

MR. CHAIRMAN : The question is :

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

The motion was adopted.

DR. SUBRAMANIAM SWAMY (Bombay North East) : Sir, on a point of order. Shri Zail Singh has been elected President. The ruling party should distribute sweets.

MR. CHAIRMAN : Is it a point of order ?

SHRI SOMNATH CHATTERJEE (Jadavpur) : We all know that Dr. Swami will have a special dinner.

16 30 hrs.

CHIT FUNDS BILL

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARI) : Sir, I beg to move * :

"That the Bill to provide for the regulation of chit funds and for matters connected therewith, as reported by the Select Committee, be taken into consideration".

This Bill seeks to provide for the regulation of chit funds and for matters connected therewith.

As the hon. Members are aware, the Prize Chits and Money Circulation Schemes (Banning) Bill was passed by Parliament in 1978. That Act related to banning of the prize chits while the Bill under consideration seeks to regulate the activities of chits popularly known as 'conventional chits'.

The Bill was introduced in this House on 20th November, 1980, and

was referred to the Select Committee of the Lok Sabha on 23rd December, 1980. The Committee has since presented its Report on 25th November, 1981. The Bill as reported by the Committee is now before this House for consideration.

It would be relevant to explain the difference between these two kinds of chits. The *modus operandi* of 'prize chit' is that the promoter collects subscriptions in one lump-sum or by monthly instalments. Periodically, the numbers allotted to members holding tickets are put to a draw and the members holding lucky tickets get prizes either in cash or in the form of articles, such as, car, scooter etc. The prize-winners in a prize chit are not generally required to continue the pay their subscriptions till termination of the scheme. The prize amount so disbursed is also much smaller than the total amount collected by the promoter. These prize chits benefit primarily the promoter and do not serve any useful purpose. On the contrary, being prejudicial to the public interest, they adversely affect the efficacy of the fiscal and monetary policy. The conduct of these chits or money circulation schemes has, therefore, been banned by the Act of Parliament in the larger interest of the public.

The 'conventional chit' is an old indigenous financial institution involving regular periodical subscriptions by a group of persons. It is, in law, a contract between a specified number of subscribers and the foreman which provides that subscribers shall subscribe a certain sum of money by periodical instalments for a definite period. Each subscriber shall, in his turn, as determined by draw or by auction or in such agreed manner, be entitled to the prize amount. There will be as many periodical instalments as there are members. The prize winner is, thereafter, ineligible for any further prizes although he has to continue

*Moved with the recommendation of the President.

to make the stipulated instalments for the duration of the chits. As there is a mutuality of interest among the small number of subscribers to each chit fund, it constitutes a convenient instrument combining savings and borrowings.

However, chit funds are open to abuse by the foremen who may resort to unfair methods for securing illegal gains. Such unfair methods include enrolment of fictitious members, delay in disbursing the prize amount, non-acceptance of security etc.

The Banking Commission (1972) had recommended *inter alia* that it was essential to have a uniform chit legislation applicable to the whole country and as such either an all India Act may be enacted or a model law be prepared for adoption by all States. The matter had been gone into carefully by the Reserve Bank of India in the light of the recommendations of the Raj Study Group constituted by it in June, 1974. The Study Group was unanimously of the view that the Bill should be enacted as a Central legislation and that the administration of the law should be left to the State Government concerned which in turn could seek the advice and assistance of the Reserve Bank of India on policy matters.

The Bill now before the House takes into account the views expressed by the Raj Study Group, the various State Governments/Union Territories to whom it had been circulated earlier for comments as also some of the points made out in the representations received by the Government from time to time. In the light of the various memoranda and representations received by the Select Committee as also the oral evidence tendered by various parties before the Committee. The Select Committee has made some changes in the Bill. The Bill before the House takes into consideration the amendments made by the Select Committee. May I for the benefit of the hon.

Members mention a few of the more important provisions contained in the Bill as reported by the Select Committee ?

These are :

(i) Previous sanction of the State Government concerned and registration of the chit will be necessary before the chit can be started.

(ii) Any person conducting chit business will be required to use as part of his name at least one of the words, namely, 'chit', 'chit fund', 'chity' or 'kuri'. A minimum period of one year is proposed to be allowed to the parties to comply with such requirement.

(iii) The minimum paid-up capital of a chit fund company, whether private or public, incorporated under the Companies Act, 1956 shall be Rs. 1 lakh. Companies having a paid-up capital of less than Rs. 1 lakh on the date of the commencement of the Act will be allowed time upto 3 years to increase their paid-up capital to the minimum level indicated above.

(iv) Ceilings have been provided on the aggregate chit amounts of chits which may be conducted by chit institutions at any one time.

(v) For the proper conduct of the chit, every foreman will be required to furnish the prescribed security either in cash or in Government or other approved securities before applying for a previous sanction of Government.

(vi) The duration of a chit shall not ordinarily exceed five years. It is proposed to specify that the amount of discount shall not exceed 30 per cent of the chit amount.

(vii) Every company carrying on chit business shall create a reserve

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fund and transfer to such reserve fund a sum not less than ten per cent of the net profit each year before declaring any dividend on its shares.

(viii) No company conducting chit business shall carry on any other type of business, except with the general or special permission of the State Government.

(ix) Chit fund institution shall utilize their surplus funds only for carrying on chit business, giving loans or advances to non-prized subscribers, investing in trustee securities or making deposits with approved banks.

(x) Chit fund institutions would be required to obtain the prior approval of the Registrar of Chits within whose territorial jurisdiction their registered offices are located for opening a new place of business.

(xi) It has been provided that the chit agreement shall not be altered, added to or cancelled except with the consent in writing of the foreman and all the subscribers to the chit.

(xii) In order to avoid any hardship to the foreman, a provision has been included in the Bill for allowing the foreman to hold another draw in respect of the instalment if the prized amount is not drawn by the prized subscriber within a period of two months from the date of the draw.

(xiii) A self-contained machinery for the settlement of dispute relating to chit business arising between a foreman and a subscriber has been provided in the Bill.

(xiv) The Bill provides for certain penalties for the offences committed under the various provisions of the Bill. A provision has also been made for a suitable penalty in the case of second and subsequent offences committed by the foreman.

(xv) The proposed legislation will have prospective effect and will be administered by the respective State Governments and union territories. Chits started before the commencement of the Act will not be covered by its provisions.

9. Government hopes that the enactment of the Bill as reported by the Select Committee would be conducive to the conduct of conventional chit funds on sound and healthy lines and minimise the malpractices indulged in by the foreman to a large extent, thereby, protecting the interest of the subscribers to the chits.

MR. DEPUTY SPEAKER:
Motion moved :

"That the Bill to provide for the regulation of chit funds and for matters connected therewith, as reported by the Select Committee, be taken into consideration."

Shri Krishna Kumar Goyal is not here. Shri Somnath Chatterjee.

SHRI SOMNATH CHATTERJEE (Jadavpur) : It has been admitted by the hon. Minister himself that there are various malpractices in this type of business which are sought to be regulated by this Bill. But I feel this is a legislation of gimmickry. The country and the credulous people are being taken for a ride.

This Bill will only encourage these non-breaking and non-official financial institutions to continue to hoodwink the people with baits of prizes and what not. The misfortune of the gullible people will continue and they will continue to get trapped in the net by these types of activities and it is very difficult to protect them.

These chit funds are nothing but institutions of black money invest-

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ment by unscrupulous persons and the proceeds are utilised for non-productive purposes affecting the country's economy very seriously. These transactions have been the subject matter of the report of the Banking Commission. It has been observed that these transactions are having serious deleterious effect on the country's economy and sooner these types of transactions by these organisations are put an end to, the better for the country.

The question is, if there is an evil, should we try to put an end to it or in the name of regulating it give legislative sustenance? If there is no proper implementation of the laws, they under the cover of legislative protection, will continue to indulge in these types of activities which have very seriously affected the country's economy. That is why, we feel that the regulation will amount to nothing but chaos. Apart from many other things, we must have the administrative will and political will on the part of the Government to see very seriously and to regulate in an effective manner these dubious organisations which are being entered into by these organisations.

We all know, and this matter should cause concern to the Government, that there is a blackmoney, parallel economy and the Bearer bond is sought to be justified on the basis that, you cannot control the black economy in the country and let us have sort of a nibbling activity in getting money but of the blackmoney to the Government coffer so that some part of the blackmoney come into the national economic mainstream. But the question is whether we will be able to control that money and in a sense encourage better use of the blackmoney, if we continue to allow these types of organisations to thrive in our country? Our charge is that the Government instead of controlling and weeding out the ruthless blackmoney operations, they are encouraging

such transaction by providing cover to chit funds and non-official financial institutions which are now doing some of the biggest operations for the blackmoney in this country.

the hon. Minister himself has referred to the Banking Commission's report. In 1972 a thorough probe was made into the affairs of various financial institutions including these chit funds. They are very popular in South India and some parts of the country where the people are being attracted by these types of organisations. It is a matter to be considered very seriously. I am referring to the report of the Banking Commission. It says:

"The unscrupulous among the foremen resorts to some unfair method to secure illegal income."

I don't have the time and so I am reading the relevant extracts. They are in Paras 17.38, 17.39 and 17.41.

"The examples of malpractices of chit funds illustrated in the preceding paragraph, give an idea of what risk a subscriber to a chit fund has to undertake....

"In fact, there is a large number of cases where the foreman and his associates have disappeared after collecting large amounts."

when you analyse the Bill, you will see that there is no real protection. Now, I would request the hon. Minister—I believe, this is his first Bill he is conducting. I wish him well—to go through the findings of the Banking Commission Report. Para 17.41 reads :

"It would appear that the likelihood of productive use of the prize money is small...The rate of interest generally involved for a prize winner in a chit fund is so high that an inference can be drawn that the prize money is

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mostly used for consumption or speculative purposes. It is not unlikely that some persons join chit funds and are prepared to pay high rates of interest involved in large discounts for the purpose of hoarding scarce commodities."

Further, Para 17.42 reads:

"It will be clear from the above that as savings institutions chit funds do not offer to all their savers schemes superior to those offered by commercial banks and other financial institutions. Nor does the chit fund *prime facie* extend credit to productive enterprises in the economy."

These are not my observations. I am reading from the Report of the Banking Commission, an expert body.

Again, Para 17.48 reads:

"The Commission is of the view that it will be useful for commercial banks to run chit funds subject to proper safeguards as formulated by the Reserve Bank."

These are some of the observations I have read.

All this shows that the Banking Commission had taken a very serious view of these type of so-called financial saving schemes. There are different types of chits which were developed in course of time; they were running chits in a manner they liked and the gullible people with the hope of getting some extra money were falling a prey in dozens for such schemes.

The 1978 Act which the hon. Minister has referred to has banned chits which are described as prize chits where all the subscribers to the prize chits do not get them benefit. Some get; some do not get. It has also banned the scheme which is called the money circulation scheme

in the form of a lottery. These have been totally banned. But how the efforts of the State Governments are being frustrated, I will come to that immediately.

MR. DEPUTY-SPEAKER: You are now dealing with "cheat" funds; then, you will come to the chit funds.

SHRI SOMNATH CHATTERJEE: The other spelling "cheat" is more appropriate here.

Now, what was left out from the 1978 Act specifically what were called conventional chits, they are sought to be regulated. After the Banking Commission in 1972, another Committee was appointed under the chairmanship of Dr. James Raj. He went into this specifically and he recommended total ban of prize-chits and money circulation schemes. But he said, in any event, because of the widespread mushroom growth of conventional chits their organisations, it is very difficult to uproot them unless you replace them by banking system, banks taking up such schemes, and unless you do that, it is very difficult to curb the people's propensity to try to invest money in this type of schemes. Therefore, you must have very strict regularity control.

I take it that it has taken years for the Government to come up with the present Bill with a view to impose so-called regulatory control over these conventional chits which admittedly require strict control. There are 87 Clauses in the Bill. It had to go to a Select Committee. The Select Committee has made certain recommendations. But our experience is that you cannot control these organisation. You cannot control their activities because if you see where is the set-up, where is that machinery, where is that administrative will, you cannot find them. That is why, the sooner these organisations are put an end to, the better for the country.

We have now the nationalised banks. Under the nationalised Banks, which will protect the monies of the investors similar schemes can be started which should be attractive to the people which will protect the monies of the investors, and will also benefit the nationalised banks and the banking sector of this country. They should formulate such schemes.

I am surprised this law, this proposed Bill, specifically excludes all banks from the chit transactions and, therefore, I have put in an amendment that not only they should not be excluded but, only banks should be permitted to carry on this conventional chit business. Whom are you trying to protect? If we are trying to protect the investors, then the best protection can be afforded by our nationalized banks.

For the purpose of protecting the Managers or foremen or organisers of this company, we should not bring in these regulations. We should not bring in this Bill because they are too powerful a sector. They have got lobbies here. They are powerful sectors. They can purchase these officers over many times with unlimited resources.

Therefore, you cannot effectively regulate this. Our fear is that there will be no effective regulation.

I shall give an example and I will conclude my submissions. There is a concern called Sanchaita Investment. It started in West Bengal in the year 1975. You know it. Dr. Swamy seems to be a beneficiary of that organisation. His activities are so dubious.

MR. DEPUTY-SPEAKER: You must protest against it.

DR. SUBRAMANIAM SWAMY (Bombay North East) : If a Marxist calls me dubious, I consider it a complement.

SHRI SOMNATH CHATTERJEE: He is hoping for the official

recognition to come. The Unofficial recognition is there.

This Sanchita Investment was started by three persons, as a partnership, with a capital of only Rs. 7,000/- in the year 1975. When the Prize Chit and the Money Circulation Act came into force effectively after two years of its passing in 1980, the West Bengal Government was the implementing agency. All State Governments are the implementing agencies. It came under the Money Circulation Scheme which was banned and action was taken. Some arrests were made. Rs. 52 lakhs and odd was seized from the coffers of this firm lying in cash along with an unlicensed gun from the residence of the partners. The matter ultimately came up to the Supreme Court. The Supreme Court said that in view of the definition of Money Circulation Scheme, this concern does not come under a money circulation Scheme. But what the Supreme Court has to say? With your kind permission, I want to read out because it is very very important. The Supreme Court in a very recent judgment has said this :

MR. DEPUTY - SPEAKER: This is after your last budget speech. You have mentioned other points in your Budget speech. This you have not mentioned.

SHRI SOMNATH CHATTERJEE: "The staggering revelation which came to light as a result of the search at the Office of the firm as on September 1, 1980: The firm was holding deposits to the tune of Rs. 73,51,23,500."

From a capital of Rs. 7,000/-.

This is the tip of ice-berg. These deposits were received by the firm from all parts of the country. The pride of place belongs to Calcutta, Bombay, Delhi, Madras and Hyderabad.

"Remittances also appear to have been received by the firm

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from overseas clients. A compilation prepared by the State authorities in pursuance of an interim order passed by this court shows that the total amount of deposits made by persons who had deposited a sum of Rs. 10,000 or less each comes to Rs. 11,49,40,950.

"The documents relating to the account in the fictitious name of 'Apcar Ave Toon' show that a person alleged to bear that name was introduced to the Suyndicate Bank, Gariahat Branch, Calcutta, by the firm's partner Shambhu Prasad Mukherjee. The passbook relating to the account (Current Account No. 210) shows that the account was opened with a cash deposit of Rs. 28 lacs. A total sum of rupees twenty-seven crores ninety-seven lacs eighty-six thousand and odd was deposited in that account until December 6, 1980, all deposits being in cash. Such cash deposits varied often between 50 and 80 lacs at a time. The amount of nearly Rs. 28 crores was withdrawn from the account steadily from November 11, 1980."

Then there are many things mentioned. Then it is said:

"These facts disclose a bizarre state of affairs."

The Supreme Court Chief Justice has said this :

"A token capital of Rs. 7000 has begotten a wealth of crores of rupees within a span of five years. A bank account opened by the firm in fictitious name had a sum of Rs. 28 crores in it, which was withdrawn within a week before the lodging of the F.I.R. Interest was being paid to depositors at the incredible rate of 48 per cent per annum."

The records show twelve per cent, but they were paying at the rate of 48 per cent per annum.

"The firm had no ostensible source of income from which such exorbitant amounts could be paid and its account books, such as were seized from its head office, give no clue to its income or its assets.

"The partners of the firm have become millionaires overnight. Clerks and Chemists that they and some of their agents were in 1975 today they own properties which will put a prince to shame. 'Rags to riches' is how one may justly describes this story of quick and easy enrichment. There is no question that this vast wealth has been acquired by the firm by generating and circulating black money. Indeed, rightly did Shri Ashok Sen appearing for the firm...."

Hon. Member Shri Ashok Sen appeared for the firm...

MR. DEPUTY-SPEAKER: As an advocate.

SHRI SOMNATH CHATTERJEE:

"Indeed, rightly did Shri Ashok Sen appearing for the firm, ask us to be free to proceed on the assumption that the exorbitant amount of interest was being paid from out of unaccounted money.."

Admittedly unaccounted money.

"In these circumstances, though I see no alternative save to stop all further investigation on the basis of the F.I.R. as laid, no offence being disclosed by it under Section 4 of the Act, I am unable to accept the contention of Shri Ashok Sen that all documents, books, papers and cash seized so far during the investigation should be returned to the firm and its partners forthwith. The firm appears to be on the brink of an economic crisis, as any scheme of this nature is

eventually bound to be. Considering the manner in which the firm has manipulated its accounts and its affairs, I have no doubt that it will secrete the large funds and destroy the incriminating documents if they are returned to it. The State Government the Central Government and the Reserve Bank of India must be given a reasonable opportunity to see if it is possible, under the law, to institute an enquiry into the affairs of the firm and, in the meanwhile, to regulate its affairs. I consider such a step essential in the interests of countless small depositors who, otherwise, will be ruined by being deprived of their life's savings. The big black money bosses will take any loss within their stride, but the small man must receive the protection of the State which must see to it that the small depositors are paid back their deposits with the agreed interest quickly as as possible."

DR. SUBRAMANIAM SWAMY: Such things happens in Bengal all the time.

SHRI SOMNATH CHATTERJEE: Not in Bengal alone. If he wants to have that perverted pleasure, he may have it. I concede. It is a perversion. That is why I ignore him. (*Interruptions*)

17.00 hrs.

The position is bad, Since then. The former Finance Minister will agree with me that the State Government has no legislative power to control under the Constitution. . .

MR. DEPUTY-SPEAKER: You can continue tomorrow

SHRI SOMNATH CHATTERJEE: I will take only two minutes, Sir.

MR. DEPUTY-SPEAKER: Then please conclude.

SHRI SOMNATH CHATTERJEE: The State Government has launched prosecution under Sec. 420-406 and 408 for breach of trust. But unfortunately the High Court had given an injunction. We have been repeatedly requesting, our former Finance Minister, Shri Ashok Mitra has repeatedly requested the Centre, 'Take some action.' The Reserve Bank says, 'We have no control over this firm because the capital is less than Rs. 1 lakh.'

MR. DEPUTY-SPEAKER: As an Advocate what is your suggestion to the Central Government.

SHRI SOMNATH CHATTERJEE: Immediately we have requested the Central Government. . .

MR. DEPUTY-SPEAKER: Give some legal advice

SHRI SOMNATH CHATTERJEE: You will be surprised to know that the Income-tax authorities are not taking action against these people, I do not want to name. The Counsel appearing in the case told me, 'I know why Income-tax Department is not taking action. It is because the Income tax officers have got investments' He said, 'Why the Reserve Bank is not taking action?' I said that perhaps the Reserve Bank Officers have also got investments. I cannot think when serious strictures have been given how they are not taking any action. 4 to 5 months have elapsed. So kindly take action, The hon. Deputy Minister for Finance is here. I do not know whether he has been put as a stop-gap here. I hope he will go through the papers, the correspondence and the files and see how many times requests have been made by the State Government asking you to do something, to either appoint an inquiry commission or under some regulation try to catch hold of the money. But no step has been taken

Therefore, in this sort of regulatory Bill as the present Bill is, I have no

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faith : You must put an end totally of this kind of mushroom organisations. It cannot be for the benefit of the country, the ordinary people and the economy of the country. They do not serve any particular social purpose. It is only for the purpose of utilising black money of certain sections of the people. Therefore, you please accept my amendment and put an end to these transactions. Allow these transactions to be carried on through nationalised banks or subsidiaries of the nationalised banks or financing institutions which nationalised banks can set up. If the people have the propensity to invest monies in similar transactions, allow it to be done through official agencies.

Therefore, I oppose this Bill and I hope the Minister will kindly give a serious thought and the hon House will give a serious thought—this should be a non-controversial matter—for the economy of the country and for the protection of the ordinary small depositors. Therefore, I request the entire House to kindly consider this matter very seriously. In view of our past experience such type of regulations are only paper controls and paper restrictions which are never properly exercised. Therefore, people will continue to suffer, the economy will suffer and black money will thrive which we are all against.

SHRI XAVIER ARAKAL (Ernakulam) : Can a Member raise any objection to a unanimous report?

SHRI SOMNATH CHATTERJEE : Because my Party is represented there, am I stopped from opposing this ?

17.05 hrs.

DISCUSSION RE : INCIDENCE OF RAPE AND ATROCITIES ON WOMEN, INCLUDING DOWRY DEATHS

श्रीमती प्रमिला दंडवते : (बम्बई उत्तर मध्य) उपाध्यक्ष महोदय, आज फिर एक सदन में एक बहुत गम्भीर और दर्दनाक बातों के बारे में हम बहस करने जा रहे हैं। मैं कल आठ महिलाओं को लेकर प्रधान मंत्री जी से मिली थी, वे महिलायें रो रही थीं, आंसू बहा रही थी। मुझे नहीं लगता है कि उन आठ महिलाओं ने अपने लिए आंसू बहाए थे, वे आंसू थे इस देश की महिलाओं की हालत को देखकर। उनको दर्द था, वह दर्द सिर्फ उनके लिए नहीं था, वह दर्द सारे देश की पीड़ित महिलाओं के लिए था, जिन पर रोज अत्याचार हो रहे हैं और पुलिस के जरिए बलात्कार हो रहे हैं। उनको देख कर मुझे भी दुःख हुआ और मुझे महसूस हुआ कि मैं भी आंसू बहाऊँ और आपके सामने रोज़, लेकिन रोने से कुछ नहीं बनेगा। प्रधान मंत्री जी से जब मैं मिली, तो पहली बार मेरा अनुभव है, उन्होंने कहा कि मैं कुछ कहूँगी, क्योंकि उसी दिन अखबार में उन महिलाओं का फोटो आया था। उन्होंने क्या कहा ? उन्होंने कहा कि मैं जरूर इस में कुछ करूँ, यह बहुत खतरनाक बात है। लेकिन उन्होंने क्या किया ? ता० 14 को यानी कल वहां के जो डिस्ट्रिक्ट मजिस्ट्रेट और एस० पी० हैं उनका ट्रांसफर कर दिया। ट्रांसफर करना बहुत बड़ी सजा हो गई। मेरा यह अनुभव रहा है कि इस सरकार में पुलिस अफसर का ट्रांसफर