

[श्री आबिद अली]

कि जहां तनखाह कम कर दी जाय वहां पर भी प्रावीडेंट फंड जारी रखा जाय। यह बात गलत होगी। हम इंडस्ट्री को बन्द नहीं करना चाहते हैं। सब काम वर्कर्स के सलाह व मशविरे से होगा। आपके सामने जो यह बिल है उसमें यह है कि अगर वर्कर्स की मेजोरिटी यह चाहती हो कि प्रावीडेंट फंड न रहे और हमको यकीन हो जाय कि कारखानेदार वर्कर्स को छोला नहीं दे रहे हैं और यह चीज वर्कर्स के हक में है कि प्रावीडेंट फंड जारी न रखा जाय तो हम यह करेंगे कि जितने दिनों के लिये जरूरत हो प्रावीडेंट फंड अमल में न आवे। इसमें हमें कोई दिक्कत नहीं दिखती। सदर साहब, यह कह कर, यह बिल पास किया जाय ऐसी मेरी अर्ज है।

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

BANKING COMPANIES (AMENDMENT) BILL—contd.

Mr. Deputy-Speaker: Now, the Banking Companies (Amendment) Bill.

Shri S. S. More (Sholapur): May I bring to your notice, Sir, that according to the previous agenda circulated, the Ancient and Historical Monuments and....

Mr. Deputy-Speaker: Last evening it was announced in the House.

Shri S. S. More: I know that according to the latest circular issued, the agenda has been modified.

Mr. Deputy-Speaker: It was also announced in the House last evening.

Shri S. S. More: But, we have been complaining that the notice is always short.

Mr. Deputy-Speaker: The hon. Member will kindly resume his seat. We have already said that the agenda is being changed. This Bill was put off on account of certain documents which the hon. Minister wanted to circulate to hon. Members. They wanted to have sufficient time to look into them and the hon. Minister wanted to have sufficient time to circulate these things. Now, the Bill has come. To avoid any surprise being sprung, it was also announced last evening in the House and the House also accepted it. I am afraid there is no force in this contention just now. Let us proceed with this Bill.

There was an amendment to refer this matter to the Select Committee. Shri Tulsidas had also a similar amendment. Was that put to the House? Are we on the Select Committee motion?

The Deputy Minister of Finance (Shri A. C. Guha): We do not accept the Select Committee motion.

Mr. Deputy-Speaker: The general discussion is going on. Yes; Shri H. N. Mukerjee.

Shri H. N. Mukerjee (Calcutta North-East): Mr. Deputy-Speaker, I find from the Objects and Reasons appended to this Bill that it is the Government's desire to relieve, by means of this legislation, the distress of the depositors. I fear, however, that the Government has opened its eyes a little too late and has now come forward with a measure which is somewhat in the nature of a face-saving device. I do not say that this measure is not necessary. It is. But, it has been long overdue. That is why I say that it is somewhat in the nature of a face-saving device that Government has come forward after so much of delay.

Bank failures happened on a dangerous scale as early as 1947 and by now, it appears that all realisable assets have been collected and mostly spent. According to the report of the

Banks Liquidation Proceedings Committee, out of 78 banks in liquidation in West Bengal, only one has been able to pay a dividend of 10 per cent. to its ordinary creditors. What I fear is that this delayed and long overdue enactment will not bring benefit to as many people as it ought to. There is now, I am afraid, hardly any question of settling the list of debtors as recommended by the Banks Liquidation Proceedings Committee. I also find that steps to recover the claims of the Banks in liquidation have already been finally settled in most cases and necessary costs incurred. These costly law charges, a factor which the Deputy Minister also mentioned very rightly, have been mainly responsible for the depletion of the funds in the hands of the liquidators. My complaint is that Government knew of the inadequacy of the existing Acts to meet the requirements of winding up proceedings when it enacted an Ordinance in September 1949. After that, we have had three or four years' experience in winding up proceedings to assist us. If Government had given serious attention to the whole matter and shown real concern for the interests of the creditors, not only to the interests of the creditors, but also to the whole question of assistance to small business which these banks which have usually gone into liquidation often provided, something could have been done "in the interests of the creditors and public morality" as the Government itself put it in one of its communiqués. I say that any Government worth its salt would have been ashamed of the indifference and inactivity which this Government has shown on this point. I feel strongly about this because I remember that in September this year, the hon. Deputy Minister who is piloting this measure, went to Calcutta and put all the blame for whatever has happened on the lay depositors, who do not understand so much about the complexities of the situation, when, as a matter of fact, these depositors have been driven from pillar to post.

If Government could not do any positive good to the creditors, it has

provided at least one element of positive harm. Under the Indian Companies Act, it was obligatory upon the liquidators, within a month of the winding-up order, to call a meeting of the creditors and contributories for the sake of appointing a Committee of Inspection to act along with the liquidators. Further, it was the duty of the liquidator to summon meetings of creditors or contributories who might direct by resolution or whenever they were asked to do so by people representing 1/10th of the value held by the creditors or contributories. It was also provided in the Companies Act that the liquidators shall have regard to any directions that may be given by a resolution of the creditors and contributories at a general meeting. All that was done away with, and in the Banking Companies Act, 1949, which we are now going to amend, the Court was given power to dispense with meetings of creditors or with the appointment of a Committee. That very valuable right of the creditors to exercise control over liquidation was gone. This is a matter to which Government has not, at least so it appears, given sufficient attention. I hoped that when this Amending Bill was being brought into the picture something would be done in this regard, but nothing, I am afraid, has been done.

As far as West Bengal is concerned, that is a Province which, with Travancore-Cochin, has suffered most on account of banks going into liquidation. In West Bengal, the winding up of as many as 80 banks is being made by the Courts through liquidators appointed by them who are mainly lawyers. Section 45(g) of the Banking Companies Act empowered the High Courts to make rules for cheap and speedy disposal of winding up proceedings. The Calcutta High Court, where the largest number of liquidation cases have cropped up, did not think it fit to frame any rules even in four years' time. I asked a question in this House last year, and on the 16th of December, 1952, the

[Shri H. N. Mukerjee]

Finance Minister told me that the Calcutta High Court had not found the time to frame the rules for liquidation proceedings. This is an example of solicitude for the creditors and generally for small business interests in Bengal which the Calcutta High Court has shown.

The Calcutta High Court has also thought fit to appoint its Official Receiver, in addition to his other duties, to be liquidator of 44 banks, not because it was desirable that these 44 banks should be looked after by an official attached to the Court, but because they were of no interest to private liquidators who want to be appointed on account of the patronage of High Court Judges or of Solicitors who want to be appointed as liquidators. These 44 banks were not worthwhile to these people. They would not be touched with a pair of tongs by the average practitioner who wants to be a liquidator. They were not remunerative; they had slender resources. But in the case of one Bank—the Nath Bank—the Calcutta High Court showed a wonderful instance of its solicitude for everybody concerned. It appointed three liquidators at Rs. 2,000 per month, and of the three liquidators two were absentee liquidators including our distinguished friend, the late Dr. Syama Prasad Mookerjee. We all have much respect for the distinguished memory of our deceased friend, but it is amazing how in the liquidation of a bank a person of his eminence who had hardly any time to devote to liquidation proceedings could be appointed liquidator at such a high rate of remuneration as Rs. 2,000 per month. There were two others also. Thus there were three, together drawing Rs. 6,000 every month. This is the reason why in the statement which the Minister has so kindly supplied to us we find that the Nath Bank—this particular Bank to which I am making a reference—spent in remuneration to liquidators Rs. 2,30,321/3/-. This is the way in which the Calcutta High Court has behaved, and I mention the case of the Calcutta High

Court because I feel that West Bengal has been a very great sufferer on account of this phenomenon of the liquidation of banks and the High Court has borne hardly its share of responsibility as far as looking after the interests of the creditors was concerned.

As far as these private liquidators are concerned, the Committee has made very unequivocal declarations.

Mr. Deputy-Speaker: As far as possible hon. Members should avoid any reflection on the High Court or High Court Judges. As it is another body which is also responsible to the Constitution, no adverse references should be made in this House. Of course, there are the parties. The parties can appear and they can take exception to it. We do not know the volume of business and other things in the Court. Under these circumstances, such remarks may be avoided as far as possible.

Shri H. N. Mukerjee: I certainly appreciate what you have said, and I would not, in normal circumstances, refer to what the Courts are doing, but in view of certain rights being vested in the High Court by this proposed legislation, it is necessary for me to point out how the Courts have behaved in this particular regard. I speak with a complete sense of appreciation of the work the High Court does in other respects, but as far as banking liquidation is concerned, I feel it is my duty to refer to certain phenomena which have attracted the attention of everybody and which can only be bruited about in the Houses of Parliament and nowhere else.

Mr. Deputy-Speaker: I do not take any exception. The hon. Member is a very good speaker. He can use language which would not offend and at the same time serve the purpose. The hon. Member can easily say that such amounts are very high or excessive, that he feels that proper attention has not been paid to the matter and so on. There is no need to say further.

Shri H. N. Mukerjee: As far as the private liquidators are concerned, the Banks Liquidation Proceedings Committee have said very unequivocally that usually liquidation was carried on in a "dilatatory and inefficient way". My submission is that if a proper enquiry is made it will be found that liquidators have not discharged their statutory obligations regarding submission of reports to the Courts or timely filing of accounts or settling lists of creditors etc., although they have been in charge of liquidation proceedings for four to five years or more. Only in very few cases has action been taken against banking directors, and in some cases, as in the case of the Girish Bank, such action is found to be time-barred. This kind of lapse on the part of liquidators has happened. Numerous suits have been permitted to be filed by the liquidators for recovery of small unsecured and unrealisable claims as low, I am told, as Rs. 60 by incurring taxed costs of Rs. 500 or more.

In this connection, I might refer to the observations made by the Chief Justice of the Calcutta High Court who shows how many lakhs of rupees have been spent as in-pocket and out-of-pocket expenses of the Solicitors concerned in most of these cases. As regards the commission allowed by the Court to liquidators, the Banks Liquidation Proceedings Committee have made severe remarks. It says, for example, that there is a clear instance of wide divergence of payments as regards the costs of liquidation. In Calcutta in the case of one Bank, the liquidators realised about Rs. 85 lakhs and earned a commission of about Rs. 2.57 lakhs, whereas on the same amount of recovery by the liquidator, the commission under the Bombay rates would not have exceeded Rs. 86,600. This is from para. 29 of the Banks Liquidation Proceedings Committee.

The liquidators are officers of the Court. Many of them practising Members of the Bar. But I have noticed that for getting very minor directions

of the Court or for passing accounts they appear through counsel. This is most amazing. They appear through counsel or through Solicitors. They might very easily appear in person, but they incur unnecessary costs and the Court allows it.

Shri B. Das (Jajpur-Keonjhar): Is that not the system in the Calcutta High Court?

Shri H. N. Mukerjee: Wherever the dual system is in operation, the opportunity is easier to take hold of for these people to get counsel appointed by Solicitors and so multiply costs. In one instance—of the Pioneer Bank—I understand the creditors raised an objection to this sort of thing, viz., unnecessary costs being incurred, but somehow judicial encouragement is not given to the creditors in regard to their rights, but encouragement is given to practitioners for whatever reason—that perhaps I should not go into.

Then again, there is no uniformity in liquidation proceedings. In Calcutta, one Judge, for example, said: "Day to day joining of office from your residence is not joining duty", which is a reasonable statement to make. Another Judge, however, allowed car allowance of Rs. 150 per month to the liquidator of the Central Calcutta Bank and permitted use of the Bank's car and also permitted the allotment of Rs. 800 for repairs to be made to the car concerned. This kind of thing has happened. While some liquidators have obtained directions of the Court not to file suits to recover small claims where debtors cannot be traced, no such general direction has been given to all liquidators.

4 P.M.

My point is this. Instances could be given galore, of the performances of our courts, and therefore I feel that we should be very chary of investing the courts with such rights as this Bill proposes to confer on them. Rules 76, 77 and 78 framed by the High Court under the Indian Companies Act, provide....

Mr. Deputy-Speaker: Is it not the object of the Bill to appoint court liquidators instead of *ad hoc* liquidators?

Shri K. K. Basu (Diamond Harbour): There is a provision to do away with it also.

Shri H. N. Mukerjee: There is a provision for the High Court to exercise its discretion, and to keep the old liquidators. My point is that it is very dangerous, particularly in view of the experience we have had already of these present liquidators—and I say so with all deference to the High Courts—to invest the High Courts....

Shri A. C. Guha: May I point out, Sir, that the option of the High Court is very very restricted and limited? I do not think any judge of the High Court will use that option lightly in the pending cases. All cases are to be transferred to the court liquidators, excepting those cases where the company law judge considers that such a transfer will be prejudicial to the interests of the depositors. The order has also to be passed in writing.

Shri H. N. Mukerjee: My difficulty is this. The Chief Justice of the Calcutta High Court has written to the hon. Deputy Minister a letter—from which he has quoted, and the text of which has been circulated to us—wherein the Chief Justice says:

"It will not be easy to remove a liquidator already appointed, because under the Companies Act, he can be removed only on due cause shown, and therefore generally speaking, the proceedings now pending will continue to remain in the hands of the respective liquidators now in office."

This gives us a very clear indication of the way in which the discretion of the court is going to be exercised.

Shri A. C. Guha: Simply to avoid that difficulty, we have made adequate provision in this Bill, and at the suggestion of the Chief Justice of the

High Court himself. What has been stated in the Chief Justice's letter is the arrangement under the present legal provisions. But here we have provided just the opposite. All cases are to be transferred automatically to the court liquidators, excepting such cases where the judge thinks that a transfer will be prejudicial to the interests of the depositors. The hon. Member is stating only the present position. It is at the suggestion of the Chief Justice of the Calcutta High Court, that we have made the other provision.

Shri H. N. Mukerjee: Under clause 6 of this Bill, the proviso to the proposed new Section 38A(3) reads:

"Provided that where the High Court is of opinion that the appointment of the court liquidator would be detrimental to the interests of the depositors of the banking company, it may direct the person appointed as the official liquidator to continue to act as such."

The continuation, therefore, of the present holders of the office of liquidator is contingent upon the exercise of discretion by the High Court concerned. As far as the Calcutta High Court, where the largest number of this kind of cases cropped up, is concerned, we can be sure that from what the Chief Justice has stated, that discretion is very likely to be exercised in a fashion, which at least I cannot welcome. That is what I wish to point out. I have not put in an amendment, but my suggestion would be omission of this proviso altogether, because there have been very unambiguous expressions used by the Banks Liquidation Proceedings Committee, which refer to the present incumbents. I find also that the Reserve Bank is very likely to institute an inquiry into the conduct of the present liquidators. If that is so, any possibility of the present liquidators having to be continued in office, even as a result of the exercise of discretion by the High Court, is a possibility which I want to

blot out, if I possibly can. I say this, because of the experience which the creditors have got. The creditors, the depositors, and such other people have represented their grievances to us, and they want their case to be put as strongly as we think with justice it ought to be done. That is the point I am seeking to make.

The courts have dismally failed to wind up banks, in the interests of the creditors. They seem to have kept the creditors away from all knowledge of winding-up proceedings, and normally they have granted liquidators' applications for dispensing with the appointment of a committee of inspection. Now, of course, Government have come forward with the idea that a court liquidator should be appointed. So far, so good, but you will get no more than what can be called a sucked lemon. Besides, the present liquidators may continue, which as I have already tried to explain, is a calamity. I say this again, and I would repeat what I said earlier, because the Banks Liquidation Proceedings Committee have categorically denounced private liquidators as dilatory and inefficient. I know some of these liquidators. Some of them happen to be my friends also, and I know what they do. After court hours, they go for a while to the office, go back home, come back again the next day after court hours, and charge the commission. This is not the proper way of looking after the interests of people's money. Now what are these small banks? These small banks keep the savings of very small people, poor rural folk, lower middle class people, and as my hon. friend Shri B. Das was pointing out to me, wherever we find small banks as in West Bengal, Bihar, Orissa and such other States, these small banks are the repositories of credit for small business. These small people cannot go to the big banks, and in fact, most of us cannot open accounts in the Imperial Bank, and so we want to open accounts in the banks which are more accessible to us, and which are rather easy for us to tackle, and that is how the common man gets into touch with

these common banks. Now we find these banks go into liquidation, because of the lapses of those who are in charge of their administration, and they are not brought to book. The charge of these banks is given over to barristers, who either have too much of practice to have any time left for looking after these banks, or barristers, who have no practice at all, who merely live on these liquidation proceedings, and who have really not the kind of training and equipment which is very necessary in order that these liquidation proceedings can properly be conducted. That is why I suggest for Government's consideration that court liquidators may perhaps be appointed from a wider circle, not merely from barristers, and solicitors, and chartered accountants, but you may make a rule that lawyers of all categories with ten or fifteen years' experience, may apply, and the court may appoint, whoever it thinks fit.

So, I suggest that especially in view of the likelihood of an inquiry being made by the Reserve Bank, into the conduct of those who are holding the job of liquidators at the present time, we should be very chary about giving them any possible hold upon liquidation proceedings in the future. It is good that Government have moved, but Government have moved perhaps too late—that is usual with Government—and after so much of delay that much of the benefit that could have been expected out of this legislation would no longer be available to us. Therefore I suggest that Government should try to make amends with all speed, by framing this law in a form as beneficial as it possibly can be to the interests of the creditors, and as preventive as it can be, of the business immorality which is so clearly suggested by such a very large number of bank failures in our country.

These are the points which I wanted to place before the House, but I have deliberately not given notice of any amendments, because I wanted to place my suggestions before the hon. Minister, in the course of the consideration motion that is being discussed.

Mr. Deputy-Speaker: Before I call upon other hon. Members, I would like to announce one thing. The other day, Shri M. S. Gurupadaswamy moved a motion for referring the Bill to a Select Committee. But at the time of making the motion, he had not mentioned the names. Therefore I could not read out the names, but he has given the names to the office later. Today he has not appeared in the House, to resume his speech. All the same, inasmuch as he has given the names, and he has already made the motion for referring the Bill to a Select Committee, it does not matter, if he is not present. I shall read out the motion, so that this also might be discussed, and referred to by hon. Members, as has been done already.

Motion moved:

"That the Bill be referred to a Select Committee consisting of Shri Rishang Keishing, Shri V. Boovaraghasamy, Shri N. R. M. Swamy, Shri N. Sreekantan Nair, Shri Mangalagiri Nanadas, Shri T. B. Vittal Rao, Shri S. V. Ramaswamy, Dr. Ram Subhag Singh, Shri Diwan Chand Sharma, Shri Jhulan Sinha, Shri Bishwa Nath Roy, Shri Shyam Nandan Mishra, Sardar Hukam Singh, Shri Arun Chandra Guha, Shri Tridib Kumar Chaudhuri, and the Mover, with instructions to report by the last day of the first week of the next session."

Dr. M. M. Das (Burdwan—Reserved—Sch. Castes): Mr. Deputy-Speaker, I rise to give my support to this Bill with a mixed feeling of satisfaction and sorrow. I am glad that at long last our Government has brought before the House a comprehensive measure regulating the liquidation of banks—a measure which will be beneficial to the unfortunate depositors of this country. At the same time, I am sorry to see the unusually long time that Government has taken in bringing forward this very important and urgent piece of legislation. The largest number of banks crashed in this country

during the post-war and post-partition period, i.e. during 1946-47. My hon. friend Shri Mukerjee from West Bengal has used very beautiful phrases in making allegations against the Government. This is nothing but a "face-saving measure of the Government", he says. Another beautiful phrase he has used is "indifferent inactivity of our Government". I want to tell him that at the time when all these banks in West Bengal, Punjab, Madras and Bombay crashed, Government was not sleeping over the matter. They were watching the situation with the greatest interest and adopting necessary measures.

Shri T. K. Chaudhuri (Berhampore): You mean these failures?

Dr. M. M. Das: They were fully aware of the facts and were vigilant. To meet the situation, they promulgated Ordinance after Ordinance governing the administration of the banks in our country. The evolution of the laws regulating banking in our country has been a very gradual process based upon practical experience and actual difficulties. Measures were adopted piecemeal one after another when the situation demanded them. Unlike the Indian Companies Act which had the English Companies Act before it as its model, "the Banking Company's law" in India had no precedent in the British statutes. Thus, we find that at the end of the war when evil days befell our banks and many of them began to crash one after another in rapid succession, Government tried to meet the situation by adopting legislation after legislation as and when the situation so demanded.

In 1944, a new Section was added to the Indian Companies Act which then guided the banking companies. In the year 1946, an Ordinance—called the Indian Banking Companies (Inspection) Ordinance—was promulgated. During the latter part of the same year, i.e. 1946, the Banking Companies (Restriction of Branches) Act was

passed. Again in 1948, an Ordinance—called the Banking Companies (Control) Ordinance—was promulgated. I want to ask my hon. friend Shri Mukerjee from West Bengal whether the passing of these different Acts and Ordinances shows that the Government was callous or that it was sleeping over the matter as he has alleged?

Shri Sarmah (Golaghat-Jorhat):
With what results?

Dr. M. M. Das: That is altogether a different question. Finally in March 1949, the Indian Banking Companies Act was passed in which were embodied all these different legislations promulgated piecemeal, with necessary modifications. But although a comprehensive and new legislation relating to the banking companies in this country was enacted, yet the winding up operations and procedures and the liquidation procedures were left to be guided by those provisions of the Indian Companies Act which guided the liquidation procedures of the other joint stock companies. It did not occur to our Government that the basic difference between a bank and a non-banking joint stock company requires and demands a difference in the liquidation procedures also. This omission, this failure on the part of our Government, to evolve a suitable and appropriate legislation for the liquidation procedures of our banks was indeed a retrograde step. It certainly betrays lack of imagination and foresight and also lack of proper appreciation of the facts. If the legislation that is before us today had been incorporated in the Indian Companies Act of 1949, then I am sure a few million more rupees would have gone into the pockets of the lawful owners—the unfortunate depositors who very indiscreetly and unfortunately deposited their money with banks of doubtful stability and integrity.

As a Member coming from West Bengal, I am not able to take lightly the unusually long time which our Government has taken—more than four years: from 1949 to 1953—to

evolve a really efficient and comprehensive measure which will benefit the depositors of our country. Some of my hon. friends during the discussion on a previous Bill a few days ago criticised, or rather questioned the propriety of promulgating an Ordinance to enforce the provisions of a Bill which would be brought before this House later on. So far as the Ordinance that enforced the provisions of this particular Bill is concerned, I have not the least doubt in my mind that our Government would have committed a great mistake if they had not promulgated that Ordinance before. The liquidation procedures adopted in the case of some banks in Bengal revealed the astounding fact that while the expense of liquidation amounted to Rs. 39·81 lakhs, the moneys returned to the depositors totalled only Rs. 17·64 lakhs. It was criminal on the part of any Government to allow liquidation procedures to continue in this manner. Government had to stop this process. And the only way in which they can do it was to promulgate an Ordinance to this effect.

Coming to the Bill itself, Sir, the most important provision that has been made is the appointment of a Court Liquidator by the High Courts of this land. This question of the appointment of a Court Liquidator, Sir, has been gone into in great detail by the Banks Liquidation Proceedings Committee. In their report, in para. 76, the Committee has said:

“The advantages of the Court Liquidator may be stated as follows:

Multiplication of staff is avoided. In Calcutta, for example, where there are 34 Banks under the control of private liquidators, each liquidator has his own staff and the expenses of his office, including rent and salaries are paid from the assets of the Company. In the case of a Court Liquidator, there will be one office and one staff, paid by Government to deal with all liquidations.”

[Dr. M. M. Das]

Again, the Committee said, "there will be considerable savings in costs. Moreover, the official liquidator being an officer of the High Court has ready access to the Court and can get his instructions from the Court more speedily and without the necessity of engaging Solicitors or Counsel".

Sir, the appointment of the liquidators by the High Courts is not something new or novel, that has been recommended by the Banks Liquidation Proceedings Committee. The office of the Court Liquidator at Bombay was established as a Government department under the superintendence of the High Court by a resolution of the Bombay Government in consultation with the High Court about 22 years back. The service rendered by the Court Liquidator at Bombay is well-known and acknowledged both by the Central Government and the Reserve Bank. What astonishes me, Sir, is why similar arrangements were not made and similar Court Liquidators were not appointed by the High Courts in other States of this country, especially in West Bengal, Punjab and Madras where the number of bank crashes were in no way less than that in Bombay.

Shri B. Das: You are blaming the West Bengal Government, I think.

Dr. M. M. Das: Whatever it may be, I am expressing my views on this point.

As for myself, Sir, I wish to say that the Reserve Bank should be appointed as the official liquidator. I do not understand, what difficulty our Government has, what difficulty the Reserve Bank has, in undertaking this responsibility.

Shri B. Das: The Reserve Bank is sleeping; it does not know its duty!

Dr. M. M. Das: Sir, the Banking Companies Act of 1949 has given to the Reserve Bank practically unlimited power for the proper administration

of the scheduled banks. In my opinion, the responsibility for the administration of the liquidation proceedings of the Banks should also be entrusted to the Reserve Bank. Sir, I fully appreciate the cogency of the argument that has been advanced against this procedure. But, I do not propose to confer exclusive jurisdiction on the Reserve Bank in relation to these liquidation proceedings. What I do propose is that in all cases the Reserve Bank should be appointed official liquidator to carry on the liquidation proceedings under the guidance, supervision and superintendence of the High Courts. But, this is a very intricate and complex question and I admit, Sir, there is enough room for difference of opinion.

A similar question also arose before the Company Law Committee and the Company Law Committee, after due deliberation recommended the setting up of a "central authority" like the Board of Trade in England which will execute the winding up operations of the Joint Stock Companies. But our Government did not accept that recommendation and in the Companies Bill, that has been introduced in this House during the last session, Government has made another amendment for the appointment of "official liquidators" in the High Courts. Sir, section 411 of the Companies Bill, 1953, reads thus:

"there shall be attached to each High Court an Official Liquidator appointed by the Central Government, who shall be a whole-time officer, unless the Central Government considers that there will not be sufficient work for a whole-time officer....."

This provision, Sir, for an Official Liquidator in the Companies Bill appears to be very similar to the Court Liquidator that has been provided for in the measure before us today. The only difference that I find is in the appointing authorities. In the Banking Companies (Amendment) Bill, the

appointing authority is the High Court whereas in the Companies Bill, we find that the appointing authority is the Central Government. I do not understand the significance of this difference in the appointing authorities. I hope, Sir, my hon. friend, the Deputy Minister who is piloting this Bill may throw some light on this point in his reply to the debate.

Sir, there are many other points which I propose to take up during the second reading of this Bill. I give my whole-hearted and unstinted support to this measure.

Shri B. Das: Sir, my hon. friend Shri A. C. Guha concluded his speech the other afternoon by saying that he does not wish to be proud to have fathered this legislation but he will be very happy if he will do away with all the tragedy that happened in Bengal and there will be no more failures of Banks. I know him for so many years and his great services to the cause of nationalism. Naturally, he is very very modest and in all humility he says he seeks the happiness of the people. That has been one of his pet ambitions in life. Sir, I support this Banking (Amendment) Bill.

Sir, I happen to be a neighbour of my friend Mr. Guha. Out of the 90 Banks that got liquidated in Bengal, as many as 40 of them exploited people in Orissa. They established in small towns of Orissa branches of their banks. They shut the doors and vanished when sufficient money was collected. I am giving you an instance. One of them—The Kamrup Bank came from Assam. (*Interruption.*) Sir, these small banks which got themselves liquidated in Bengal caused so much of hardship and distress to the shareholders, the middle class families and the small depositors who were mostly middle-class and lower middle-class people. They had to be thrown on the mercies of the ambitious company, promoters of Bengal and other parts of the country including Travancore-Cochin.

The Reserve Bank's name has been mentioned. I just mention that the

Reserve Bank has done nothing in the rehabilitation of these small struggling banks. I was one of those who were there at the baptising ceremony of the Reserve Bank in 1934-35. It was a Bank of the colonial rulers of India designed to meet the requirements of the alien Government, along with the Imperial Bank of India which was alien controlled then and even now. It later on brought in the list of the scheduled banks of the capitalists and industrialists of India who only thought in their own terms of economy and not in terms of the masses and their economic welfare or in terms of small industries. So, the Scheduled Banks, including that Imperial Bank and the Reserve Bank of India all combined. They did not help to develop Bengal, Assam, Orissa, Travancore or any other place. They helped in the development of Bombay and Calcutta cities where the industrial magnates live, of whom 90 per cent. were foreigners or 'foreignised' Indians who aided the foreigners in the matter of the exploitation of the masses.

I am taking you back to the period before 1946-47. Now, the Reserve Bank has become the National Bank of India. I have blessed it. I was present on the floor of this House when it became a National Bank. But its relationship as a national Bank does not quite fit in with the Imperial Bank of India. It is high time that the Imperial Bank should be nationalised. But the Reserve Bank, through the Finance Minister, will have to account to this House as to what happened to the huge invisible balances under the control of the Imperial Bank. Have they been spirited away or vanished or are they still under the control of the Imperial Bank authorities and the Reserve Bank? And yet, the Imperial Bank is the Banker for the Central and State Governments on behalf of the Reserve Bank.

Mr. Deputy-Speaker: How is all that relevant to this Bill?

Shri B. Das: A little, Sir. I am just developing my point. I shall not be taking much time, but I want to speak

[Shri B. Das]

once, because banking is a pet subject of mine.

Mr. Deputy-Speaker: It is a very interesting subject but that should have connection with the motion under discussion.

Shri B. Das: I am coming to that. The Imperial Bank has to be nationalised. Whether it is still to be called Imperial Bank or not, it should be nationalized properly, as the Reserve Bank now is.

Now, look at the small people and the small scale industries, with their constant dreams and hopes to develop small scale industries. The shareholders are small lawyers and clerks and they make these banks and we can help them in their effort to develop every part of India. Even in the south, in Madras, and in every part of India, the small people create these banks. The Reserve Bank—not the present nationalised Reserve Bank, but the previous Reserve Bank—came to control the scheduled and the non-scheduled banks. Those banks could not stand that control of the Reserve Bank which was so mechanised and 'foreignised'. When the crash occurred in Bengal, most of us wanted our dreams of swaraj to be realized, and the economic development of India to come into fruition. Then, the small banks both scheduled and non-scheduled,—one Bank called the Nath Bank previously mentioned—all tried to help the industries. Shall I tell you, Sir, today in Calcutta, small industries are not prospering. The Reserve Bank has no thoughts for them. It has yet, in this sense, to be nationalised. I hope the nationalist Governor of the Reserve Bank—my old friend—will do that, but I understand he is retiring in a few months. But I hope the nationalist Governor of the Reserve Bank will understand that the Reserve Bank which was started in 1934 with high objectives to help the Industries and agriculture will now see that money flowed to the people and agriculturists. There is nothing that now flows. Only

ink flows on the paper and that was dripping on the paper and that has dripped on the floor of this House.

Shri A. C. Guha: There is another Bill amending the Reserve Bank Act.

Shri B. Das: I hope it will come. I am only trying to tell you that the Reserve Bank should be nationalised in all its functions.

Mr. Deputy-Speaker: Also, the Imperial Bank Act?

Shri A. C. Guha: No, Sir.

Shri B. Das: It won't come. The bogey of India and Pakistan is there. You are not agitating. The financiers are not politicians. The Finance Minister, the Deputy Finance Minister, are not politicians here. They must be purely economic and finance-minded. You and I know for the last six years what is worrying the minds of the Government of India. But I leave it there. I will come to the point which I was trying to make. The Reserve Bank is guilty. It has never helped, it would not help the non-scheduled banks to rise and prosper. It was a pure foreign bogey under the British cloak. It is foreignised, and it was purely a bogey up to 1946. They then passed an Act here but their Agent the Imperial Bank remains unnationalised. They never tried to understand what was the needs of the people. I now understand that the Calcutta small industries appointed a committee of enquiry. They found that there are now no small banks—only small-scale of financing. They found they have all gone. They now borrow at 15 per cent. They go to the 'Kabuli' to borrow money. The Government of India have now got the rehabilitation banks, and this morning I put a question to my friend, Mr. Guha, about the States Finance Corporations. I do not know how they are helping the corporations. I hope they will help the small industries as the Industrial Finance Corporation is doing for large industries. The Industrial Finance Corporation have not brought hope to me or to my

friend, Mr. Guha, while he was sitting on this side of the House. I do not know what he is thinking. I do not want to know what he thinks about it and about the Industrial Finance Corporation. I do not want to know it, but everything that the Government have done so far is to help the capitalist structure of society....

Mr. Deputy-Speaker: That is a report of the Committee. Evidently, the hon. Member is considering it.

Shri B. Das: The report has not been laid on the Table of the House. I hope the Minister will enlighten me on that point.

Shri A. C. Guha: It will be laid.

Shri B. Das: It has taken a long time to print it. I am afraid there is something wrong in the printing press.

Shri A. C. Guha: I said it will be laid.

Shri B. Das: I trust him. It is a tragic situation. It was so in Travancore in those days when the then Dewan ill-treated the 'Congress' Travancore Bank. He shut down the bank. Most of them were imprisoned and derided. The small banks could not stand the competition and the rigorous rules of the heartless, merciless Reserve Bank or its black ally, the Imperial Bank. So, these big banks never came to their help and rescue. That happened, of course—my friend, Mr. Hiren Mukerjee said that the directors were lawyers and the banks had to be liquidated. When we talk of liquidators, I know—and my friend Mr. Guha, the Deputy Minister, gave a graphic description of how property has been transferred in the name of the lawyer Director, his wife and children. I hope it is a matter for lawyers to take up. But whatever that may be, I want the economic development of the country. There was so much hope of that taking shape, but those hopes at the end of the second war were blighted by those liquidations, and the question has been asked whether the liquidators did not function. I am glad my friend Dr. M. M. Das agreed with

me. The Bengal Government was not as alert as the Bombay Government. They did not look into the liquidation aspect. The Bengal Government ought to have done that.

I am glad that our Government have brought this Bill. I am not here to praise it, but I feel the Reserve Bank has yet to get my certificate, because it should function as a national bank through its agency, the Imperial Bank.

Everybody is talking of depositors. Nobody has said a word about the patriotic shareholders. I happen to be a shareholder of two liquidated banks. The Managing Director of one of the banks was our worthy friend in the former Assembly—the late Mr. Akhil Chandra Dutta. That bank went into liquidation. I am a man who does not understand anything of the work of lawyers.

Shri A. C. Guha: If the hon. Member has not paid the full amount of the share, I think the liquidator will ask him to pay the balance.

Shri B. Das: That is why I dislike the High Courts. The High Court did ask me to pay the balance and I had to pay it. But I would say....

Mr. Deputy-Speaker: The High Court only enforces the law. The hon. Member must thank himself if the High Court does not enforce it against him. The law is passed here. The High Court enforces it.

Shri B. Das: My friend, and our great friend, the late Mr. B. N. Rau is no more. He tried to adapt the laws to our conditions of sovereignty but if the laws had been adapted in the old fashion, it is for some of us to adapt the laws to suit our own national dignity and the High Courts or the Supreme Court are not there for that purpose and treating the laws in a way as if there is no national interpretation of them.

Dr. N. B. Khare (Gwallor): Is not law an ass?

Shri B. Das: I bow to the opinion of my experienced friend; we have been co-workers in life for a long time. But this is my point: that my friend will write an epitaph or asking the Finance Department to do it on these defunct shareholders, "in memory of the shareholders of small Banks who, out of their patriotic spirit towards national industries died unmourned and their children left starved for ever".

Mr. Deputy-Speaker: The liquidator may yet pay full sixteen annas in the rupee.

Shri B. Das: You are an eminent lawyer, but I have no faith in the lawyer liquidators. As some hon. friend pointed out, liquidators need not always be lawyers and the process of law is terrible, harassing ununderstandable.

Mr. Deputy-Speaker: This measure is to do away with lawyers.

Shri B. Das: But lawyer liquidators.....

An Hon. Member:...are swindlers.

Shri B. Das: I am glad such an eminent lawyer is saying that liquidators are swindlers.

I have to say one thing. This is a preventive law and the first one to be framed after our independence. But it is high time that the Reserve Bank should be advised to function nationally and to think in national terms, not in the terms in which business of banking, management of national credit follow practices of England and the United States of America. The Reserve Bank must function with a soul and I hope that soul will be brought in by measures which will be sponsored by the hon. Minister.

But, Sir, what is the Reserve Bank doing and my hon. friends on the Treasury Benches doing about the economic development of our country, for promotion of banking habits among our people? There is that body known as the Planning Commission

sitting somewhere in the Rashtrapati Bhavan. It sometimes issues long tales about its doings. We hear of small savings certificates and small savings advertisements.

Shri K. K. Basu: Only for newspapers!

Shri B. Das: I am too old to read everything, my friend is an active economist.

These small non-scheduled banks should not be allowed to go into liquidation. The Britishers, the colonial Government that ruled and crushed us, would not allow any private Indian banking to develop, with the result that big private bankers like Daga in Madhya Pradesh went into liquidation. But in Bombay there are still private banks run by ladies the turnover of which amount to crores. It is now my Government that is in charge of the affairs of this country: I share their joys and sorrows. But, unfortunately, we have not yet understood the economic habit and thought of our villagers. The villagers' money must be drawn. Of course, Government is very happy to draw it through postal certificates which go to meet the ways and means requirements of the Government. But it is no investment. The Government of India pay 2 per cent. to 3½ per cent. for the money which one has in the postal deposits and saving's bank deposits. But how is that money being utilised to increase the resources of the country? It is bankers, small bankers and money lenders who are helping our industries, the trade and economic side of our national life. The Postal Department may sometimes help to pull the Finance Minister of the Government of India from holes. But this sort of deposits, or saving habit does not help the development of industries. It is no banking habit. Sir, this is a feeler which I am giving to my hon. friend Shri Arun Chandra Guha. He and his colleagues should think of these things and they must make available liquid resources to the

countryside. The Reserve Bank has failed to do it; the Imperial Bank deliberately worked against it. Of course, it has patronised big magnates like my hon. friend Shri Tulsi-das Kilachand!

Sir, I take this opportunity to recognise the fact that Shri Dhiren Mitra did yeoman service in producing his valuable report. He is a great solicitor; he is a great servant of the Government of India. His report gave Government a chance to set right mistakes known and unknown, realised and unrealised, and they have brought forward this Bill of which I am happy.

But I have to say one thing more. Banking, Sir, has become a very difficult thing in India. My hon. friends who are labour leaders here will no doubt realise the fact that bank employees today do not contribute to the prosperity of the banks. Sir, a clerk leaves his table exactly at five o'clock. If he is entering a figure Rs. 350/4/-, he will stop at Rs. 35, the other figures will be entered when he comes next day. To High Court Judges this has been a windfall. I am one of those who never dreamt that all our retired High Court Judges should beg about to sit on these Tribunals, these labour tribunals, the income-tax tribunals and banking tribunals. The voluminous reports these tribunals submit to the Government of India very often run into 50 pages, 100 pages and sometimes 500 pages. But what is happening. Trade unionism is a thing which some people very much advocate. But there should be a limit to trade unionism. It stifles banking. Those of us who have read these documents published in the Gazette of India, have very often felt that there is no chance for indigenous banking, except for the Reserve Bank of India, the Imperial Bank or the Bank of India or the Bank of Baroda. That is a point of worry to me. How can we develop our industries if obstacles are put in our way everywhere. I wish to see the day when our Reserve Bank will play its part

in the national development of our country. I felicitate Mr. Guha to whom it has been left to sponsor this Bill and I hope good results will flow.

Shri U. M. Trivedi and Shri R. K. Chaudhari rose—

Mr. Deputy-Speaker: Shri R. K. Chaudhuri is not affected by this Bill.

Shri U. M. Trivedi (Chittor): He is the wisest man; he never deposits any money in banks.

Mr. Deputy-Speaker: I mean Assam is not involved.

Shri Sarmah: We are very seriously involved. As a matter of fact some eight or nine scheduled banks failed in Assam lifting away Rs. 12 crores. All these had their Head Offices in Calcutta. We are now at the mercy of money-lenders coming from other places:

Shri U. M. Trivedi: Sir I have every sympathy for those who have lost so much of money.

Sir, there is an amendment asking for reference of this Bill to the Select Committee. This Bill is trying to modify the law to a very great extent. The whole of Part IIIA of the old Act is being replaced. Many far-reaching provisions are being put into it. Some of them appear to me to be of a novel nature. So much so that it appears that the High Court which is merely to function as a court of justice, which justice is always honoured and respected by us, is being turned into a sort of magisterial court. And we are giving prosecution of people and complaints of such nature to the High Court as its functions. I do not know how far it would be fitting in with the present notions of jurisprudence that we should allow High Court judges to be sort of prosecutors.

[PANDIT THAKUR DAS BHARGAVA
in the Chair]

The other curious provision that is now provided by this law which we must examine in full detail is this. If the High Court feels that it must examine the director and auditors as

[Shri U. M. Trivedi]

provided for in clause 45G, the language does not say who will lead the examination-in-chief. It is true that a liquidator will be there to conduct the cross-examination, if necessary. It is true that the High Court judges may ask questions, if they think fit. But then the burden is cast upon the High Court to arraign the man whom it accuses of a particular thing and then conduct an examination itself. That is to say, we are relegating the High Court to a position of complainant and judge in its own cause. We have to look into this provision and examine whether it is a valid provision under the law of the land or not.

It is such provisions which require to be looked into. And it is quite necessary in the interest of a person who is accused of a particular thing, against whom a sort of judicial proceedings are carried out, that he must be assisted by the presence of a lawyer to help him to put in his aspect of the case. A very limited provision is made in clause 45G that the person examined shall be examined on oath and shall answer all such questions as the High Court may put or allow to be put to him. And then it says:

"A person ordered to be examined under this section may, at his own cost, employ any person entitled to appear before the High Court who shall be at liberty to put to him such questions as the High Court may deem just for the purpose of enabling him to explain or qualify any answer given by him."

That is to say, a very great limitation is put against the right of an accused person to explain things which are said against him. We should have to examine this law whether it is necessary in the interests of justice or in the interests of the present law in respect of banking companies and whether such a limitation should be put upon the law or not.

Then, Shri H. N. Mukerjee when he was making his speech on this Bill

suggested that the proviso under section 38A may be taken away. I for one would suggest that the proviso is a wise one. It is essential to keep such a proviso. Otherwise it is bound to create difficulties when we are bringing in this new law providing for a court liquidator, an officer of the High Court who shall always be attached to the High Court. Once we appoint him and have a provision that without assigning any reasons all the powers of the liquidators will cease and all those proceedings of liquidation that may be pending before them will be automatically transferred to the official liquidator, certainly a provision would be necessary as provided for in the proviso to section 38A. We have to examine that and also see the propriety thereof, whether we should or should not keep it.

With very great respect I would make one submission here. I did not like the venomous attitude of Shri H. N. Mukerjee who most venomously brought in the name of my deceased leader, that he was enjoying a sort of liquidator's salary from a particular bank. Perhaps he does not know what work Dr. Mookerjee used to put in. He has not the capacity of that great leader. He does not know the industry that he had. He has no idea of how he was managing his own affairs, with what conscience that gentleman was working. It was very bad taste on his part to have made use of the name of that gentleman and clearly marked him out for a particular example.

Things do happen in banking circles; I agree that mischievous things happen. They do not happen in banking circles alone but all over the world. We are now surrounded by people who are corrupt. We are calling them corrupt and calling from house-tops that most of them are corrupt. But there are always honest people also. Because of those honest people things go on honestly in the world. Otherwise we would all be in a very rotten state of affairs.

Mr. B. Das in his speech said that on account of the trade union movement the clerks generally put down their pen exactly at 4-30 even when they are writing out a figure, and he said they stop at the annas and write down the ples the next day. But I know of other cases. I have myself worked as a small clerk in a bank. And even today such cases exist. We have not only to go to the bank at 9 or 8-30 in the morning but to stay and stay right up to 8-30 or 9 in the night before we reach our houses. It is not that people are entirely governed by trade unionism. There are people who want to work and discharge their duties. We cannot rope everybody into the same category.

Shri B. Das: That was the old practice, not after the trade union movement.

Shri U. M. Trivedi: Even today in the United Commercial Bank at Bombay those people stay right up to 6-30.

Shri B. Das: I am glad to hear that.

Shri U. M. Trivedi: Anyhow it is my experience of Bombay banks. I have no idea of Calcutta banks. It is true that the reports are very bad so far as the Calcutta banks are concerned and so far as the West Bengal Government is concerned. And we have to be very careful about the whole law that we are making. In the statement of objects and reasons, in the penultimate paragraph it has been stated:

"Meanwhile, certain data recently collected about 82 banks in liquidation in West Bengal showed that while the expenses of liquidation amounted to Rs. 39-81 lakhs, the moneys returned to the depositors totalled to only Rs. 17-64 lakhs of which Rs. 15-61 lakhs were paid by one single bank."

5 P.M.

It is a very bad state of affairs which needs no comment whatsoever. But, then, is this Bill the remedy thereof?

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That question also has to be examined. Are we going to remedy this state of affairs by merely appointing a liquidator or where the liquidator chooses to carry on this sort of affairs, is it going to improve in any manner by merely appointing an official liquidator, just as we are proposing in this Bill? All these things will have to be thrashed out and this can only be done if the Bill is sent to a Select Committee of properly chosen Members who have wide experience of banking and wide experience of how things are conducted in liquidation proceedings. It is a very easy thing to make certain remarks. It is very difficult to make constructive suggestions keeping a proper perspective of the whole question before us. I would therefore suggest and request the hon. Finance Minister to see that this Bill is not rushed through in the manner in which it is desired to be rushed through, taking it for granted that all the wisdom is spent by providing the various clauses in the Bill. All this will have to be looked into. I have gone through this Bill cursorily and I find there is a novel procedure providing for a sort of recovery of dues even beyond limitation and the law of Limitation is being set at naught. We will have to see whether it is desirable to set the whole law of Limitation at naught for getting a few scores of rupees and whether it would be necessary to pursue the people who have had the misfortune or good fortune of being at one time or another directors of banks. There are some who are passive and never take any interest in the things they do and who sometimes, by force of circumstances, are made directors. Are we going to follow them up for years, cause them worry and ruin their life? Is it desirable that we should do all these things? I do not want to offer a sort of criticism *ad hoc* on the whole Bill. I still say that the hon. Finance Minister should see to it that the Select Committee proposal is accepted. It is quite mete and proper that he should himself make certain suggestions about names to be added to the Select Committee which has been sug-

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gested. A proper Select Committee may be appointed and it may be requested to submit its report as early as possible. In view of the circumstance that far-reaching changes are contemplated by these provisions, when the whole of it is re-drafted, it is quite fit and proper that it should be looked into by the Select Committee, and passed into law.

Shri R. K. Chaudhuri (Gauhati): Sir, ordinarily, I should not be speaking on a subject like this, a ponderous and uninteresting subject. I would not be quite correct in saying that I am absolutely uninterested in banking. I am at least interested in one branch of its activities, namely, the issue of overdrafts. The issue of overdrafts is the cause of all mischief that brings about the state of things which necessitate legislation like the one which we are having at the present moment. I would like from my own experience, to warn those who have indulged in overdrafts that it is a very dangerous thing.

An Hon. Member: Have you drawn overdrafts?

Shri R. K. Chaudhuri: It is a very dangerous system.

Shri A. C. Guha: For whom? For the bank or for the person who draws?

Shri R. K. Chaudhuri: For the person. I can tell you about the experiences of the person. I have said on a previous occasion that two institutions think on the same lines, namely the Income-tax department and the housewife. The Income-tax department generally mistakes an overdraft for the income of the man and assesses accordingly. The housewife, at any rate, the modern housewife, who knows how to read English, sometimes imperfectly, mistakes an overdraft as amount to the credit of the person, and therefore quarrel arises. In the general sphere of banking, I hope the hon. Minister will agree, that this is the source of all the mischief that has so far occurred. Hitherto, the post

mortem operations after a bank had gone into liquidation were carried on with three objectives. First, to grant protection to the bankers themselves. Before it absolutely closes its operations or immediately after the closing of the operations, the courts grant protection to just save the directors and other employees of the bank from being manhandled. The second objective is to provide employment to a certain class of people, conversant with law and moving about in law courts. It enabled, thirdly, the debtor, at least to be honest enough to discharge his debt because—I am sure you have not got that experience; but those who have experience will know—a bank dead is more dangerous than a bank alive. A bank alive may show certain consideration in realising the debt from you; but a bank dead, that is a bank which is being administered by an official liquidator is a very dangerous institution. The liquidator is interested in getting the debts collected as quickly as possible. He gets a remuneration of 5 per cent. or sometimes more than that. Therefore, he is cruel and tries to realise the money from the debtors. These are the three things which we were doing previously. But, this Bill, I welcome because it will bring about a change in the right direction. It will bring into being more effective steps for the realisation of the debts on the one hand and for the punishing of those people who are responsible for the failure of the banks. To that extent, I wholeheartedly welcome this Bill.

But, I have got certain observations to make with regard to the provisions of the Bill, which may kindly be taken into consideration by the hon. Minister in charge of this Bill. I remember, with some amount of pain and surprise, that the Mover of this Bill was one of the most caustic critics of the Government's attitude or Government's inactivity so far as this matter was concerned. I believe he has given a reflection of his views in the Bill. Now that he has come into office, he

has tried to remove those evils of which he was a constant critic in those days. To that extent, I congratulate him. But, I may straightaway tell the House that I am still, even at this age, one of the practising lawyers in different courts and looking at this legislation from the lawyer's point of view, I, first of all, object to the method of summary trial which has been laid down in this Bill. You know, Sir, that summary trials are allowed in ordinary courts when the value of the stolen property or the value of misappropriated property does not exceed Rs. 50. Here large sums of money may be involved and even then the High Court is entitled to try the whole case summarily. As a matter of fact, in this Bill it is not laid down what kind of cases are allowed to be tried summarily and what kind of cases cannot be tried summarily. As regards the provisions regarding appeal, the Bill is not clear.

The Bill says the High Court will lay down rules by which it will be prescribed in what kind of cases appeal will not be allowed and in what kind of cases appeal will not be allowed, and what will be the procedure generally. So, I would ask the hon. Minister to look into this point. I should say that the High Court should not be made to try petty cases. There may be many petty cases; there may be bigger cases also, but the High Court which is the final tribunal of appeal so to say should not be called upon to try ordinary criminal cases and make their judgment unappealable, or unappealable ordinarily, by the persons affected.

Then, a litigation in a High Court, as one knows, is very expensive and the person who is a debtor of the Bank or who is a Director of the Bank may find himself in a very uncomfortable and unjustifiable position if cases are tried by the Court in a summary way and they are not subject to the ordinary law. The higher the Court the lesser the chance of getting any justice in an appellate Court. For instance, if a High Court

gives a judgment in a criminal case, it will be very difficult to get it set aside ordinarily, and therefore scope should be given. All cases of a criminal nature arising out of these proceedings should be tried by a Magistrate.

Shri U. M. Trivedi: On a point of information, there is no quorum.

Mr. Chairman: Now the hon. Member can go on.

Shri R. K. Chaudhuri: Then, what I most seriously object to the inclusion of a provision here which lays down that the High Court can, in some cases, order the realisation of the dues by treating it as arrears of land revenue. As an example it is very contagious. I have found such a provision in the Estate Duty Act to which I raised most strenuous objection. Here it is a dispute between two private persons. The Government or the State or the public interest does not come into the picture. When one individual is trying to realise his dues from another, I think resorting to this method of recovery is something which cannot be ordinarily upheld. I therefore request the hon. Minister to look into that Clause. To be precise, I can quote the Clause if the hon. Minister wants. Sub-clause (3) of Clause 45T says:

"Without prejudice to the provisions of sub-section (1) or sub-section (2), any amount found due to the banking company by an order or decision of the High Court may, with the leave of the High Court, be recovered in the same manner as an arrear of land revenue."

As I understood from the discussion in this House on the Estate Duty Act, one of the methods of recovery of arrears of land revenue was imprisonment. Now, let us for a moment consider the whole position. Here you are dealing with two individuals: one is a debtor, and the other is the creditor. In order to realise the dues of the creditor you are going to resort

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to this method of imprisoning him. We all know that the present tendency is—legislation has been passed under the Civil Procedure Code also—that no man should be committed to prison for realisation of his debt. But here you are going against the spirit of the Constitution, against the laws in every country, and you are allowing the realisation of a private debt—not a debt to the State—by resorting even to imprisonment. That is what I most seriously object to, and I hope the hon. Minister will accept my view and have this particular sub-clause removed.

Another thing, to which my hon. friend Mr. U. M. Trivedi who spoke just before me has also referred, is the limitation Clause in this Bill which has over-ridden all other provisions of the Limitation Act, and says that for realisation of any amount due from a Director there is no period of limitation. Just see what we are ourselves doing when we are keen on having business expansion in this country. Many a time many Directors have lent their signature and support because it was put to them that their signature would add weight and would bring in more shareholders. If steps are taken to realise the amount due from him within three years during his lifetime, it would be all right. But to wait indefinitely and make his grandson and great grandson liable to pay the amount is a preposterous position which cannot be supported. That clause of unlimited period for Directors should be deleted. As regards other debts the period is 12 years. You know very well that the maximum period of limitation is only three years for realisation of ordinary debts which are not secured or not registered. But here, a period of 12 years has been laid down for recovery of the debts. If you say that you must do away with all limitation, I am at one with you. There may not be any question of limitation in any matter, but the jurists thought the other way, viz., that there should be limitation

for recovery of certain claims. If this limitation was not there, human life would be impossible, stability would disappear, and therefore certain periods have been prescribed by the Limitation Act for recovery, through the agency of the Courts, of certain debts. The Limitation Act has nothing to do with the morality of the individual. Our late leader of revered memory, Deshabandhu Chittaranjan Das paid to the extent of Rs. 59,000 long after it was barred by limitation. That debt was the debt of his father and he paid it. There is no limitation to an honest man. But in the business world there is a certain procedure, and the Sword of Damocles should not be allowed to be hanging for an indefinite period. Therefore, I would earnestly appeal to the hon. Minister not to insist on having these Clauses passed.

I am only speaking very broadly. I am not going to speak minutely on any point. Another thing to which I should make a reference is about the small depositors. It is stated here that the small depositors should get a preference. I would say that the small depositors who, it is said, should be entitled to get something, would be the very persons who were in the confidence of the Directors, who probably knew that the Bank was in a shaky position and had the opportunity of taking away large sums beforehand leaving only about Rs. 100 or something less to their credit. The small depositors are not necessarily those most affected. A small amount being at the credit of a person does not necessarily mean that he belongs to the poorer class. On the other hand, from my own experience in my State I have found that the poor people put almost all their savings in the Banks. You will be surprised to learn that as many as 14 Banks which had their head offices outside the Province had failed there to the greatest loss of the ordinary man. There are no rich men there, but only ordinary classes of persons, who, instead of keeping their money in their houses, for fear of

burglary—actually it is not so much of burglary, as of incendiarism, or a house being on fire etc.—put the money in the banks, and they have lost everything. They do not get even Rs. 100 now. In my opinion, the hon. Minister may take into consideration whether he should not have the benefit under this provision, raised to about Rs. 200 or 300, so as to make that amount available to the poor depositors—not, technically speaking, the 'small depositors' but the really poor depositors.

Shri Jhunjhunwala (Bhagalpur Central): Who is to find out whether he is poor or not?

Shri R. K. Chaudhuri: How are so many other things going to be found out?

If Rs. 200 or Rs. 300 are given to a small depositor,—I mean the poor depositor—it will be a great relief to him. I know of a tailor, who had lost about Rs. 6,000, when the Pioneer Bank went into liquidation. He had saved everything, in order to have a marriage in his family, but he had lost everything. Now he is a poor man, and such a person would find it beneficial to have Rs. 200 or Rs. 300, under this provision. I would therefore suggest that the benefit under this provision should be raised, and given to the poor depositors.

Talking about the Reserve Bank, I feel the least said about it the better. I am not saying about the present Reserve Bank. I do not know anything about the progress that they may have made in the meantime. But I know of the years which had gone by, 1945 or 1946, when the Reserve Bank had the absolute right of declaring any bank to be a scheduled bank; they made some inquiries, and made any bank they liked, a scheduled bank. Now, what was the object behind scheduling a bank? The public generally understood by scheduling, that if a bank is scheduled, the Reserve Bank will come to its aid, when it is in difficulty. I challenge the hon. Minister to tell me, in respect of which of the banks that have

gone into liquidation in Bengal, help was given by the Reserve Bank. Was any bank there helped with funds and other things, when it was about to be liquidated?

Shri A. C. Guha: The Nath Bank was helped.

Shri R. K. Chaudhuri: Did the Reserve Bank come forward then and say, look here, I am going to help you? Did the Reserve Bank give any help by means of funds?

Shri A. C. Guha: The Nath Bank was helped.

Shri R. K. Chaudhuri: I do not know of that. I say it is not known to the public, even though it was done in a beneficial manner.

Mr. Chairman: Order, order. The hon. Member has been on his legs for a long time, and we have already devoted nearly three hours to this Bill, out of the 1½ days allotted for this Bill. Previously we had devoted 1 hour and 11 minutes, and today also we have devoted about 1 hour and 45 minutes. I am only submitting to hon. Members that there are about 54 amendments to this Bill. In regard to this Bill consideration stage is not so important as the clause by clause reading. I would therefore request hon. Members to be very brief.

Shri R. K. Chaudhuri: I would only ask the hon. Minister to consider these suggestions. I had other suggestions to make, but for the present, I shall conclude.

Shri T. K. Chaudhuri: Sir, I shall try to be as brief as possible. While welcoming this measure as far as it goes, I must say that I was astounded at the type of defence of this Bill, which was being put forward by my hon. friend Dr. M. M. Das, a little while ago. With regard to the phenomenon of bank liquidation in the post-war period, and particularly after the partition, he was saying that Government were not sitting idle, but they were watching the situation, and they had passed so many Acts with regard

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to helping the creditors in the difficult situation that had arisen.

I would like to draw the attention of the House to the history of the past four years, since 1949. I do not want to go further into the past. In 1949, the Banking Companies Act was passed. If you look into the statistics of bank failures, you would find that 48 banks suspended business in 1949 itself, 33 banks in 1950, and 24 banks in 1951. That all these three and a half years, Government did nothing except passing an ordinance in 1950, which was later replaced by the Banking Companies (Amendment) Act of 1950, which simply sought to reduce the multiplicity of liquidation proceedings. What amazes me most is that Government looked upon the phenomenon of bank liquidations simply as a matter of simplifying or quickening the liquidation proceedings, as if, when we simplify the legal procedure about the winding up of the banks and make the liquidation proceedings easy, somehow or other, the small depositors will be saved.

But as I have stated earlier, Government were all the while there with the custody of the entire credit and banking system of the country in their hands, and the Reserve Bank was there, but they failed to realise in the face of banking crisis of 1946-47 what was happening. Even though the Bank Liquidation Proceedings Committee were not asked to go into that matter, still they could not refrain from noting the causes of these bank liquidations. The Report of that Committee says:

"A major part of these failures occurred from the year 1947 onwards. This was partly brought about by the fact that the public lost confidence after the second world war, in institutions, which, during the war years of inflation, received substantial deposits which the managements did not invest judiciously."

There were other reasons, among which one at least was the partition of the country, and the fact that many of the assets of certain banks were in Pakistan. This also was largely responsible for the loss of confidence, by the public in those banks.

But what was the Government doing in the face of the grave situation that was arising? If I remember correct, at least in Calcutta, there occurred a precipitous loss of confidence in the banking system and in the credit institutions of the country, particularly, in the war babies of banking that had grown up during the war period due to all sorts of credit inflations since the Great Calcutta killings and it was about that time that a crash occurred on the Stock Exchanges. Most of the banks which came to grief thereafter had invested money in Stock Exchange and speculated on share scrips. But, so far as the Government and the Reserve Bank were concerned, they did nothing. In the words of our esteemed friend, Dr. M. M. Das, they were simply watching the situation and doing nothing more.

Dr. M. M. Das: Those words, 'doing nothing more' are not mine.

Shri T. K. Chaudhuri: I am adding those words, because they did nothing. That is a plain fact of history.

Dr. M. M. Das: That is your opinion.

Shri T. K. Chaudhuri: It is not my opinion; it is a fact. What did they do; they did nothing.

Now, Sir, it may be asked what could have been done. The present amending Bill has been aptly characterised by another esteemed friend of ours, Shri B. Das, whom we all respect for his outspoken views, as a negative measure. If we want to save the small depositor and if we want to save those banks which are still alive and carrying on somehow or other but which may come to grief any moment, then something else must be done. Some positive measures must be taken.

I may refer the hon. Deputy Minister and the hon. Members of this House to what happened in the United States after the great crash of 1929-30. At that time, Sir,—it is a well-known matter of economic history,—the entire industrial credit system and the banking system of the United States crashed and collapsed almost overnight. But, soon the Government adopted emergency measures and after a certain time, when the situation had become stabilised a bit, they adopted a series of other measures which not only stopped bank failures but also salvaged the banks which had suspended business and which had come to grief and tried to revive them. Not only did they try to revive them, but they actually revived them.

I refer you, Sir, to this account by the celebrated monetary economist, Dr. Edwin Kemmerer. In his 'ABC of the Federal Reserve System', he details the measures, in a summary form, which were taken by the U.S. Government. First, the Government opened a National Credit Corporation. That institution was financed by banks and others and was designed to extend credit on assets that were sound but which, under the existing law, were not eligible for re-discount by Federal Reserve Banks. When the emergency became so acute and the assistance proved inadequate, the Reconstruction Finance Corporation was created which was authorised to strengthen the capital structure of banks in difficulties by purchasing newly issued preferred stocks including debentures of these banks and to advance easy loans to them so as to bolster up the weak spots in the credit structure of the country.

I feel, Sir, that that type of organisation is very much necessary and called for in the situation in which we are placed. Of course, at the present moment, the phenomenon of bank failures is not so acute, but we cannot save the situation nor can we provide for safeguarding the small investors merely by simplifying the

liquidation proceedings and by enacting certain negative legal measures. We have to take positive steps and we have yet no indication from the Government or from the hon. Deputy Finance Minister of the positive steps that they intend to take. He informed us that the Reserve Bank (Amending) Bill is in the offing, but, so far as I understand, it relates only to high denomination notes and nothing else.

The entire policy of the credit system has to be re-vitalised from the point of view of extending help to the small investors and the small savers, to the middle class and lower middle class depositors. If we want to achieve these things then we must take positive steps and think of opening credit institutions of the type which have been detailed by Kemmerer.

I would also ask the Government if they could think of any measure for insuring the depositors up to a certain limited extent. In the United States that was done by the Federal Deposit Insurance Corporation and, the deposits up to 5,000 dollars were insured. Every depositor, every creditor of a Bank is at least assured that that much of his money is safe and in all these liquidation proceedings when the banks go into liquidation it is this Corporation which acts as the Receiver or as the counter-part of the Court Liquidator that we are going to appoint. I would seriously request the hon. Finance Minister to think about these constructive suggestions which I am putting forward. In our country, the present conditions of banking and credit are such that some positive steps on these lines must be taken and we can well emulate the example of the United States to our benefit.

Coming to the Bill itself, Sir, we are giving the High Courts certain powers. But already, apart from the High Courts, the Reserve Bank, under the Banking Companies Act and the Reserve Bank Act, is also armed with extensive powers. The question natu-

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rally arises, as it has just been referred to by our hon. friend, Mr. Rohini Kumar Chaudhuri, what was the Reserve Bank doing with regard to the scheduled banks. The hon. Minister informs us that it helped one bank out of the 12 scheduled banks that came to grief. I might inform him, and this is not unknown to him either, that it has been openly alleged in Bengal, that in the operations of the Reserve Bank, a great deal of provincialism and other prejudices have played an active part. I do not say that because allegations have been made, we are to act on those allegations or to accept them. But these facts are not, perhaps, unknown to the hon. Minister and he must take steps to see that things do not happen in that way.

I also draw your attention to the very sound maxim which was laid down in the Report of the Banking Liquidation Proceedings Committee. Of course, those were not the views of the Committee but at least of some of the members who wanted the Reserve Bank of India should 'cherish the sound banks, nurse the sick banks and bury the dead banks'. Now, here we are finding a measure which is a sort of burying the dead banks and perhaps carrying on post-mortem when the flesh has already gone and the bones too are gone. We are passing a measure which may be helpful to us in future. But, it is pertinent to ask whether the Reserve Bank has 'cherished the sound Banks and nursed the sick Banks' properly. I may refer here to one recent case. I shall not mention names, but recently one of the banks in Bengal was asked to suspend its business and was forbidden to accept deposits under the well-known provision of Section 35 of the Banking Companies Act by the Reserve Bank. Now, it has been openly alleged that the assets of the bank were quite sound, but certain parties, certain non-Bengalee parties, wanted to come into the management of the bank and they secured a good part

of the share, but somehow or other, the management of the bank prevented their coming in, and at once, it has been alleged—I do not say that we are to act on those allegations or to accept those allegations—but it has been alleged that since that time the wrath of the Reserve Bank was directed against the bank and eventually that bank was asked to suspend its business. But what is amazing and that fact testifies at least to the wonderful public credit of the bank—that not one of the creditors of the bank brought in any case against that bank, and I am happy to inform the House that that bank is trying to transform itself into an investors' corporation and perhaps it will succeed in its efforts.

Now, these facts have been openly stated. I want this House and the hon. Minister to take serious note of these allegations, because, after all, the Reserve Bank has not to play merely a negative function. It is now a nationalised bank. It must help in the development of not only the entire banking system—it is not only the gurdian of the entire banking system—but we are on the threshold of big changes in our national economic life. If we are to put credit on the report of the National Planning Commission, and on the declared intention of the Government at least, we are standing on the threshold of a period of big national economic reconstruction. These intentions however lie buried under the pages of that magnificent tome which goes by the name of the National Plan. Here are some of the lines with regard to the functions of the credit system—I am quoting *in extenso* from the Planning Commission's report—this is what the Planning Commission say:

"The process of economic development, once started, will make new demands on the banking system, and this may necessitate change in organization and structure. Central banking in a

planned economy can hardly be confined to the regulation of overall supply of credit or to a somewhat negative supply of banking credit."

This is precisely what the Reserve Bank is doing at present—acting entirely negatively. But what is the Reserve Bank doing to help the 'sick' banks that might yet be revived or to extend new credit facilities for the large scale economic reconstruction envisaged by the Plan. We know the post-war conditions have been admittedly difficult. We know that the management of certain banks have invested their resources in an unwise manner, but is the Reserve Bank doing anything to salvage their business to help those banks, to put them on a proper basis so that the depositors may not suffer and so that ultimately the country may be benefited and be served by these credit institutions? But unfortunately, the prevalent doctrine in the Reserve Bank—the guardian of our national banking and credit system,—seems to be of that negative type which the Planning Commission describes. The Planning Commission further says:

"It will have to take a direct and active role, firstly, creating or helping to create machinery for financing developmental activities all over the country and secondly, in ensuring that the finances available flow in directions intended. For a successful fulfilment of the plan, it may become necessary to direct special credit facilities to certain lines of high priority. Banking development through normal incentive of private banking is apt to be a slow process.

The Planning Commission, appointed by this Government and the Members of which body enjoy the privileges co-equal to those of the Members of the Government,—they themselves—say in their report that:

"In this field, private motive may stand in the way of exten-

sion of credit facilities to sections of population which need them for rapid development. The proper discharge of the functions of the banking system will necessitate its operation more and more in the light of priorities for development indicated in the plan and less and less in terms of return on capital."

But unfortunately, like many other pious things, that are mentioned in the Planning Commission's report, these few lines also remain totally forgotten. Nobody among the people who have the trusteeship of our national credit and our national finances in their hands seems to have ever read or understood or realized or acted up to the maxims and principles that were laid down by the Planning Commission. Nevertheless, Sir, whatever may be the shortcomings of the present Bill, whatever may be the limitations of the measure proposed I accord my wholehearted support to this Bill, because I am of the opinion that if we have to have a profit system and capitalist system in this country,—of course, I am totally against them and I am for their overthrow—if we are to have such a system, let us have at least honest capitalists, not crooks, to run the finances of our credit system in this country. This Bill is a step in that direction. Therefore, I accord my support to this Bill.

Shri V. B. Gandhi (Bombay City—North): Mr. Chairman, Sir, in a general way, I am sure this Bill—the Banking Companies (Amendment) Bill—will meet with a welcome in this House. This House will welcome this Bill primarily because it fills a very important gap in our legislation on the subject of regulation and control of banking companies in the country. Secondly, this Bill is a rather belated measure, belated in the sense that if it is intended to be of any material help to those thousands of helpless depositors in Bengal, those depositors who have been so grievously wronged in these crises then this Bill has come too late. So far as these depositors are

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concerned, I am afraid this Bill amounts to closing the stable door after the horses have been let out. For, it seems very clear that one of the chief evils of the situation in Bengal, namely, the engagement of private persons as official liquidators cannot be remedied, since these liquidators can only be removed "on due cause being shown".

Thirdly, Sir, this Bill,—we do not know for what reason—has selected the bank directors for special treatment, a harsh treatment. And finally, Sir, we would have liked a more positive approach to this subject, an approach which would have kept in mind the whole problem of progress and expansion of banking in this country as a background against which to consider the limited purpose of this Bill which is to make liquidation proceedings more expeditious and less costly.

Now, Sir, the trouble with our liquidation proceedings today under the existing law is that they are usually so protracted, so complicated, and therefore also so costly. Probably the reason why this Bill has been brought before this House with such expedition is the story that has come out from West Bengal, a story which is so heart-rending, of the great tragedy there. Something has got to be done and here we have this Bill before us.

The problems with which this Bill has to do are two. They have been very well put by the hon. the Deputy Minister for Finance, Mr. A. C. Guha, when he said that the problems before us are: (1) multiplicity of courts and the other, multiplicity of cases. Now, Sir, our legislation on this subject has for sometime been rather incomplete. We should really have dealt with this subject as early as 1934 when by the Reserve Bank of India Act we created our central bank. A good deal of this legislation should have found place in the Reserve Bank of India Act. To some of us it seems our Reserve Bank

of India Act is something like only a Memorandum and Articles of Association of a registered company. However, a major step in the direction of supplying this legislation was taken in 1949 by passing the Banking Companies Act. This Act of course incorporated a number of ordinances which were in the meantime promulgated to help control and regulation of banking.

However, under the Banking Companies Act of 1949 the liquidation proceedings still continued to be carried on under the Indian Companies Act. Very serious difficulties arose and to meet these difficulties an amendment of the Banking Companies Act was made in 1950 and that is the present stage of this legislation on the subject.

Now, Sir, out of the two problems, namely, the multiplicity of posts and the multiplicity of cases, the first one was taken care of by the amendment of the Banking Companies Act of 1950. The other problem still remains and it is to take care of this other problem, an equally important problem, that the present measure is before us.

Government in July 1952 appointed a Banks Liquidation Proceedings Committee. This Committee was asked to suggest revision of the law, the procedure and the machinery of liquidation proceedings in this country in view of the difficulties and defects that had come to light. The present Bill is substantially based on the recommendations of this Banks Liquidation Proceedings Committee. That there was a very urgent need for something to be done to simplify the procedure and to make it more economical is understood when we consider the meaning of what has happened in West Bengal recently. In West Bengal there are 82 banks in liquidation. Out of Rs. 57 lakhs realised as a result of the efforts of these liquidators, a major portion of which should have been returned to the depositors, only Rs. 17 lakhs and 64 thousand were returned to the depositors. And what, do you think, happened to the rest? The rest,

that is Rs. 39 lakhs 81 thousand were all used up as liquidation expenses.

Here is the story in a nut-shell. 70 per cent. of the amounts realised did not return to the depositors but were used up as liquidation expenses and only 30 per cent. were made available for distribution among the depositors. That is not all, Sir. Even out of this Rs. 17 lakhs 64 thousand which was made available to depositors something like Rs. 15 lakhs and 61 thousand came out of the liquidation of one bank, one single bank. In other words, the tragedy means to us and to those unfortunate depositors that 81 banks in liquidation could make available only Rs. 2 lakhs and 3 thousand for all their depositors. That is the story of Bengal. So, we are not too early in taking up this measure.

This measure, Sir, as it is drafted is a measure to which we all can give our whole-hearted support, with, of course, as I said in the beginning, the exception of some provisions which deal with bank directors. I shall come to them presently. Those who framed this Bill deserve our compliments, because the Bill is comprehensive and as I said over-steps the limit only in one respect and that is in respect of the provisions dealing with the bank directors. This Bill provides for a special officer who would take charge of all the assets, books of account, etc., of the Bank immediately an application has been made.

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This Bill also provides for the appointment of court liquidators in preference to the present system of having some private persons appointed as official liquidators. This Bill also provides that booked depositors' credits will be deemed to be proved which will be of great value in collecting dues.

Then we come to a very important provision in section 45D about the settlement of list of debtors. This has been one of the very trying stumbling blocks in the way of realisa-

tion of assets. This Bill also provides that entries in the books of account of the banking company will be admitted in evidence in the proceedings by or against the banking company.

Then, as we all know, a very great step has been taken in preventing debts due to banks being barred by limitation in certain cases.

Finally the Reserve Bank has been given a position which should belong to it, a logical position in the scheme of things, with a right to tender advice, carry out inspections and to make reports.

Mr. Chairman: I do not want to interrupt the hon. Member. But so far he has given the history of the past legislation and given the purport of what several sections contain. He has taken about fourteen minutes and I have to see that the debate is finished today. I will just request him to kindly come to the point and finish his speech as soon as possible.

Shri S. S. More: He is speaking from the treasury benches and giving the summary.

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): He is speaking from the centre.

Sri V. B. Gandhi: I shall directly come to the provisions dealing with the directors. So far as the provisions dealing with the bank directors, especially the directors who are charged with misapplication, misfeasance, retainer or breach of trust, are concerned I believe none of us can have any quarrel with those provisions. But there are certain other aspects of these provisions dealing with bank directors, and even the manner in which these provisions are worded is not entirely free from offence to good taste. As between the delinquent directors, and particularly the unscrupulous ones among them, and the depositors there cannot be any doubt as to which side the sympathies of the House will go. But what do we find?

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Throughout the pages of the Bank Liquidation Proceedings Committee's report and also in various places in this draft Bill we find references made to directors which I think, to say the least, are not very fair. I am not a bank director. I do not aspire to be one. And I do not hold any brief for them. But I want to say that this country still needs bank directors as a class. Bank directors, normally, are very respected citizens in their community. If there are wrong-doers they should be dealt with by law, and there should be a law to deal with them.

Now, Sir, what exactly is all this talk about bank failures and the part the directors have played in these failures? Here are the figures given in the report of the Bank Liquidation Proceedings Committee. Between 1926 and 1946, that is in a period of twenty years, 164 banks failed. And the total of their outside liabilities amounted to Rs. 2,12,00,000. 164 banks with a total outside liability of 2,12,00,000—that is the number of those that failed in twenty years. In six years, between 1947 and 1952, another 157 banks failed (164 in twenty years and 157 in six years) and the total of their outside liabilities was Rs. 27,50,00,000. Now, Sir, why do we find this great discrepancy between these two periods in the number of banks that failed as well as in the total of their outside liabilities? Is that all due to directors? I suppose directors in the twenty years' period preceding were just about the same type of men that we have had in the next six years. Then there must be other causes. And those causes, we find, are mentioned here and there, such as that there was a war, there was inflation, there was partition of the country on an unparallelled scale, and there was of course the resulting economic dislocation. These really are the factors which should explain this great discrepancy.

Coming more directly to the bank failures in the immediate period of 1947-52, the causes of these failures

have been stated by the Bank Liquidation Proceedings Committee in their report on page 8, paragraph 18. Here are the causes as stated by the Committee. They say:

"The major part of these failures occurred from the year 1947 onwards. This was brought about partly by the fact that the public lost confidence after the Second World War in institutions which during the war years of inflation received substantial deposits which the management did not invest judiciously. There were other reasons as well which contributed to these numerous failures amongst which may be mentioned the economic effects of the partition of the country in 1947. In Punjab these banks which had their major assets in what is now West Pakistan, suffered a disaster in the months immediately following the date of partition."

This is the analysis of the causes as given by the Committee when they are actually talking about the causes. But, in various pages, observations about bank directors are interspersed and certainly they do not agree with this statement of theirs. I shall, just to give an illustration, refer to page 32, para. 49.

Mr. Chairman: I am very sorry to interrupt the hon. Member. I asked him to be brief. Now, it is ten minutes past six. I propose to call another hon. Member also. I would request the hon. Member to finish his speech in another five minutes. He has already taken 25 minutes.

Shri V. B. Gandhi: In how many minutes, Sir?

Mr. Chairman: I would request him to be as brief as possible and finish his speech in five minutes.

Shri V. B. Gandhi: I will try.

In some places they say that the failure of banks, for the most part,

can be ascribed to mismanagement and incompetence on the part of the directors. In some other place they say,—a very amazing sentiment to be found in a book like this—that there should be a day of reckoning between the directors and depositors.

Dr. M. M. Das: That is the proper term to be used.

Shri V. B. Gandhi: All right; I am coming to that.

It is surprising that in the Notes on clauses of this Bill, on page 18, we find a statement like this:

“In the case of a banking company, the depositors whose moneys are liable to be squandered,—whose moneys are liable to be squandered, note that—“have no voice in the appointment of directors. Since the failure of a bank is mostly due to mismanagement and misdeeds on the part of the directors, it is reasonable that the delinquent directors and the auditors should be made answerable for defaults and be liable to penalties.”

It is this kind of mood in which the whole Bill has been framed so far as the provisions regarding directors go. I shall refer to the relevant provision. Section 45G sub-clause 9 says:

“Where on such examination, the High Court is of opinion (whether fraud has been committed or not)—

(a) that a person who has been a director of the banking company is not fit to be a director of a company,.....

that person shall not, without the leave of the High Court be a director of.....any company.....”

It is rather difficult to understand why we are asking the court to declare that a certain person is unfit, and also why he is going to be declared unfit, even though no fraud has been committed. A director may be disqualified. But, saying that a director is disqualified is something different from

saying that a director is found unfit. If he is really found unfit and you are going to disqualify him for 5 years, how can you say that after five years, he becomes again fit? If he is disqualified, I can understand that the court has the power to remove the disqualification and make him qualified after 5 years. I have given notice of an amendment to that effect. There is a provision in the Indian Companies Act, section 141A, which I think would meet the needs of the situation. It is a very well worded section and I shall read it. The section says that a director or manager or other officer of the company, convicted as the result of a prosecution initiated under this section, shall not without the leave of the court be a director of, or in any way, whether directly or indirectly be concerned in or take part in the management of a company for a period of five years from the date of such conviction. A very similar provision exists in the English Companies Act of 1848.

Mr. Chairman: That means that the other hon. Member whom I propose to call will not be able to finish his speech.

Shri V. B. Gandhi: One minute, Sir, and I shall finish. There, in the English Companies Act, disqualification is made dependant upon fraud being committed. Here, in the present Bill, fraud or no fraud, we are out to declare him unfit.

Dr. M. M. Das: Incompetence.

Shri V. B. Gandhi: I think our country still needs the progress and expansion of banking facilities. Today, in our country we have hardly 4,000 banks, which comes to one bank for 90,000 people. In other countries like Canada and U.K., there is a bank for every 4,000 of the population. If we ever hope to come anywhere near their level, we shall have to have 90,000 banks. Let us try to achieve what we want without hurting or humiliating any class of people. On the contrary, let us try to encourage them.

Shri K. K. Basu: Mr. Chairman, at the fag end of this debate on the general consideration, I would like to express my views on certain points. As I have already indicated, I would not take much time and detain the House.

This particular piece of legislation concerning banks relates only to the procedural part, resultant on the recommendations of an expert committee appointed by the Government in 1952. As many hon. Members who have spoken have said, it was expected that the Banking Companies Act when amended, will do some positive good. But, we are here dealing only with the procedural part concerning banks which have been wound up under the Indian Companies Act or Banking Companies Act. While discussing this Bill, we should have liked to deal with certain other provisions regarding the functions of the Reserve Bank and also the duty of the Government to regulate the working of this Bank, which to a large extent, if I may be permitted to say so, can be considered as a social institution. Strictly speaking, the bank may be a shareholders bank; but a large percentage of the population, though they have no stake in the management, have everything to stake in the bank if it is managed in a wrong way. We thought that the Government, while bringing forward this legislation, would have tried to deal with all these problems, so that a lacuna in the administration of banks in this country could be done away with. However, in view of the urgency of the situation, Government has brought forward this Bill, based on the report of the Expert Committee appointed last year, dealing with the procedure under the Banking Companies Act.

In view of the shortage of time, I do not want to go into the details of what we expected there should have been in this Bill, but I shall deal with the Amending Bill before the House. Before I actually go to the Bill, I should like to mention that the hon. Deputy Minister of Finance comes

from the State to which I belong and he himself has wide experience of the results of bank crashes on the common people of my State had to face during the last 6 or 7 years.

Even in the present Banking Companies Act there are provisions in Sections 35 and 36 by which the Reserve Bank of India and the Central Government can intervene in the administration of the Banks. The Government can ask the Reserve Bank to look into the matter and report about the manner in which any particular Bank has worked. When this particular legislation was being discussed we thought that the Government would give us an idea of to what extent in the last six or seven years when so many Banks have crashed the Reserve Bank of India and the Central Government have discharged their responsibility towards the people and the depositors in our country. Unfortunately, no report has yet come forward, and so far as our knowledge goes the Reserve Bank and the Central Bank did very little to discharge their responsibility in this regard. However, by bringing forward this belated legislation there may be a chance that a very small percentage of the money that is going to be lost may be saved.

In this connection, a provision has been made for the appointment of Court liquidators. The Banks Liquidation Proceedings Committee specifically compared the position of the Court Liquidator and the private liquidator as found in two important commercial cities of our country—Bombay, and Calcutta. As a result of that we are now going to appoint Court Liquidators with a view to minimise the cost of liquidation proceedings and in an attempt to safeguard the interests of the depositors. But we do not know why a proviso has been added by which the High Courts have been given the power to appoint private liquidators in preference to Court Liquidators. I do not know whether I should say more in detail because already exception has been taken to

remarks made about the functioning of Courts. However, I should say from my own experience in my State that our High Court has not discharged its responsibility so far as the depositor is concerned.

We know—I will not go into details—that in 1946 and 1947 a large number of Banks crashed. Unlike in Punjab, in our State of West Bengal, we can differentiate the two categories of bank crashes: one class, a large percentage of whose assets is in Pakistan and could not be recovered; and another of quite a number of banks whose Managers or directors indulged in a very obnoxious form of share market dealing or fatka dealing. It is known to everybody, and more so to the Deputy Minister who is piloting this Bill, that these directors just squandered away the cash deposits of the Banks by going in for shares which possibly had no value or by buying them at inflated prices. As soon as the prices came down, the entire burden was shifted on to the banks. As a result of the war, small traders who had made some profits because of inflated prices put their earnings in these banks. But unfortunately one fine morning, as a result of the actions of these directors and managers and as a result of the complete callousness and inactivity of the Reserve Bank to exercise their powers even under the then law, these depositors had to suffer and possibly were completely ruined.

From 1947 it took two years, and in 1949 the Banking Companies Act came. I thought when that Act was brought into force that from the cumulative experience of all the States and more so of the State wherein so many Banks had gone into liquidation, the Act would have been made fool-proof. One fine morning the lawyers found all the proceedings, whether in a Munsiff Court or a District Court, were brought before the High Court under the provisions of the Banking Companies Act. I know in the Calcutta High Court in one day nearly 700 complaints were filed, and the valuation of the complaints were Rs. 175, Rs. 125,

Rs. 225 and so on. I know of a particular Solicitor who actually filed 325 complaints in one particular day, the total value of which did not come to Rs. 2,000, because there were small claims and they were all brought forward. And unfortunately for this claim of Rs. 175, as my Deputy Leader has already pointed out, the legal cost which is allowed by the Rules of Procedure of the Court was Rs. 400 to Rs. 500. Our High Court has taken three or four years and even then it has not found the time to frame the rules under the Banking Companies Act. And the Calcutta High Court possibly ranks as the first in our country.

When that is the position today, we again give an option to the High Court to do away with the Court Liquidators. The attitude of the High Court in this matter should have been different from dealing with an ordinary litigant. It was a complete economic crash coming at a particular period which had tremendous repercussions on the socio-economic character of our society and our country. But the High Court took 2½ years to decide the procedure, whether they should be considered as applications or they should be suits, by the appeal courts. They were thinking in an abstract way that it was the right of litigants to fight in their own way as in normal circumstances and bring forward evidence. In these circumstances, if we give some power to the High Court, I do not know to what extent,—however pious the wish of the hon. Deputy Minister may be, he will be able to save the moneys of the common man and the depositors of our country.

In the second reading I shall be able to deal in detail with this particular Clause, because under the Banking Companies Act, the Court may do away with the Committee of Inspection which has been provided for under the Indian Companies Act. Therefore, if a private liquidator is appointed and the Court decides there should not be a Committee of Inspection, the ordinary depositors will

[Shri K. K. Basu]

practically have no say. An ordinary depositor has probably deposited Rs. 500 or Rs. 1,000 or Rs. 2,000 and supposing he lives 300 miles away, he cannot have the time and he will not take the initiative to come forward and look into the administration of the liquidators. I say with a full sense of knowledge and responsibility that only a few days back, just before the last vacation of the High Court in Calcutta, there was a case. A Member of the English Bar had been appointed liquidator three years back. He has collected Rs. 125 lakhs, but as yet he has not furnished a security as ordered by the Court. He is working on an interim order. And to the credit of our present Company Judge I must say that he immediately removed the liquidator. In some cases I have seen that possibly, for reasons which I do not want to disclose, Judges have been lenient towards the members of the profession so far as their work as liquidators is concerned. Therefore, even though a liberal provision has been made giving power to the High Court to do away with compulsory appointment of the Court Liquidator, some safeguard or check must be provided. For that reason I have moved an Amendment. I hope I shall get an opportunity to speak on it.

Then I come to the question of legal charges. I would suggest that an attempt should have been made—I do not know whether it is possible under the rule-making powers of the executive—by Government to have paid lawyers for this purpose. If a lawyer is appointed, in the course of his ordinary work, he has to charge normal fees; unless he is possibly a raw man, he will always charge some fees. I would suggest that you should have a body of men in places like West Bengal and Travancore-Cochin, where quite a large number of banks has gone into liquidation, and I think it should be very easy to get efficient men on a decent pay. If the Calcutta Corporation could afford to have a paid solicitor to work as a whole-time man, and if a local body like the

Calcutta Improvement Trust could have a paid solicitor, why should not these liquidation proceedings also be conducted by paid lawyers on a salary basis, and not on the basis of particular fees for particular cases?

As is provided for in the insolvency cases, I wish there had been some concession, even in respect of these liquidation proceedings, in regard to court fees. Otherwise, even as put forward by Mr. Justice Chakravarty, of the Calcutta High Court, nearly 50 per cent. would be eaten up by court fees, and the fees for counsel. I hope the hon. Deputy Minister himself, who at one time, when he was sitting close to us, was a champion of these banks. . .

Shri A. C. Guha: I was never a champion of these banks.

Shri K. K. Basu: I mean the depositors. One other point I would like to emphasize in this connection, and that is. . .

Shri S. S. More: I think it is time to adjourn, Sir.

Mr. Chairman: I know it.

Shri K. K. Basu: I shall take just five or six minutes.

The next point I would like to emphasize is in respect of the deposits made by the employees of the banks as security. There have been conflicting decisions on the question whether they should have preference over the other creditors or not. As you know, Sir, an accountant or a cashier, when he is appointed on a salary of Rs. 180 or so, has to make a deposit of Rs. 1,000, which might possibly be the savings of his family, or his father or some of his relatives. When the bank goes into liquidation, all that amount is lost. If he is not given preference over the other secured creditors, it may take a long time for him to realise that money. There should have been some provision in the Bill, to safeguard the interests of these persons, and to treat them as creditors with some preferential treatment. A

similar provision should also have been made, in respect of the provident fund of the employees. It is true that the depositors would get only a fraction of their claims, but these are the people who have given their best to build up these banks, and because of the misbehaviour or mismanagement of some directors, they have had to suffer. These are some of the points which I would request the hon. Minister to take into consideration.

So far as the provision in respect of the directors is concerned, I would like my hon. friend Shri V. B. Gandhi, to come down to my State, and see for himself in what manner these directors have behaved. I would rather say that the High Courts have been lenient to the directors, for the last six years or so. Only in recent months, the Calcutta High Court has prosecuted about four or five directors. I know of the case of a very eminent director, who, when he was asked, by the High Court, under the Banking Companies Act, to disclose his assets, came to the High Court and said, I have nothing left in my name, I have no assets in my name. Possibly everything had been transferred to the name of somebody else, and the law of the country

allows that. But fortunately, here I find some provision in this connection. I doubt whether that provision is strong enough to catch hold of those directors who do not discharge their duty to the shareholders. They must realise that they owe a duty to the shareholders, and they should respect the fact that a bank is merely a social institution. Unless they develop this mentality, they should not be allowed to act as directors of any banking concern.

With these few words, I oppose the motion for referring the Bill to the Select Committee. In view of the urgency of the Bill, I feel that it must be passed in this session itself.

Mr. Chairman: The hon. Minister.

Shri A. C. Guha rose—

Shri S. S. More: Are you continuing, Sir?

Mr. Chairman: Is the hon. Minister likely to take long?

Shri A. C. Guha: Yes.

Mr. Chairman: Then I shall adjourn the House till 1-30 P.M. tomorrow.

The House then adjourned till Half Past One of the Clock on Wednesday, the 2nd December, 1953.