by wearing a different gown and they want to take over the company again. This Bill probably seeks to prohibit such persons, but at the same time, there are certain provisions which I would like to be highlighted before the hon. Finance Minister. I will not be repeating what has already been clarified very eloquently by the ex-hon. Finance Minister. Those issues would be definitely requiring certain clarifications, but if Clause 5 (d) is seen, it says, “has been convicted for any offence punishable with imprisonment for two years or more;”. Now this does not deal with what type of offence he has committed for which he has been punished. If it is read along with Clause (i), it further says, “has been subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India;” So, under any law inside or outside India, if two years’ punishment for any offence is given, whether it is financial or it is for any other offence that is mentioned

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there, it needs to be considered whether for two years' punishment can be given for any minor offences and which are subsequently set aside and which has nothing to do with the company or has nothing to do with the financial activities, whether certain clarification in the provisions requires to be given or not, should be looked into. Sub-clause (e) says, "is disqualified to act as a Director under the Companies Act, 2013;" Now, disqualification under Companies Act as a Director can be for several reasons. Now, if a person has been disqualified and he can get qualified as Director immediately thereafter, even then he is disqualified from becoming an eligible Director under Section 29A. For example, recently 300 Directors and a list of several Directors has been floated that they are not eligible for being Directors for default on various occasions or for various reasons. Then, a condonation provision has been brought by means of which they can file application, they can get the delay condoned and file application and they can again become eligible directors. So, if the directors can become eligible immediately thereafter and then become ineligible for certain faults, which are not major faults, but then that is also to be looked into and that needs to be kept into consideration. Now, Explanation to this, Sub-Clause (ii) says, "Any person who shall be the promoter or in management or control of the

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business of the corporate debtor during the implementation of the resolution plan;” Now if it is read with Section 29A itself, it says, “A person shall not be eligible to submit...” Now, if he cannot submit a resolution under Section 29A, the word, ‘shall’ is not understandable because this says, ‘any person who shall be the promoter.’ It is something for future. In future, since it is being brought under Sub-Section 2 that if he shall be promoter, he is also ineligible. Section 29A itself says, ‘he cannot submit’. He is not eligible even for submitting the application for resolution. Then, there is a conflict in ‘shall be a promoter’. It requires to be clarified or considered by the hon. Finance Minister. Then, if we come to the provisos of Section 30, the second proviso says, “provided further that where the resolution applicant referred to in the first proviso is ineligible under sub-section (c) of section 29A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days,..”

(Contd. by NBR/2T)

-SSS/NBR-SCH/2T/3.25.

**SHRI SATISH CHANDRA MISRA (CONTD.):** So, thirty days are being granted to those persons who can make full payment and become eligible. Why only thirty days? Why not even a single day more? If thirty days are given, I want to ask why not a 'reasonable period' is given. Sir, if thirty days

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is considered to be 'reasonable', then the entire amount has to be paid within thirty days.

Lastly, I come to Section 235A which deals with penal provisions. It says,

"If any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be punishable with fine which shall not be less than one lakh rupees but which may extend to two crore rupees."

Now, Sir, 75 per cent of creditors approve the resolution. If resolution is found to be not correct due to certain reasons, does it mean, the 75 per cent creditors will have to pay penalty. If it is not so, who will be punishable? The Section is too vague. So, this also requires to be looked into.

With these observations, we support the Bill since the intention of the Bill is good. Thank you.

(Ends)

**SHRI ANIL DESAI (MAHARASHTRA):** Hon. Vice-Chairman, Sir, I rise to support the Insolvency and Bankruptcy Code (Amendment) Bill, 2017.

**Uncorrected/ Not for Publication-02.01.2018**

At the outset, I congratulate the hon. Finance Minister for bringing this important and much required piece of legislation to give a further push to the Indian economy.

Of late, we have been witnessing that banks, especially banking industry, have been facing a lot of difficulties on account of the NPAs. These NPAs have come up not because of the 'other operations.' But, a very few industrial houses belonging to a very few people taken advantage of avenues available to them and ultimately a stage has come that the NPAs, which were around Rs. 2.5 lakh crores, have gone up to Rs. 7 or 8 or, maybe, 10 lakh crores or so.

Sir, RBI, time and again, as a regulator, as a bankers' bank, did evolve mechanism to check the flow of NPAs and instructed, on many counts, banks to take action against the NPAs.

The hon. Finance Minister has replied many supplementary questions in reply to many Starred Questions on various issues in the morning. Now, this is the time that willful defaulters have done whatever they want and it is the time now for the people of the nation to know who these defaulters are. Regulations and legislation are made time and again to check the menace of

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these kinds of activities. But, they should be taken to task. Their names should be made public, so that this works as a deterrent for the rest of India.

Under the proposed Bill, there is a time-bound programme. Resolution mechanism will take place. As has been mentioned by Shri Chidambaram, I wanted to know the people to be excluded. Of course, there is a lot of debate on that. I think, hon. Finance Minister will take note of it. The resolution mechanism will work to their advantage. It is apprehended today that banks' haircut would go to an extent of 60 to 65 per cent which will not be a thing in practice. A lot of care will be taken to see that people's money, the creditors' money is not wasted that way.

What is happening today is that ARCs are taking advantage of NPAs. They are buying assets the way they want and taking advantage of it and making a lot of money out of it.

(CONTD. BY PK/2U)

PK-RPB/2U/3.30

**SHRI ANIL DESAI (CONTD.):** The main purpose what this legislation envisages should not be so that it is also flawed. In the units which will undergo resolution mechanism, there will be staff working there, who would have really sweated for the uplift of the company, but, unfortunately, the way

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things have gone, tomorrow, when they will be under resolution mechanism, what will happen to those jobs? The Government should give a serious thought on that count also so that fruits of the outcome reach the people who had really worked for that unit. It should not be so that when these units go for liquidation process, they will be out and lose their jobs. So, it is the Government's duty to ensure that those jobs are not lost.

Sir, nowadays, another issue that is coming up is this. In the print media and also in the electronic media, we have seen that there are 10 to 12 houses which are facing the threat of undergoing this very strict mechanism. They are trying to play various tricks available with them. The Government should come heavily on these elements. They have a fear that the things will not remain under their control. They want things to be under their control. If the defaulters, who have really looted the company or looted the units, are trying to make their ways, I think the Government is taking a good note of it and they will ensure that this kind of practices are put to halt. With these words, again, we support this Bill. Thank you.

(Ends)

**THE VICE-CHAIRMAN (SHRI T.K. RANGARAJAN):** Thank you very much.

Now, Shri D. Raja.

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**SHRI D. RAJA (TAMIL NADU):** Mr. Vice-Chairman, Sir, last year, the Government brought an Ordinance. Later on, the Banking Regulation Act was amended in order to empower the Reserve Bank to advise banks to take recourse to insolvency proceedings against the loan defaulters. This is the position. Even at that point of time, it was pointed out in the very same House that this amendment is not going to help the banks to recover the huge bad loans due because they are from big corporate companies. Sir, the Finance Minister, the Leader of the House, is sitting here. He knows what is the amount of bad loans today in the country. It is estimated to be around Rs.10 lakh crores. If I am wrong, the Finance Minister can correct me, but this is what the estimate available is. The Government, I think, is not serious to recover these loans from the corporate companies. I do not know why the Government of the day should be afraid of corporate companies. This is the issue common people are asking. Many eminent lawyers participated in the discussion. I am raising these questions from the point of common people. They want to know why the Government is afraid of these corporate companies. Sir, the Bill was passed in a hurry last time. Now, you have come up with this another Bill, because the same defaulters are coming for the action and to settle their dues for a small amount. This is

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what the common people understand. Recently, one borrower who had taken almost Rs.950 crores of loan, it was sold to his own subsidiary for Rs.54 crores under the same insolvency case. That means, banks got only 6 per cent of the loan by recovery and the balance amount was written off. So, there was objection. The Finance Minister must know this. There was an objection. Now, you want to plug this loophole. Sir, the Bill is before us. We will have to pass this Bill, and, definitely, we are going to pass this Bill.

(Contd. by PB/2W)

PB-PSV/2W/3.35

**SHRI D. RAJA (CONTD.):** I agree that the defaulters should not be allowed to buy back his company. I agree with you and I agree with Government but somebody will buy at cheaper rate. Ultimately, the banks are losing the money. That is the reality. That is the fact. Already, the RBI has asked the banks to be ready for 'deep haircut'. This 'deep haircut' has been raised by many speakers and they gave several interpretations. But according to common people, 'deep haircut' means write-off huge loans of big corporate companies. That is what the people understand. What do you mean by

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‘deep haircut?’ You write-off the big loans of big corporate companies. That is what you mean. Sir, how long this appeasement to corporate houses can go on in this country? Your Government or, for that matter, every Government talks big, big things. But, finally, are you in a position to take tough action against these corporate companies which are wilful defaulters? Sir, the major bank union, AIBA, has been demanding criminal action on these defaulters. In the morning also, I raised this issue during Question Hour. It is a criminal offence as many eminent lawyers pointed out. Why don’t you publish their names? What prevents you? What is the confidentiality involved? What is the secret involved? Why is there this secret? Why can’t you publish their names? When you can publish the students’ names, when you can publish the farmers’ names who have taken loans and which have led to several consequences, including suicides, why can’t you publish the names of corporate houses? What prevents you? Why are you afraid of these corporate houses? After all, the banks are giving loan out of people’s money. It is people’s money. These are public sector banks. It is people’s money. They take loan and they don’t pay the loan. Why are you afraid of these corporate companies? ...(Time Bell)... The nation should know who the defaulters are. The Parliament should know

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who the defaulters are. In the morning also, you said, the bank gives the names. There are proceedings. But why can't you publish their names? Let the people know. Let the nation know that these are the defaulters.

**THE VICE-CHAIRMAN (SHRI T.K. RANGARAJAN):** Please conclude.

**SHRI D. RAJA:** So, the Parliament should know who the defaulters are and the Government should take action against these defaulters. So, Sir, these are the issues which common people raise. These are the questions which common people ask. I hope the Leader of the House, the Finance Minister, will respond positively.

With these words, I conclude. Thank you very much.

(Ends)

**श्री अजय संचेती (महाराष्ट्र):** उपसभाध्यक्ष महोदय, यह जो The Insolvency and Bankruptcy Code Bill है, ...(व्यवधान)... इस बिल को बनाने के लिए जिस कमेटी का गठन किया गया था, उस कमेटी में हमारे साथी सांसद भूपेन्द्र यादव जी के साथ मुझे काम करने का मौका मिला।

सर, आज बहुत से दोस्तों ने, बहुत से साथियों ने अपनी-अपनी बातें रखीं। Former Finance Minister श्री चिदम्बरम जी ने भी अपनी कई बातें रखीं, लेकिन more or less सभी लोग इस बात से सहमत हैं कि this is need of the time, this

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Amendment Code is need of the time. यह कोड जिस इंटेंशन या जरूरत की वजह से लाया गया है, वह बहुत जरूरी है। देश में कई कम्पनीज़ की आर्थिक स्थिति ठीक नहीं है। वे loans नहीं चुका पा रही हैं, ब्याज बढ़ता जा रहा है, एनपीए हो रही हैं, हो चुकी हैं। ये circumstantial NPAs हैं या wilful हैं, यह एक अलग जाँच का विषय है। सरकार इसमें अपना काम कर रही है। सर, IBC को इसलिए लाया गया था कि जो कम्पनीज़ asset-worthy हैं, जिनके पास assets भरपूर हैं और लोन नहीं चुका पा रही हैं, NPA हो गयी हैं, अगर प्रमोटर्स अपने आपको insolvent declare करते हैं और IPR के प्रोसेस के द्वारा नये इन्वेस्टर्स लाकर उस कम्पनी को टेकओवर करना चाहते हैं, चलाना चाहते हैं, इसका सरकार समर्थन करती है, इसको कराना चाहती है, इसीलिए इस कोड को लाया गया।

(2एक्स/वीएनके पर जारी)

VNK-SKC/2X/3.40

**श्री अजय संचेती (क्रमागत)** : सर, इससे सबसे बड़ी बात यह होगी कि देश की economy तो ठीक रहेगी और employment भी बरकरार रहेगा। सारी दुनिया में जो Insolvency and Bankruptcy Code है, वह एक well defined and well established process है। सर, इस प्रोसेस के दौरान यह देखने में आया कि कुछ कंपनियां, जिन्होंने अपने आपको insolvent declare किया, उन्होंने बाद में कुछ इन्वेस्टर्स को साथ में लेकर सामने लाकर, उनकी खुद की कंपनियां, जिनको वे insolvent declare कर चुके हैं, उनको टेकओवर करने का प्रयास कर रहे हैं। यह एक बड़ी चिंताजनक स्थिति उत्पन्न हो गई थी। सर, इससे doubts create हो जाते थे। यह

एक पूरा sequence है, इसको ध्यान से देखना होगा। पहले लोन लिया, repay नहीं किया, insolvent declare कर दिया और बाद में नए इन्वेस्टर्स को साथ में लेकर खुद उसी कंपनी को फिर से टेकओवर करने का प्रयास किया जा रहा है। सर, यह एक systematic deliberately लोन न चुकाते हुए अपनी कंपनी को एक हेयरकट के माध्यम से खुद के कंट्रोल में रखने का प्रयास है।

सर, मैं बहुत technical details में नहीं जाऊंगा कि किस सेक्शन में क्या प्रोविज़न है। जब माननीय वित्त मंत्री जी अपना जवाब देंगे, तो उसमें ये सारी चीजें विस्तार से आ जाएंगी। सर, इस समस्या को रोकना बहुत जरूरी था, इसलिए यह अमेंडमेंट ऑर्डिनेंस के द्वारा तुरंत लाया गया।

### (श्री उपसभापति पीठासीन हुए)

सर, इसमें साफ कहा गया है कि आपकी कंपनी जो एनपीए हो चुकी है, उसे आपको टेकओवर नहीं करने दिया जाएगा और अगर आपको टेकओवर करना है, तो पहले आप उसका जो overdue interest है, उसको पे कीजिए, बैंक अकाउंट regularize कीजिए। इससे आपकी intention साफ दिखायी देगी कि नहीं, हम लोग इस कंपनी को वास्तव में चलाना चाहते हैं, हेयरकट के माध्यम से अपनी कंपनी को कब्जा करने का हमारा कोई इरादा नहीं है। सर, इससे फिर से जो प्रमोटर्स बिड करना चाहते हैं, उनकी intention काफी साफ नजर आ जाएगी।

सर, कई वक्ताओं ने अपनी बात में कहा कि छोटे लोगों को इसमें छोड़ देना चाहिए, लेकिन चाहे बड़ा defaulter हो या छोटा defaulter हो, कानून उनमें

distinguish कैसे कर सकता है, यह मेरे समझ के बाहर की चीज है। सर, मोदी सरकार की स्पष्ट नीति है कि support the needy and punish the guilty, इसी भावना को ध्यान में रख कर इस ऑर्डिनैस को लाया गया था और इस अमेंडमेंट बिल को लाया गया कि गरीबों के खून-पसीने का जो पैसा है, उसकी जो कमाई है, वह गलत हाथों में न चली जाए। इस ऑर्डिनैस के आने के बाद अगर हम लोग कुछ पुरानी चीजों पर ध्यान दें, तो इससे बैंकों की स्थिति बहुत मजबूत हुई है। शेयर मार्केट में बैंकों के शेयर्स का जो प्राइस है, वह जिस दिन से यह ऑर्डिनैस लाया गया और बाद में अमेंडमेंट बिल लाने की चर्चा की गई, उसके बाद से उनके शेयर्स के प्राइस में लगातार वृद्धि हो रही है। लोगों में एक डर भी बैठ गया है, जिसको हम fear of God कहते हैं कि अगर हम लोग गलत तरीके से काम करने जाएंगे, तो हमको इस तरह से खुद की कंपनी को टेकओवर करने नहीं दिया जाएगा।

सर, मैं किसी का नाम नहीं लेना चाहता हूँ, लेकिन हम अखबार देखें, तो आज ही के अखबार में लिखा है कि देश का एक बड़ा कॉरपोरेट हाउस, जिसका इस देश की economy में एक समय बहुत बड़ा योगदान भी रहा है, उन्होंने यह कहा कि नहीं, हम खुद की कंपनी को फिर से टेकओवर करने के लिए बिड करना चाहते हैं, insolvent कंपनी को लेना चाहते हैं, लेकिन हम पहले interest भरने को तैयार हैं और हम उसकी व्यवस्था कर रहे हैं। यह दिखाता है कि वह अपने ऐसेट्स को फिर से regularize करना चाहते हैं।

**Uncorrected/ Not for Publication-02.01.2018**

सर, जब IBC को लाया गया था, तब देश की economical condition को ध्यान में रखते हुए सभी दलों ने इस भावना के साथ इसको पास किया था कि इससे हमें आर्थिक मजबूती मिलेगी। मैं आज आपके माध्यम से सारे सदन से, सभी पार्टियों से अपील करता हूँ कि इस अमेंडमेंट कोड को भी उसी भावना के साथ पास करें और देश की अर्थव्यवस्था को मजबूत करने में योगदान दें, बहुत-बहुत धन्यवाद।

(समाप्त)

(2वाई/एनकेआर-एचके पर आगे)

HK/2Y/3.45

**SHRI JAIRAM RAMESH (KARNATAKA):** Sir, I rise obviously to support the Insolvency and Bankruptcy Code (Amendment) Bill, which replaces an Ordinance that was issued on 23<sup>rd</sup> of November, 2017, although I must point out that there is a small difference between the Ordinance and the Bill. Normally, the Bill is a replica of the Ordinance. But in certain extraordinary circumstances the Bill is different from the Ordinance. The Ordinance was issued on the 23<sup>rd</sup> of November and thereafter, I assume, the Finance Minister would have got some feedback from market participants and he has introduced a slight relaxation in the criteria for promoters and management in the Bill which is welcome. I am sure that this is not the first Amendment Bill that he will be coming forward with because we are in

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unchartered territory. For the first time, we have an Insolvency and Bankruptcy Code and we are learning doing and I am sure over the next few months there will be more such Ordinances and more such amendment Bills. Sir, I have three very specific pointed questions. The Finance Minister is laughing. I just want to say that in the time remaining for him as Finance Minister, he will come forward with more amendment Bills. ... (Interruptions)...

**MR. DEPUTY CHAIRMAN:** Jairam Rameshji, the only question is: Will you not give suggestions?

**SHRI JAIRAM RAMESH:** Sir, I have three pointed questions to the Finance Minister. The first question is related to what my very distinguished senior Member, the former Finance Minister, has raised. There is a very ugly word that has now become popular. It is 'haircuts'. So, my first question to the Finance Minister is on haircuts. Sir, I have been tracking the cases that have been referred to the Insolvency Board. From the information that I have been able to put together I find that, and the Finance Minister can correct me if I am wrong, in the first case the haircut is 76 per cent, in the second case the haircut is 74 per cent and in the third case the haircut is 80 per cent. Sir, I would like the Finance Minister to take us into confidence. Is this

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an acceptable situation where we are going to see haircuts in excess of 70-75 per cent? Are these aberrations or are these going to be the norms? We need to debate on this issue. Is a situation where 75 per cent is going to be virtually written off going to be an acceptable situation in the large number of cases that have been referred? I hasten to add that these are only from three cases that I have monitored but it is somewhat worrying and somewhat disturbing that the haircuts are in excess of 75 per cent. Sir, my second question to the hon. Finance Minister is this. Is he worried that by the definitions of those who are allowed to submit resolution plans we are laying the seed for oligopolies to emerge in these industries? Sir, I am not actually worried about oligopolies emerging because to deal with oligopolies we have the Competition Commission and trade policies but it seems to me that in the steel industry, in the chemical industry and in the telecom industry we are going from a situation of free competition to consolidation in which the market is going to be controlled by two or three large players. Is the Finance Minister actually worried? Maybe this is a pre-matured worry, but we need to start thinking whether by imposing so many restrictions on people who can actually bid and submit resolution plans we are not creating conditions for only a few players to emerge in these industries. There are

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ways of dealing with this situation but again, as I said, Sir, I would like the hon. Finance Minister to have some loud thinking with us on this issue. My third and final question to the Finance Minister deals with the MSME sector. Sir, there have been some worries that have been expressed by the same market participants who meet the Finance Minister and who also meet the former Finance Minister and also meet me that in the MSME sector it is really the promoter himself who is in a position to submit a resolution plan.

(Followed by KSK/2Z)

KSK/DS/3.50/2Z

**SHRI JAIRAM RAMESH (CONTD.):** Now, will the Finance Minister take us into confidence on this? Is there going to be differentiated criteria in the Bankruptcy Code between the MSME sector and the large sector? This is, I think, very important because in totality, the MSME sector may not account for a very large proportion of the NPAs, but in numbers, obviously, they run into thousands, if not lakhs. So, I would like the hon. Finance Minister to share with us his thinking on how he is going to deal with the specific problem of the MSME sector because this is the sector that really creates employment. This is the creator that leads to regional development and this

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is the sector that also leads to exports. So, if you want revival of exports, if you want revival of regional development, if you want revival of employment, you have to revive the MSME sector, and for reviving the MSME sector, regarding the criteria, that are present today in the Code and the Amendment Bill, will the Finance Minister think of some special dispensation?

Sir, these are the three questions that I had and I request the hon. Finance Minister to address them in the same constructive spirit with which we are extending our support to this Amendment Bill. (Ends)

**MR. DEPUTY CHAIRMAN:** So, you have only questions; no suggestions. Now, Shri V. Vijayasai Reddy.

**SHRI V. VIJAYASAI REDDY (ANDHRA PRADESH):** Mr. Deputy Chairman, Sir, I thank you for giving me this opportunity. Sir, on behalf of my Party, I rise to support the Bill. This Insolvency and Bankruptcy Code (Amendment) Bill, or the original Act of 2016, was the result of consolidation of insolvency-related laws and provides for time-bound process for resolving the insolvency and bankruptcy issues.

When we compare the provisions of this Ordinance with those of the Bill that is placed on the Table of the House now, there are two

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improvements. In the original Ordinance, the person, whose accounts have been treated as NPAs, has been treated as ineligible person. Now, in the Bill, an opportunity has been given. Now, the person, who is identified with the NPA accounts, can regularise the accounts, and within 30 days, he can participate and then file the petition. So, that is one improvement. That is a good improvement.

Secondly, I come to the definition of 'connected persons'. Under the definition of 'connected persons', when we compare the original Ordinance with this Bill, the Scheduled Banks, Asset Reconstruction Companies and Alternate Investment Funds are excluded from the definition. This is also a good improvement.

However, I draw the attention of the hon. Finance Minister in respect of three issues. The first issue is that in Section 29(A), sub-section (D), a person, who has been convicted of an offence for more than two years, is treated as an ineligible person. Now, what is the definition of 'conviction'? A person may be convicted by the lower court and may be acquitted by the High Court or the Supreme Court, or, a person may be acquitted by the lower court and the acquittal may be reversed and then maybe convicted by the High Court or the Supreme Court. So, what is the definition of

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‘conviction’? That has to be clarified. It is always better to define the word ‘conviction’. My suggestion is that unless and until, a case attains the finality, and finality by the Supreme Court, and once the Supreme Court delivers a judgment, that becomes the conviction, and until then a person, who is convicted by the lower court or the High Court, cannot be treated as a ‘convicted person’.

The second concern that I would like to bring to the notice of the hon. Finance Minister is: it is all well-intended and decrease in the competition. Sir, in disqualification clause, by widening the definition of ‘disqualified persons’ or ‘connected persons’, you are reducing the competition.

(Contd. by 3A – GSP)

GSP-MCM/3.55/3A

**SHRI V. VIJAYASAI REDDY (CONTD.):** When competition is reduced, what is the result of it? The result is that the value that the asset fetches will substantially come down. Therefore, I request the hon. Finance Minister to look into these two concerns and address them.

When it comes to liquidation, the Bill prohibits the liquidator from selling the assets of the company to any person eligible. It is a welcome step. It also prevents the promoters from deliberately running down the

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company to buy its assets at a lower price. These two are the welcome steps but I would request the hon. Finance Minister to respond to the two points towards which I have drawn his attention. Thank you.

(Ends)

**SHRI T. K. S. ELANGO VAN (TAMIL NADU):** Mr. Deputy Chairman, Sir, I thank you for giving me the opportunity to speak on this Bill. Sir, this Bill is the need of the hour. Even though there may be different opinions in various sections of the House, my view is that we are strengthening the cause for an increase in the NPAs and bad debts. Sir, the human element is missing right from the beginning in all these Bills which related to borrowings from the banks. I can quote a few examples. In Tamil Nadu, during 2015, there were floods in Chennai. More than 100 small-scale units were inundated and could not work for around six months. The NPA rule says that if there is no repayment for three months, the account becomes an NPA. The human element is missing. In case of non-repayment, no Bank Manager goes to the small-scale units, finds out the reasons and tries to help them. If that human element is present, the NPAs will come down to half and there would not be this much of NPAs in the country.

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So, Sir, my view is that the absence of human element, and, the passage of more and more laws like SARFAESI Act or this Act will lead to an increase in the NPAs.

Sir, around 30 to 35 years back, I have worked in a bank and I know whenever there was no repayment from a borrower, the bank manager used to go there, talk to him, help him and get back the money but that is not happening now. Every work is done in the books. If there is no repayment for three months, it is treated as NPAs and, so, the NPAs are increasing. So, Sir, there should be a system whereby the Bank Manger should be made personally responsible to recover the dues from the borrowers, and, if need be, the borrower should be helped so that he is able to repay the amount properly. For an individual, who runs the MSME or small scale industries, it is his life. He earns from there; he does not want to close it down but because of certain other things, for example, the policies of the Government, if he could not run the factory, there should be some way to help him so that he repays his borrowings. So, Sir, in that way, there should be some changes in the basic Acts like the SARFAESI Act and others, and, also in the rules pertaining to NPAs and bad debts. If that is done, I think,

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this Act will not have much relevance. With these words, I conclude. Thank you.

(Ends)

**MR. DEPUTY CHAIRMAN:** Thank you. Now, Dr. Subbarami Reddy. Would you like to say something as the Mover of the Resolution?

**DR. T. SUBBARAMI REDDY (ANDHRA PRADESH):** Sir, so many hon. Members have spoken on this issue. However, I would like to draw the attention of the hon. Finance Minister to one important aspect. It is in the interest of the economy, it is in the interest of the banks and it is also in the interest of the financial system. As per the NCLT, there are two ways. To protect the financial creditors and operational creditors, this Bill has come now.

(Contd. by SK/3B)