

**An Hon. Member:** That is a professorial dissertation.

**Shri Barrow** (Nominated-Anglo-Indians): I would like to say this. All Members of this House have the opportunity of going to their constituencies and coming back without anybody being aware of it because they have the transport facilities, but this particular Member does not have those facilities and, therefore, he is taking part in this project in all good faith, and being honest he has applied to the House in good faith for this leave. Any attempt on our part to make insinuations on him does not, I think, savour of good manners or grace. Considering the peculiar circumstances of his case, had he not said anything, the 39 days absence now would not have affected his position. But because of the transport difficulties he is not able to come and go and he has applied for leave in all good faith. He does not want to flout the authority of the House. In fact, he is coming to this House for permission, and I would request the House to grant permission.

**Shri Raghavachari** (Penukonda):  
rose—

**Mr. Speaker:** Enough has been said. I would request Shri Raghavachari to sit down. Let us proceed with the other work. What I would urge upon the hon. Minister is that in case they are able to get another suitable person for the next nomination, they will do so. But if a suitable person is not available—suppose one is available who will be able to attend only 25 per cent of the sittings—you would prefer the man who is able to be here for 50 per cent of the days. In that case, the same man may continue, because that is a choice between persons who are not available here. I think that the general sense of the House is to grant this leave.

*Leave was granted.*

#### BANKING COMPANIES (AMENDMENT) BILL—concl'd.

**Mr. Speaker:** The House will now resume further consideration of the following motion moved by Shri T. T. Krishnamachari on the 20th December 1956:

“That the Bill further to amend the Banking Companies Act, 1949, be taken into consideration.”

Out of the total time allotted of 5 hours, there is a balance of 3 hours and 58 minutes. Now it is 12-30 and so this Bill should conclude by 4-30—all stages of the Bill. Were any arrangements made regarding the stages?

**Shri N. R. Muniswamy** (Wandiwash): 3½ hours for the first stage.

**Mr. Speaker:** One hour is already over, that is, yesterday, and we have 2½ hours left for the consideration stage, that is, at 3 o'clock the consideration stage will be over. How much time will the hon. Minister require?

**The Minister of Revenue and Defence Expenditure** (Shri A. C. Guha): Half an hour or 40 minutes.

**Mr. Speaker:** Let him have just half an hour. I will call the hon. Minister at 2-30 P.M. to reply to the debate. The consideration stage should be over at 3 P.M. and the whole Bill must be disposed of at 4-30 P.M.

Shri Moitra, who was on his legs, might now continue his speech.

**Shri M. K. Moitra** (Calcutta North-West): Mr. Speaker, Sir, when the discussion had closed yesterday.....

**Shri C. R. Iyyunni** (Trichur): I request that time may be allotted for each speaker; otherwise, there are people who are interested in this matter and they cannot get a chance to speak.

**Mr. Speaker:** 10 to 15 minutes for any ordinary Member. The group leader will have 20 minutes.

**Shri Tulsidas** (Mehsana West): I think 15 minutes will suit.

**Shri M. K. Moltra**: Sir, when the discussion adjourned yesterday, I was developing the point that out of the funds at the disposal of the banking Companies only 2 per cent. is advanced for agriculture while 49 per cent. is spent on commerce and 35 per cent. on industries. You can very well understand that India is an agricultural country and these banks from which help is required for developing agriculture advances only 2 per cent. of their credit for that purpose. From this one can conclude how the banks are interested in developing agriculture which is the mainstay of the people.

I shall now refer to the 35 per cent. of investments on industries. You will see that big industrial houses have set up their own banks and in these banks, they draw deposits at lower interests. They also utilize these credit facilities at lower interests for developing their own industries.

12.32 hrs.

[**SHRI BARMAN** in the Chair]

I may here mention that the bigger banks in our country are associated with big industrial houses—I should say ‘industrial families’. The United Commercial Bank is linked with the Birla group, the Central Bank and the Bank of India with the Tatas, the Punjab National Bank with the Dalmias and Jains, the Hindustan Commercial Bank with the Singhania, the Indian Bank with the Chettiars, the Hindusthan Mercantile Bank with the Jalans, the Hind Bank with the Goenkas and so on and so forth. Thus the banker-cum-industrialist becomes assured of two-end profits in return for the “public service” he renders and the “depositors interests” he looks after.

This Bill proposes to clothe the Government with certain powers, so that some of the evils that have crept in the banking business may be removed.

But everything depends on how the law is administered and not on how the law is framed. Everyone knows that the Government have a soft corner in their hearts for these big industrial houses, and there is a feeling in this country that in the administration of this law the same soft feeling will repeat itself.

The Bill proposes to reduce the salaries of men at the top. A top man in the banking industry, now generally draws about Rs. 1,50,000 per year, besides various other amenities. Of the entire staff in the banking business about 5 per cent. at the top absorb nearly 30 per cent. of the total of the establishment charges, while the remaining 95 per cent. are left with the residue. The Government wants to stop this, and therefore, they like to have power in their hands, but what is the provision they have made? I refer to clause 2 of this Bill. In clause 2 they have made cumbersome efforts to reduce the salaries of these top men. What is more curious is the fact that they have added an explanation, where there is a loop-hole through which every effort to reduce the remunerations and emoluments will prove futile. I here refer to the explanation given in page 2 which reads as follows:

“For the purpose of sub-clause (iii) of clause (b), the expression “remuneration”, in relation to a person employed or continued in employment, shall include salary, fees and perquisites but shall not include any allowances or other amounts paid to him for the purpose of reimbursing him in respect of the expenses actually incurred by him in the performance of his duties.”

What is this? On the one hand, you want to restrict the remunerations and the overpayments to these top men, and on the other hand, you create a loop-hole through which these

extra remunerations can be drawn by these top men. This is a lacuna in the law which will be taken advantage of by these people. (*Interruption*). Allowances can be drawn in various ways. I have experience of striking the balance-sheets and I know how skilfully they are shown in them. Government have made certain provisions for getting information about the working of banks. The Government will fail, because these provisions of law have been made in such a way that they will prove insufficient for extracting the information required.

I am referring to secret reserves which the banks possess and I will not make any sweeping generalizations. I will quote from the Labour Appellate Tribunal. What they say in paragraphs 82 and 83 of their judgment is as follows:

"There are two circumstances which militate against our securing proper insight into the financial state of the banks. We refer in particular to (a) the undisclosed or secret reserves and (b) to the manner in which it is permissible in law for a banking company to exhibit its balance sheet", the existence of such secret reserves which have not been disclosed prevents us from gathering full picture of the financial position of a bank. The Bank of India in one year transferred a sum of Rs. fifty lakhs from undisclosed reserves to the general fund—quite a sizeable amount which makes us wonder how much more of such undisclosed reserves the Bank of India had, and also as to the volume of undisclosed reserves which other banks individually have been able to create, factors, which are material in assessing the capacity of the banks to pay the proper level of wages to its employees."

"The other difficulty with which we are confronted at the outset is the manner in which a bank is permitted to present its profit and

loss account.... The income side is read 'income (less provision made during the year for bad and doubtful debts and other usual and necessary provisions)' .... Bad and doubtful debts are understandable; but the 'other usual and necessary provisions' which banks are now permitted to deduct before showing their net income removes from our scrutiny a portion of profit which might have a material bearing on the issue of the capacity of a concern to bear a particular wage structure,"

"and it is manifest that no endeavour would be successful to ascertain the true financial position of a bank unless the profits are disclosed before the other usual or necessary provisions are deducted."

It is a remark made not by a member of the Opposition like me but by eminent Judges who were appointed by this Government to constitute the Labour Appellate Tribunal.

The Government proposes to appoint some observers. Will they be able to extract the information required from the banks? We know that the employees of the Reserve Bank are not, like Caesar's wife, above board or criticism. In Calcutta while there was a run on the Lakshmi Industrial Bank you probably know what happened. The Reserve Bank refused to make any advances against the gold deposits it had with the Reserve Bank. The newspapers of Calcutta severely commented on this action of the Reserve Bank of India. They went so far as to say that this step was taken by the Reserve Bank of India to help the Punjab National Bank. That was the opinion of the press.

I know that the friends of the banking magnates will come forward in this House and say that no paper should be laid before these observers because the business secrets of the banks

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will come out. Even the Commerce of the 15th December has made the suggestion that by this law the business secrets of the banking companies will be out. We want to know these secrets and the Appellate Tribunal set up by the Government wanted to know them because they wanted to know the capacity of the bank to make certain expenditure. They do not know what the actual financial position of the bank is and whether the balance sheet has really been window-dressed or not.

So, I will say that nationalisation alone can check and remove all the evils that have crept into the banking business. This Bill, I must say, has been prepared to circumvent that nationalisation. I have read with great interest the criticism that has been made by the Banking Federation's Chairman, Shri Bhabha, who says that this is a measure to introduce nationalisation by back door. I will say that this is a Bill to circumvent nationalisation. People have been crying for nationalisation. The employees have been crying for nationalisation. Nationalisation alone can drive out the evils. To confuse the people, the Government have come out with this Bill. People asked for bread and the Government have come with stones instead.

**Shri Bhagwat Jha Azad** (Purnea cum Santal Parganas): I support wholeheartedly the provisions of this Bill though I am not satisfied with this limited measure. The earlier banking is nationalised, the better for the country. Yet, I feel that these provisions will go a long way to curb the regrettable and undesirable actions done by the banking companies to sabotage our Second Plan. I need not go into the details of the provisions in this Bill but I will certainly state the facts to justify why these changes and amendments are necessary. The banking companies should themselves agree to these provisions. They are so harmless. If I say that there should not be excess remuneration,

they will stand and say: "We do not want excess remuneration." Then, where is the objection if it is said that there should be no excess remuneration?

Then, it is said that a person cannot be a director if he is director of other companies which together can exercise voting rights in excess of twenty per cent. of voting rights in the banking company. If I am a lord, I can take things in my hand and do certain things. There is a banking company which announces a capital of Rs. 4 crores. You are a director of that banking company and if you are having so many concerns, immediately it can be subscribed. Then, you can say: "Look here, how sound is the position of the bank." Therefore, I think that they should accept the provisions of this Bill in their own interest.

There is no harm in saying that the Reserve Bank would give directions from time to time. The Reserve Bank has been accepted in this country as a specialised institution which has got the highest knowledge regarding banking. The banking companies in the country should not in any way be apprehensive of the directions of the Reserve Bank if they are correct in their dealings and if what they say is true and if their actions are in the public interest. But, if their dealings are not clean and if their statements are not correct, and it seems they are not clean and not correct—why should they raise a hue and cry in this House as well as outside that the provisions here are very wide and so on? The provisions are in the best interest of the public of this country in the context of the socialist pattern of society that we want to have in this country.

My friend, Shri Thomas, wanted to refer the matter to the Select Committee. He has the best of motives. But, his suggestion will defeat the purpose of this Bill because we are now going before the electors for our examination. There will perhaps be

hardly a fortnight in coming March when there will only be vote on account. Then, there will be a session in May. So, there will be some five or six months and the Bill will serve no purpose unless it is passed here and now. By that time our friends who know the ways to manoeuvre would put their entire money in unproductive channels and post themselves as directors and take loans on four per cent. or 4.5 per cent. They will completely upset the equilibrium if they know that these provisions will come into effect after five months. The remuneration may go up by five hundred per cent. So, it should not be referred to a Select Committee. It should be passed here and now.

We should not go into the details about the activities of these companies. Nonetheless, we must say that the certificate given by the public to these banking institutions is not a bright one nor is it an efficiency certificate. The number of depositors represent one per cent. of the total number of insurers in the country. We want that the directors or the manager should be appointed according to the wish of the Reserve Bank. We want it because in the past these people had the least care for the interest of the country. I will give only one instance. Are they opening their offices in the distant parts of the country to attract small customers? Do they care to see that the development is carried on in this country and the First Plan works out successfully? They have shut their eyes to the Second Plan. They have only one motive: as much remuneration as possible. Their attitude is: give loan to your friends and relations and other companies and make as much profit as possible. If Shri T. T. Krishnamachari wants more powers, I am prepared to cast my lot with him and the Government. I can bring him to book in this House rather than my other friends whose only motive is personal interest. The interest of the Government is the public interest. If Shri Krishnamachari wants more

powers we are prepared to give them to him; but let him not complain later that he has the powers but could not bring these friends to book. Once you have the powers you must deal with them strictly. You must have a heart as soft as a rose for the public, but so far as these people are concerned you must be as strong as steel, if you want to check the undesirable manoeuvres of these banking institutions.

Let us now examine the progress of banking in our country. In 1947 there were 4,819 offices of these banks. In 1954 they had come down to 4,041. That means within seven years 800 offices were closed. These 4,041 offices are concentrated in 1,003 places: 40 per cent. of the offices are in 64 places. Does this not indicate the gross negligence and the inefficiency of these companies which are run by certain persons in their own interest? The concentration of these offices and the manner in which their business is conducted go to show that they do not want to help the country, but to help themselves.

We know that the commercial banks of this country have failed to reach the small customers, with a view to tapping the resources of the common man. The banking institutions have completely failed to cooperate with the Government to implement the Five Year Plans. They do not help the Government; they do not help the country. My deeper regret is that they have absolutely no plan to canalise the resources of the country for the implementation of the Second Five Year Plan. They have not given us any picture as to how they are going to tap the resources of the country. (Interruption) My hon. friend laughs. I would like to have a straight answer from him as to how the banking institutions of this country are going to help the Government for the public good, for the implementation of the socialist pattern of society. I do not wish on this occasion to quote the voluminous figures in my

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possession of their bad deeds and misdeeds which go to show that dozens of them are linked like a chain to take every drop of the resources to be invested for their purely personal interest. That has been admitted on the floor of the House. I have very often given details of their nice dealings?

What programme have the banking institutions got for the next five year? Can they at least tell the Government: we are prepared to remove our defects; we are prepared to go ahead for canalising the resources of the country with a view to raising the standard of living of the common man and achieving the socialist pattern of society. It is a well known fact that the banking institutions in our country suffer firstly on account of their discourteous service. They have no trained personnel and carry on with outmoded methods of banking. We would have been glad if at least there is an attempt to improve. But they would not do it.

Since independence the economic and political structure of the country is undergoing revolutionary changes. The Government of India is committed to the progressive distribution of wealth and income to the different strata of society. The multi-purpose schemes which have been implemented have brought about prosperity in the rural areas. Schemes like Bhakra and Mayurakshi have brought new life to rural areas. But not one banking company has cared to mop up these resources for the Plan. They have continued to concentrate their efforts in big towns and cities. They have not cared to go to the villages where resources are available, where people are prepared to contribute to Government to make the Five Year Plan a success. So, I would like to emphasise that the banking institutions have failed completely in their purpose. They have not given any help to Government to implement the Five Year Plan, the underlying idea of which is the achievement of the socialist pattern of society. On the

other hand the banking companies have been run for personal ends. A director of a Bank in Kanpur gets almost 50 lakhs at a low per cent. of the loan given by a Delhi bank; the Director of the Delhi bank reciprocates. I will not name them. The loans are given at very low rates of interest. On account of competition in deposits there small banks have to raise their rates of interest. These big giants compete with these small banks for deposits. This naturally leads to the upsetting of the economic equilibrium. It is, therefore, high time that we took strong measures to curb their shameful dealings, to curb their desire for personal profits and to curb their manoeuvrings.

12.54 hrs.

[MR. SPEAKER in the Chair]

These friends ask: "Look, what can we do?" They fought with the poor clerks. They were not prepared to part with a pie for these clerks; but for themselves they have hundred and one allowances, as was pointed out by my hon. friend Shri Moitra just now. All that the Reserve Bank will see is that they are not paid any excessive remuneration. It only says: "Look here, I am here, if you need my advice, I shall send you directions for your administration." Why should they grudge? The Reserve Bank will depute an officer to attend the meeting of a bank. Why should they grudge it? If their hands are clean; if their dealings are pure, if their intentions are above board, why should they be apprehensive of these powers? They are apprehensive of these powers because up till now neither their dealings nor their motive, nor their intention has been clean. They have always been directed to one interest and that interest is the private sector. I would not say I do not want the private sector. Even in that sector there are several persons who have not the privilege of having the direction of banking institutions. Why, are not the whole of the private sector entitled to have loans from these

banking companies at reasonable rates of interest? But a dozen of these friends manage the entire show and have lion's share of the loans.

Therefore I say we are prepared to give all the power that Shri T. T. Krishnamachari wants. But I warn him: once you get these powers you must remove all the undesirable features of these banking institutions and see that they are run for mopping up the resources for the implementation of the socialist pattern of society. By the time the next Parliament meets, they should hear a better account of the working of these banks.

You must have a heart as soft as a rose for the public, but you must have a mind as strong as steel for these friends and we are prepared to make your hands as elastic and powerful as you want it to be.

I support the provisions of this Bill.

13 hrs.

**Shri Tulsidas:** Sir, I need hardly stress the importance of this Bill which seeks to give drastic powers to the Reserve Bank and the Government in relation to the banking institutions in this country. This Bill was introduced in this House only a few days back, as you know, and we are called upon to pass it at one stroke within a few hours. During the course of the discussion on the Finance Bill last week, I had pointed out to you, Sir, the alarming trend towards hasty legislation which has become an everyday feature in this country. You will remember that I have been opposing this dangerous tendency on the part of the Government, of bringing before the House in hasty manner important legislation which undoubtedly affects the various aspects of economic life of the country, particularly in the functioning of the non-government or the people's sector. I am sorry that the Finance Minister failed to appreciate my point of view and plea for reference to Select Committee of the Finance Bill which had inevitably introduced far-reaching changes in permanent statutes like the Income-tax Act and

other Acts. And the present Bill, as I said earlier, introduces far-reaching changes in the structure and working of the banking institutions in this country. It will be in the fitness of things if such a Bill is referred to Select Committee, which alone can go through the intricate details of this matter. My friend Mr. Thomas has already pointed out the importance of referring this Bill to Select Committee, and I am really surprised that my hon. friend Shri Krishnamachari is not willing to accept that position. The other day he mentioned in a debate that I am one of the super-democrats. I would rather like to have that charge as being a superdemocrat, than that I am changing or tending towards totalitarianism! I fail to understand why he does not prefer to send this Bill to a Select Committee. That is a very healthy practice. After all, you know that most of the measures that we have enacted have first been referred to Select Committees where a number of changes have been made, after looking into the pros and cons of the various measures that the Government brought forward.

I am not here to defend anybody, but I would like to point out how the banking industry in this country has developed and how it has come up. I am afraid the House and the Members here do not appreciate the importance of this industry and how it has been brought up to its present level within a short time.

Before independence most of the banking was in the hands of foreign banks; most of the business was in foreign banks. The Indian commercial banks today possess nearly 80 per cent. of the total banking deposits of the country. Of the total advances required for financing the nation's economy, 73 per cent. have been made available by the Indian commercial banks. Nearly 12 per cent. of the total public debt of India—of approximately Rs. 350 crores—is held by Indian banks. They have been the main props of the treasury business and they have not lagged behind in

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assisting and supporting the formation and development of industrial ventures in this country. In the great task of mobilising the savings of the country, the Indian commercial banks had to pioneer into the interior of the country where banking was non-existent and to educate the people in the banking habit and to provide banking services at considerable cost to themselves, entailing them a great amount of hardship. It cannot be denied that such enterprise requires vision, energy, foresightedness and, above all, zest. My friends here do not know what banking is and, therefore, do not understand the facts. They would only.....

**Shri Feroze Gandhi** (Pratapgarh Distt.—West cum Rae Bareli Distt.—East): He only knows the consequences.

**Shri Tulsidas**: You have a zest of coming in the same category.

**Shri Feroze Gandhi**: Yes, I am in the same category. I am proud of it.

**Shri Tulsidas**: Sir, I will come to him afterwards. He has a particular friendship and he wants to think that the whole House, the whole community is of that type.

**Shri Feroze Gandhi**: That is wrong.

**Shri Tulsidas**: If there are one or two Members of this House who have misbehaved, does that mean that the whole House misbehaves?

I would like you to please understand this. These measures have been brought, because the hon. the Finance Minister thinks that there are certain bad things which have been done by certain banks and he wants to prevent these things. He told us yesterday that it would be a tactical error on his part if he does not have this Bill passed immediately, because, having disclosed his hands the banks would take advantage of the weaknesses, which he considers it is not in the interests of the economy of the country to allow. May I point out to him that the Reserve Bank and the

Government of India have so much power today that if any bank misbehaves, the Finance Minister or the Governor of the Reserve Bank can wring the neck of the bank?

**Shri Feroze Gandhi**: No.

**The Minister of Finance and Iron and Steel** (Shri T. T. Krishnamachari): Get our neck wrung!

**Shri Tulsidas**: The hon. the Finance Minister today is in a mood not to accept anything. He wants today that whatever he has said, it must be kept, no matter who says anything, because he thinks that whatever he says is right. Naturally, he has the support of the Members and, apart from the support from this side and that side, he is certainly at a much better advantage.

**An Hon. Member**: Except from the capitalists.

**Shri Tulsidas**: He mentioned to me that personally he likes to deal only with a foreign bank, he does not trust any other bank, and he likes no other bank except a foreign bank. He likes a foreign bank because it looks to the personal interests and so on. May I tell him that in spite of all the handicaps they had, the Indian banks have achieved quite a lot? And I am sure as Finance Minister he would not, he cannot, deny that statement that Indian banks have achieved a certain amount of things.

**Shri T. T. Krishnamachari**: In any event, I have no worth while account now!

**Shri Tulsidas**: Anyway, that does not matter. He is entitled to say what he likes.

Among the achievements of the banking system, I may refer only to a few. The volume of deposits of Indian scheduled banks has gone up from Rs. 114 crores in 1935 to Rs. 625 crores in 1955. And the volume of advances has risen from Rs. 39 crores to Rs. 285 crores. At present it is estimated that there are 6 lakhs of shareholders of the different banks,

small and big, largely belonging to the middle classes. And the number of depositors is estimated to be about 6 million—only in the Indian banks. It is the faith and confidence in the small banks on which the entire banking structure is built up. I am sure the House does not appreciate that banking is a thing which is like a glass house. It evolves gradually and becomes bigger and bigger; it cannot grow suddenly. It has to have the public confidence. People talk about 'big banks'. They came into existence fifty years ago, and after fifty years they are now called 'big banks'. For twenty or thirty years they remained small banks. The public had confidence and they put in their deposits. It is not possible here, just as in any other industry where you just put in the machinery and start work and the factory begins working, here even if you have the machinery, the most important aspect is that you must have the confidence of the people. Unless the people have confidence, they would not put in deposits. And unless deposits are there, the banks will not become big. People say that the big banks take away the money and give a small rate of interest. May I remind the hon. the Finance Minister and also the hon. Members, and particularly my friend Shri Punnoose that if he would like to borrow money from anybody else among the public and opens an institution and offers 10 per cent. of interest he may not get even one pie, because the confidence of the people is not with him. I am sure that in any institution of that kind, I would get one per cent., because the people will come to me with confidence. Therefore, please understand that this is not a thing which you can learn just as any other thing. This is a thing which is very delicate. It is a delicate machinery. Please understand that banking, as I told you, is like a glass-house. If you have a slight crack, the house breaks, and it is very difficult to build it up again. The banking industry has to be built up in a very slow process and they have done it in this country in spite

of foreign competition. Until 1947, practically the entire foreign exchange business was in the hands of foreign banks. Today, more than 35 per cent. of the business is in the hands of the Indian banks. The Indian banks have opened branches all over the country and all over the world. They have opened branches in the Far East, in the Asian countries and in Africa and in England. If the Government wants them to go ahead with other parts of the world, they will certainly go. It is a question of flying the flag of Indian banking in other parts of the world. I can tell you that if you are running down the banking industry in this country, it will recoil on this country in the matter of earning foreign exchange.

**Shri T. T. Krishnamachari:** Now, the hon. Member, living in glass-house, is throwing stones.

**Shri Tulsidas:** I am not throwing stones. I am sorry that my friend the Finance Minister has always got this habit of trying to take out something which is not correct. I am not throwing stones. I am trying to bring home the points. He does not want to understand them. I am sorry that as a Finance Minister he should say so. He should know much more than what I do.

**Shri Bhagwat Jha Azad:** He knows much more than you.

**Shri Tulsidas:** He should be able to understand and appreciate my point of view in a better way and not give me this retort. Does he realise that if any stone or anything is thrown on the banking system, it will recoil on the economy of this country? Does he realise that you have got to earn foreign exchange which is invisible in companies like banking, shipping and insurance? Because a particular bank has done certain things, he should not hammer that the whole banking institution in this country is bad or anything like that. Is it fair to do so? In spite of handicaps, the banking industry in this country has achieved certain things. Here are the facts. The Reserve

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Bank has already admitted it. It has said that the banking industry in this country has done certain things and has achieved something in spite of several handicaps. In spite of all that, the hon. Finance Minister goes on hammering, day in and day out, by trying to say that the whole sector is completely useless.

My friend Shri Bhagwat Jha Azad just now mentioned an instance about a bank. Of course, there may be one or two banks of that nature. I do not say, 'No.' But the Government have enough powers and they can exercise those powers. But when they cannot even exercise those powers, they want to take more powers. The question is, who is to administer it. It is not the hon. Finance Minister. The hon. Finance Minister, Shri T. T. Krishnamachari is not going to be a perpetual element in this country. These powers are going to be permanent and therefore, if such powers are to be taken by them, let them be with anyone who comes in as the official of the Reserve Bank! The Bill shows that the only people who understand banking are the officials of the Reserve Bank, and that they will be able to direct the bankers as to how to do their banking business. Is this the proper way of doing it?

Only yesterday, Shri A. M. Thomas pointed out certain things. He said that while the Banking Companies Bill was being passed in this House, Dr. John Matthai and my friend, Shri T. T. Krishnamachari who was then on this side of the House, wanted certain things to be done. He pointed out that the very fact that an investigation is launched against a bank means ruin. That is enough to ruin the bank. What I say is, if you have got a complaint, you may send an observer. You can ask for every information, and the Reserve Bank has already said in its report that the banks on the whole have co-operated fully in this respect. If that is so, what is the necessity for these powers in the Bill? I do not understand \*

Yesterday, I was trying to understand the speech of the hon. Finance Minister. He only said that the Law Ministry wanted these powers to be included and that therefore these powers must be taken, and that in one or two cases these powers were necessary. Perhaps legally it was not possible for the Reserve Bank to take a particular action. But then I may say that we have passed the Company Law. The new Companies Act is applicable to all banking companies. The Banking Companies Act is of course applicable to the banks but the Companies Act is also applied to the banking companies, because the banks are corporate companies. If that is so, I do not understand why these extraordinary powers are taken now. Where is the question of inspection and information to be given in the Banking Companies Act? All the information is given to the Reserve Bank, and the Reserve Bank have pointed out very clearly in their reports that the co-operation that the banks have given them is so nice that they will be able to carry on and improve the conditions of banking.

I have got with me here a brochure which the Reserve Bank has published. It is entitled "*Trend and progress of Banking in India during the year 1955.*" What does it say. At page 26, it says:

"It is gratifying to note that by the exercise of the powers under the Banking Companies Act and particularly as a result of the periodical inspection of banks, and the timely and preventive measures taken by the Reserve Bank the position in general of banks as well as banking in India has been steadily improving....As a result of following a cautious policy and the insistence on a fairly high standard of financial soundness on the part of banks before they are considered eligible for a licence in terms of section 22 of the Act, a substantial measure of improvement has been

effected in the banking systems during the last five years.... An effective surveillance over the banks which are still to be licensed is being maintained, and the rectification of the defects observed in their working actively pursued, thus forcing them to improve their affairs and qualify them for a licence.

Some of these banks are working under suitable conditions imposed on them by the Reserve Bank which include replacement of the chief executive officer by a suitable person and the appointment of a Banking Adviser, curtailment of the powers of particular persons in the Board of Directors, the recalling of any advances or group of advances which have undesirable features as well as restrictions on the grant of further advances. As a result of the various regulatory and remedial measures taken by the Reserve Bank, a gradual improvement in the financial position as well as methods of operation of a number of unlicensed banks is being achieved....

Thus, although the defects do still exist in the working of certain banks, the various corrective measures already taken are gradually bearing fruit, and the banking system in this country has been steadily improving".

With the existing powers, as I have pointed out, the Reserve Bank has already taken action against certain institutions, and the banks are co-operating. But here is a new legislation. They want to enlarge the very powers. I do not understand why this trend of trying to get thirsty of powers and then coming forward and saying, "We want still more powers" should continue. It is not possible or desirable to exercise still more powers and to administer on the activities such powers in the way in which an institution would like to, and in the way in which there could be no harm done.

There has been a certain amount of general approach in this House as well as outside, and the Finance Minister also has fallen into the same habit of trying to run down practically the whole of the private sector and calling it a bad sector. He thinks everybody is bad in this country and nothing else remains. Well, we are of the same stock in this country, no matter whether it is the Communist or the Congressman or myself, an Independent. Let us not run down each other. We want this country to develop as fast as possible. Let us all get together. We have defects. We do not say, "No". But let us reform those defects in a manner in which no harm is done to the country's progress. I do not say that there are no defects in the banking system. But let us realise that the Reserve Bank has already taken certain actions and the banking companies have tried to co-operate with the Reserve Bank. There may be one or two banks which may not co-operate well. But still, the Reserve Bank has got powers to stay them and they can stop the licence. They may stop that bank. They have these powers already and I for one do not understand that there is any necessity for taking extra powers. If it is a question of merely grabbing powers and trying to have as much of bureaucratic regimentation as possible, a time will come when that bureaucratic regimentation must go. After all, I do feel the time will come when even the politicians and the Ministers will have to eat from the palms of these very bankers. It is all right today when we have a Minister like Shri T. T. Krishnamachari, who has a certain amount of boldness and initiative and tries to do certain things, which others cannot do. After all, we have accepted the principle of democracy in this country and everybody has to live. You can do certain things by public co-operation. You may improve the morale of the people and try to persuade them not to do certain things. I do not say "no" to it. But, merely because one bank misbehaved, the whole community should not be punished. It does not mean that the

[Shri Tulsidas]

whole community is bad. You expect that community also to do a certain work in this country.

I am quite willing to assist the hon. Finance Minister in stopping certain bad things. I am prepared to show him the ways by which certain things can be achieved; but, it is no use trying to say all the time, "We must have more powers first; then we will see about it", without giving any valid reason for it. I do feel that it is necessary to send this Bill to a select committee. Nothing is going to be last, after all.

**An Hon. Member:** Time.

**Shri Tulsidas:** There is plenty of time. Even if it takes six months, no banking company is going to take any action. If any banking company misbehaves, the Reserve Bank has got enough powers to stop the bank. So, where is the necessity for passing this Bill hastily?

It has been said that everybody goes to the court. Naturally, if the powers are utilised in a manner which is *ultra vires* of the Constitution, people go to the Supreme Court for justice. Every citizen of the country is protected by the Constitution. Therefore, why should we also not go to the court? It is wrong to give the reason that the people go to the courts. If there is any injustice done, naturally we have every right to go to the Supreme Court and ask for protection. If we pass legislation in this House without even considering the Constitution, then people will have to go to the court for protection.

There has been a certain amount of talk about the high salaries paid to the managers. You will realise that a few years ago, an Indian bank could not get an Indian manager, and there were foreign managers. It is only now that we have been able to get the managerial class for our banks and you go and hamper them. Do you realise what harm you are doing? I remember very well there was a time when banks could not find top men in this country. The managerial

class has just come up. Now practically all the Indian banks have Indian managers, except one or two. Still there is dearth of trained Indian personnel to manage our banks. I for one do not believe that in this country, nationalisation has achieved anything. Let us take the State Bank. It was nationalised because the Indian commercial banks were not able to go to the rural areas. I would like to know from the hon. Finance Minister to how many rural areas the State Bank has gone. It still remains the same old Imperial Bank and functions in the same manner. We wanted nationalisation for the sake of making available credit in rural areas, because it was not possible for the commercial banks, with their limited resources, to go to the rural areas. But that purpose has not been served by nationalisation. There is no use in saying that everything should be nationalised. It does not help anybody in this country. Therefore, I feel it is no use trying to belittle the managerial class of this country. There may be one or two bad cases; I do not say "no". But, let us not put down the whole community. They have just come up. In an institution where I am Chairman, the bank manager was drawing Rs. 40 per month, when he entered the Bank. He became manager drawing Rs. 4,000 only after 40 years of service. It is just impossible for any body to become a manager. Of course, in a State institution, it does not matter who comes as the manager. Any bureaucrat can become the manager of a bank, a shipping company, an insurance company and everything. But, in private institutions, it takes years and years of training before a person becomes the manager. It is not easy for anybody to become manager. For instance, today I cannot manage the railways. (Interruption). I do not have experience in it. But in the case of banks, I can manage them in the larger interests of this country much better than any of my friends on the right. Therefore, it is no use trying to run down the people in this country.

There are different clauses here for which I have moved a number of amendments. At every stage I will move the amendments and try to explain how this will harm the interests of banking in this country. I once again say that it is no use saying, "we want the powers first; then we will think about it". I think it would be much better if these powers are not taken, because people will co-operate with them. I think the powers will do more harm than good. It is no use trying to take more powers, because there is no necessity for it. The hon. Minister himself said yesterday that there is public co-operation. When there is public co-operation, why do you take these powers? There is no reason for taking them and there is no reason also to do it in this hasty manner. I said yesterday, "the heavens will not fall" and I still maintain that the heavens will not fall if you postpone this, because you have enough powers. No bank can take the risk of going against the directions of the Reserve Bank. If any bank does it, it will be in a soup. Therefore, I would repeat, do not take more powers. Let us see how they are working. Later on, if you find that additional powers are necessary, take them. I have no objection to it. It is no use taking as much powers as anybody would like.

I will explain my amendments at the appropriate stage.

**Shri Punnoose (Alleppey):** In spite of the valuable sermon on the virtues of banking and bankers given by my friend who has just finished, I remain as one who thinks that Government have to take a very firm stand with regard to banking. It has been mentioned yesterday and today also that the hon. Minister has now changed the position he took when he was an ordinary Member of this House. I would ask hon. Members, what has brought about this change. It would have been surprising if it had not happened, if he had not changed. In a planned economy, as one who is holding a responsible position, as one who is the Finance Minister, he has to take

certain steps. He cannot allow the banking sector to be in the private hands as it used to be. My complaint is that the Finance Minister is not prepared to go as far as he should. In fact, what is required today is that the banks should be nationalised. As was said by the previous speaker, I do not claim to know the intricacies of banking and its niceties. But, I know that it is a very important sector, a very strategic position in the economy of any country. In a planned economy, you cannot do anything unless you have got absolute control over banks and banking, because that is the life line. They can do several things, they can control investment, they can manipulate the price trends, they can do wonderful things both right and wrong. As such, a Government which claims that it is in charge of a planned economy, should necessarily take a positive stand on banking. It is not a question of throwing mud at bankers or banking. My hon. friend said that there may be one or two misbehaving. I would have agreed with him if he had put it the other way. There may be one or two who are behaving. A vast majority of them, of course, for no fault of their own, driven by motives of private interest and profit, behave in a way that won't be helpful in a planned economy. Therefore, the logical step that the Finance Minister should have taken was to nationalise the banks. But, today, what he has done or what he is doing may be characterised as hunting with the hound and running with the hare. He tries to make it appear that he is going to be firm with the banks. The nation is likely to believe on the eve of the general elections, that big bankers and big banks are going to be under the grip of the Government. But, at the same time, I am afraid, the situation will not be helped. I have no doubt about the shrewdness of the Finance Minister. I have absolute faith. But, I have my doubts that the bankers are more shrewd and they will find ways and means to manage in their own way in spite of the restrictions that he tries to impose.

[Shri Punnoose]

With regard to the motion for reference to a Select Committee, I cannot imagine a more disastrous proposal, because the tragedy will be complete if this is postponed. As he said yesterday, he has shown his cards. By the time we come to the first reading and second reading after the report of the Select Committee, the banks will have played their game all right. Shri Matthen knows it. That is why I opposed it yesterday when Shri A. M. Thomas made the proposal. To send the Bill to a Select Committee is something very wrong in the circumstances.

As regards the proposals made here, most of them are acceptable to us. But, certain things have not been made clear. This cannot be a step that will do away with the necessity of nationalisation of banks. He will have to do it. This Finance Minister or another Finance Minister will have to take that step, if we want a steady progress in a planned economy. What is happening is this. He has already given some annoyance to the bankers. He has already displeased them. They think that he is making inroads. At the same time, they can run the show as they like. The control of the Reserve Bank is there. It is good that the Reserve Bank has greater control. In that also, I do not know how far it will be useful to keep our banking in a healthy conditions. Because, big banks have their pull. Everybody knows that in the whole economy, they have got a pull. With the Reserve Bank officials also, they have their pull. There were complaints that the Reserve Bank is particularly hard and harsh in the case of small banks while the big banks have their easy way with the Reserve Bank.

I am reminded of the banks in Kerala. When the Bank Award Commission had given its report, they said that the Award was not immediately applicable to banks in Travancore-Cochin. They recommended that there should be a commission to examine the case of all the banks in Travancore-Cochin as a whole. They

wanted all the conditions to be studied and proposals made. That was in July, 1955. After some time, a commission was appointed and I am told—it is well known—that a report was submitted to the Government in August last. Five months have passed or are nearly over. Still, we know nothing of what has happened, whether the Government have accepted the recommendations or what the recommendations are. In fact, it is extremely unfair, to say the least, to the Members of this House particularly from Kerala and also to the banking interests in that area as well as to the people to ask them to have their say on these proposals without knowing what recommendations have been made by that commission, because, that report is supposed to throw light on the working conditions of the banking system there. How can we say whether these proposals can be applied to the banking system there or not? I do not know why such delay is taking place. There is grave anxiety about it. The bank employees are agitated over it. They are sending letters and telegrams to Ministers and Members. Some time back, at the close of the last session, the Labour Minister was pleased to tell me that in a few days, the report will be published. Months have passed; still it is not published. I am told that two powerful organisations of bankers in that area, the Travancore-Cochin Bankers' Association with its headquarters at Kottayam and the Kerala Bankers' Association with its headquarters at Trichur which Shri C. R. Iyyunni knows very well, are moving heaven and earth to see that the recommendations that are supposed to be favourable to the employees are not implemented. I am also told, if I am not revealing something secret, that the Finance Minister is also being approached by these interests to see that these recommendations are not implemented. I hope he will not lend his ear to such bad counsels. In the first place, this report is to be published if we have to give any sort of informed opinion about the proposals as applied to the banks in that area.

There are certain big problems in our area. As Shri A. M. Thomas said, in Travancore-Cochin itself, we have got nearly 160 banks, but only Rs. 26 crores by way of total deposits. So, what to do with these small banks?

Shri A. M. Thomas said yesterday that these banks have been very useful to the rural people. In a sense they have served that purpose, but we come across instances, thousands and thousands of instances, where whole families have gone to ruin because of the exploitation of these banks, because some of our banks are the worst type of moneylenders. This is also well known. So, the proposals of the Commission have to be examined carefully before these proposals can be applied in toto or in part to those banks.

In the Statement of Objects and Reasons, one of the objects given is: "to check the payment of excessive remuneration to bank employees on a consideration of all relevant factors". I do not know to which employees the Minister is referring. If he is referring to the big posts and fat salaries given to sons-in-law and prospective sons-in-law and brothers of prospective sons-in-law and all that, I can understand, because we are so familiar with such things. I can from my memory give instances of whole families being absorbed in these small banks. If that is his intention we are with him. I hope it will not come in the way of giving a living wage or a fair wage to the employees. I am sure that is not what he has in mind. Therefore, these proposals on the whole are welcome and I hope they will be accepted.

The other thing that the hon. Minister said yesterday was that banks require a certain amount of personal attention and personal concentration. Is it his contention that the Government cannot do it at all? If that is so, I think the future of our planning is rather dismal. I believe he did not mean that. Certainly banking requires it in a larger measure, but commercial and industrial undertakings also require a certain amount

of personal attention and concentration which is not normally required in governmental affairs. We have to develop the cadre and the means and the organisation to give that personal attention and concentration. I believe that the proposals will not come in the way of nationalising the banks at an early date. In fact, I believe that banking is so important that you cannot allow private interests to remain there. It can do no good. It can only do harm to the national economy since we have got a planned economy.

Everybody knows that the Finance Minister, when he wants to do something good, can do it with speed and force. He has got the grit to do that. Only I am afraid he is a little too late with this proposal. Probably he does not want to make it appear that he has shifted, given up certain old ideas. I want him to take more courage. When there is a change, let him accept it. From our side he will get all support. Also, large masses of people will like that banks and banking are in the hands of Government. Not that mistakes must be committed. There should not be any mistakes, and our machinery should be put in trim. Naturally there should be the personal attention and concentration necessary for such a system. I wish that the hon. Minister takes speedy measures for that also.

**Shri Jhunjhunwala** (Bhagalpur Central): At the outset I cannot conceal my feeling that in spite of the fact that Government should have full power to stop all shady things,—I shall be the first to support the Government in taking all such powers—to do it in such a hasty way and at the fag end of the session does not appear to be very happy. This creates a sort of bad psychology among the people when we cannot get full time to examine things properly.

Day before yesterday the Finance Minister took power to impose excise and other duties. It had my full support and I congratulate him. I like that whenever he wants to do a thing, he does it wholeheartedly. That

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is a thing which is required in order especially to improve the economy of our country in a businesslike way. But, here as I said, the Members should have been given full time to consider all the clauses. The proposal of my friend Shri A. M. Thomas to refer it to the Select Committee was not in the spirit that he wanted to see that this Bill was not passed. What we want is that this Bill should have been brought a bit earlier. We should have been given an opportunity to scan things properly and then, certain suggestions which cannot be discussed properly in the whole House could have been better discussed in the Select Committee and certain improvements made in the Bill so that the powers could be properly exercised. In the case of the imposition of the exercise and other duties which I was mentioning, there was a provision that even when Parliament was sitting Government could issue a notification. We all felt that it was wrong and Pandit Thakur Das Bhargava pointed it out and the amendment was accepted by the Finance Minister. Similarly, in this there are many powers which have been given to the Reserve Bank, but when we got to the Companies Act we find there are sufficient powers and if the Government administers that Act properly there is no necessity to take so much power in their hands. Even if there was necessity, some slight amendment and improvement here and there would have been sufficient.

The other day the Government, while moving the taxation proposals, had taken power for compulsory deposits and the Finance Minister confessed that he had scanned all the provisions of the Companies Act and it was not possible for him to get hold of the shady things and therefore he was taking that power. But I would submit to the Finance Minister that he should be more strict in the administration of the powers which he has already taken and see whether those powers are properly administered or not. Taking more power every day does not create a very good psycho-

logical effect in the minds of the people, and it creates unnecessary scare.

Yesterday my hon. friend Shri A. M. Thomas was pointing out that when discussion was going on on the parent Bill, the hon. Finance Minister and also Shri A. C. Guha who were sitting on this side had criticised it and given their arguments. I do not want to dilate on those points here and take the time of the House unnecessarily, but I shall expect that the hon. Finance Minister has taken all those things into consideration. I hope the Minister will, in the course of his reply, enlighten us on those points that had been raised against the provisions of this Bill in the earlier discussions.

Now, two points of view have been expressed. One is from the side of Shri Tulsidas who has said that this is nothing but nationalisation. In his opinion, the taking of so much power is nothing but nationalisation. The other view is that this is nothing but circumvention of nationalisation. I say that Government do not want these powers for the sake of nationalisation. Of course, if they want to nationalise, there is nothing to prevent them from doing so, and I would say that they should go in for nationalisation of the banking industry if they feel that it is necessary in the interests of the country. So far as the question of circumvention of nationalisation is concerned, I do not think this is circumvention. My hon. friends opposite have given so many instances to show why nationalisation is necessary. But I would point out that Government want to do things in a democratic way. In the present state of mixed economy, they only want to control the shady things and do away with shady things. So, there is no question of any circumvention. In fact, as I said at the very beginning, there has been no such necessity. But this is only a desperate attempt on the part of Government to clothe the Reserve Bank and the department concerned with larger powers.

As a matter of fact, in spite of this, what Government want to prevent will happen. Government want to prevent corruption, for instance. Now, corruption is there among so many banking companies. With all due respect, I would submit that, after all, the people in the Reserve Bank are also human beings; they have also got their human frailties and weaknesses; they have also got the personal touch with people. So, I am afraid there will be much of corruption even when Government give so much power to them.

**Shri B. Das** (Jaipur-Keonjhar): Why do you suppose so?

**Shri Jhunjunwala:** The hon. Member can give instances. The result will be that those people who will have push with the Reserve Bank people will get the upper hand, and will go scot-free. And, as my hon. friends Shri A. M. Thomas and Shri Punnoose have said, I also feel that it is the small people and the small banking concerns who will suffer. The people in the Reserve Bank have got very big ideas, and they think only in terms of crores of rupees; they have got no ideas of one lakh, two lakhs or three lakhs of rupees. They would think that those people who are dealing in crores are good people and are all right, and there is nothing against them; and those big people will go on doing the shady things with impunity and they will escape. It is only the small people who have no approach to the Reserve Bank people, that will suffer.

Now, what is the position even under the present administration of the Companies Act? I know the Finance Minister is very busy, and he does not even get time for proper sleep. He looks into things very minutely, whenever anything is brought to his notice. In spite of that, many big people escape, and the object with which the Companies Act was framed is not being carried out. In spite of the Finance Minister's great desire to see that justice is done to the shareholders, I would say that he is helpless. That is why he wants more and more powers.

But he has to consider whether the taking of more and more powers is going to help him at all. If he thinks that these private concerns are no good and they cannot be improved, let him nationalise them. Otherwise, in my humble opinion, whatever power Government may have, they must exercise it properly, and they must make the people feel that they have to reform themselves. As the Finance Minister himself has said again and again, it is only with the co-operation of the people that we can develop our country, we can develop our industry and we can improve our economy. But I do not know why he loses sight of those people for administering whom more and more powers have been taken by Government. Why is it that those people have not been improved? The Minister has to pause and consider.

I fell strongly that whatever powers Government have are sufficient. My hon. friend Pandit Thakur Das Bhargava says that I do not understand it from the legal point of view, but I would say that if Government exercise the power which they have got, and the Reserve Bank exercises the power which it has got, and they are vigilant in their work, there would not have been any necessity to have brought forward this Bill.

This will create unnecessary scare in the market and among the people there. After all, we have to improve these people also, and they should be improved by Government administering the powers which they have in the proper manner so that those people who are working in the right manner, and honestly and *bona fide* may feel that they will not suffer.

But just the opposite thing is happening. Shri Tulsidas was saying that the Finance Minister has said, 'I have to take these powers in my hands, because these gentlemen even for a small thing go to court, and unnecessarily create trouble in the way of proper administration'. I fully agree with the Finance Minister. I do not agree with Shri Tulsidas when he says, 'We are governed by a Constitution,

[Shri Jhunjhunwala]

when we feel that justice is not being done to us, we have to seek redress in a court'. I agree that if justice is not done to these people, they have to seek redress in a court. But if they try to circumvent the spirit of the law, then in that case, as good citizens, they should not go to a court. They should try to mend themselves; they should have a proper code of conduct for themselves, so that Government may not unnecessarily take the trouble of coming forward before this House for taking more and more powers which unnecessarily create trouble and which do not help in any way.

Now, the powers that are being taken are for the following purposes. The first of them is:

"To check the payment of excessive remuneration to bank employees on a consideration of all relevant factors;"

This is all right. But I agree with Shri Tulsidas when he says that in the beginning it was rather difficult to get on a low remuneration a good man who would be able to manage the banks properly.

The second object is:

"To make the existing restrictions on exercise of voting rights in the hands of individual shareholders applicable to banks which are now exempt from such restrictions;"

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I agree that the Reserve Bank should take this power. But I do not know

whether this power will be properly exercised by the Reserve Bank or not. That is a thing which has to be seen. There is nothing here provided in this Bill, if any wrong is done by the Reserve Bank in the exercise of its discretion. Nobody has got any power to go to the Government on appeal. I think some provision should be provided here, that if any injustice is done, if any harsh treatment is shown

by the Reserve Bank to any other bank, they should have the power to go to the Government in order to place their grievances.

Similarly, so many things can be said on other provisions also. I will do that when the clauses are taken up.

With these words, Sir, I support the Bill and, in the end, I would again say that these things should not have been done in a hasty manner.

**Shri Matthen (Thiruvellah):** Mr. Speaker, Sir, I am very glad that my Comrade friend, who is not here now, gave his wholehearted support to the hon. Finance Minister. I hope he will repeat this policy very frequently in future.

I am not a capitalist, much less a banker.

**Kumari Annie Mascarene (Trivandrum):** Now.

**Shri Matthen:** Whatever might have been the background, Madam. I said this—and the hon. Finance Minister knows it very well—so that he may appreciate my observation to be more objective than an ordinary lay Member of this House.

I am prepared to give my all-out support to the hon. Finance Minister in all his efforts to maintain the integrity and efficiency of the banking system of India. If things are so bad as was vehemently put by my friend Shri Bhagwat Jha Azad, I am even prepared to support the hon. Finance Minister in nationalising the whole banking system.

But, is it necessary? My immediate reaction, Sir, to the Bill, to be frank with you, was not very happy. My reaction was just like the reaction of the previous speaker, Shri Jhunjhunwala. The repercussions of this drastic step, I am afraid, it is impossible to visualise at present. Anyway, I am asking the hon. Finance Minister: is it fair to take advantage of this thin

House at the fag end of the session to rush through an important Bill with such drastic powers? I am not opposing the provisions, I must tell you that. I do not know how many times we have been ringing for quorum. Even friends interested in putting questions are not present. The other day my friend Shri D. C. Sharma was not here; he was not in his seat when his name was called. More Members are absent than present. This is mainly because of the coming elections. I myself was advised by some of my friends to go to my State at this critical time. But it is so far off that I thought, I better leave it to the goodwill of other people. More than that, at the fag end of the session, everyone is busy with some lobby work because he has to return to his State. I tell you, Sir, I get my legs tired by going this side and that side to meet this Minister or that Minister, maybe for a small thing. On the top of it, every evening there are lots of inevitable social engagements which, morally, one has to give or accept. In any case, I must admit that I have not been able to give much thought over this Bill, and that is why I ask the hon. Finance Minister, in whose fairness I have abundant faith—I have known him for more than a quarter century; he is sporting, he is fair, he is courageous too—to refer this Bill to a Select Committee. I support the proposal of my friend Shri A. M. Thomas.

There are several matters that cannot be very openly discussed in this House for obvious reasons; I perfectly appreciate that. Sections 2, 3, 4, 7 and 8, I am afraid, do not help the development of the personality of the chief executive. The general managers of banks, as my friend Shri Tulsidas just now said, have certainly risen up to that stature and compare favourably with the general managers of foreign exchange banks who have been dominating all these years. In such a short time, in hardly less than ten years I must tell you they have been able to reach up to a stage and compare favourably with any bankers. I understand, not only business in India but

even foreign exchange business has been captured more or less by Indian banks. That is something to their credit. My fear is that these clauses, which I mentioned just now, impair the personality of the chief executive. The hon. Finance Minister himself knows it very well. Certainly, these measures are not going to encourage them to take up this job and be completely under the control of the Reserve Bank. For example, take this "enumeration of emoluments paid to them in the profit and loss account". Is it absolutely necessary? Has not the Reserve Bank powers enough to check the defaulting ones and take them to task?

Here again, if the hon. Minister feels that it is necessary, the situation is so bad, a national emergency has come in, I will be the first man to go all out, as I said, at first to support it even to the extent of issuing ordinances, lest this matter can't wait till the next session, to protect the banking system from those dangers. If the Bill goes to a Select Committee, that will be an opportunity for the hon. Minister to explain its implications and convince us that the provisions made therein are necessary which, obviously, he cannot do in the House.

**Shri Bhagwat Jha Azad:** We are convinced.

**Shri Matthen:** There are some humble friends who are not so intelligent as my friend and who are not convinced. I am repeating again, Sir, that I am not opposing the Bill. I am in full sympathy with the Bill. I am only telling the House my immediate reaction which may be wrong. I am open to conviction. After all, it is only an interval of just three months. Therefore, in all earnestness I would request the hon. Minister to refer this Bill to a Select Committee and resort to any emergency provisions for preventing frauds or other difficulties that he has.

About small banks, I believe, my friend Shri Bhagwat Jha Azad said very vehemently and passionately that the socialistic pattern has not been followed by the banks. I think he is

[Shri Matthen]

right. At least in the case of small banks the Reserve Bank's attitude has not been very helpful. The tendency is to treat them as problem institutions. Is it consistent with the socialistic pattern? Is it consistent with the spirit of the Rural Banking Enquiry Committee Report? A positive attitude must be adopted towards small banks which alone come to the help of the rural people. At least the part played by these small banks in small towns and rural areas—especially in South India and, particularly in my own State—should be realised.

In my State, rural banking has been practised long before the Reserve Bank thought of appointing a Committee to go into it. There has been the practice of the socialist pattern before the socialist pattern was approved by Parliament. The large number of the healthy middle class that you will find there is due to a very large extent to the financial help given by the small banks.

I will just cite one example. I remember in my early days that from one end of the State to the other, financing was done by moneylenders from outside the State, giving money at very usurious rates of interest. In addition to interest, people had to pay some commission. Then they were asked to bring so many other things. In every town or important village, there was a moneylender who was known as the Hundi merchant. That was about 30 years ago.

Then, Sir, the small banks came on the field. I am glad to say that in ten years every one of the moneylenders disappeared from my State, though still you find these moneylenders in several other parts of India.

Why did these moneylenders have to go away? Because these small banks came on the scene and they treated people better, more humanely. They lent money at a lower rate of interest. Today most of the banks are issuing money at about 6 or 7 per cent. This

is all due to the service rendered by the small banks. The large number of tea estates, rubber estates, big and small, cardamom estates and other estates owe their position to the help given by the small banks.

Today the Reserve Bank is following a policy which is certainly not suited to this region. I can tell you that we have developed a pattern of banking which is not like the U.K. pattern or system of banking. I am sure the hon. Minister knows very well what I said just now, but the Reserve Bank has not been able to appreciate that.

What was the position in Germany when Germany was undeveloped? In the beginning stages of German industry, the German banking system was not like the U.K. banking system. They used to give large advances to people on land and on personal security. Today they may not need it. But I can tell you that in our poor country, people have not got anything better. The large commercial banks, as Shri Bhagwat Jha Azad, pointed out, cater to the richer and richer classes. The poor and middle class people, the improvement of whose economic condition is the main object of the Government, according to the Second Five Year Plan and the socialist pattern of society, are not helped by the large banks. I am not saying anything against them, but they cannot open their branches in every village. It won't pay them. It is these small banks which can go to every locality and open a branch there. They are better fitted to do it by reason of their experience in the field.

So my request to the hon. Minister is to look into this matter and give some help to these people in order to develop the economy of the larger countryside.

My hon. friend, Shri Punnoose, was referring to the T.C. Banking Committee's Report. That Report has not yet been published. But I hear that the Report is mostly coloured by the

Reserve Bank attitude which I criticised just now. Unless there are some practical bankers knowing this kind of rural banking business, the Reserve Bank will never be able to help them. This is a very important matter which I submit for the consideration of the hon. Minister; at any rate when that Report comes in for consideration and decision by Government, I would submit that an opportunity be given to the two bankers' associations of my State, the Travancore-Cochin Bankers' Association and the Malabar Bankers' Association to have a discussion with the hon. Finance Minister.

As I said, I have abundant faith in the fairness and chivalry of the hon. Minister and I hope and trust that he will accept the amendment for reference of the Bill to the Select Committee.

**Shri Mohiuddin (Hyderabad City):** The Banking Companies (Amendment) Bill is of vital importance, and I am sure that it has been introduced after considerable thought and consideration for the solution of the problem of banking in India as a whole.

Shri Tulsidas argued at length against the whole principle of the Bill. He is not in favour of any interference by the Reserve Bank or by the Government in the working of joint stock banks. With one sweep of hand, he condemned the whole House for not appreciating the seriousness of interference with the banks by outside parties. He said that the bank was a very delicate instrument, a very delicate plant. He compared it, I suppose, to a glass house. I fully agree with him that banking is an extremely delicate plant which has to be nurtured and nourished with care and love and with great precaution. But I remember that when the Reserve Bank was authorised under the Reserve Bank Act and the Banking Companies Act to inspect banks, there was a similar protest that this was an unwarranted interference in the working of private institutions. At the same time, we

have seen that the system of inspection of banks by the Reserve Bank has proved of very great value and has resulted, I am sure, in very great improvement in the method and working of the banks as a whole. The power of inspection has been exercised with great care, and it has done good to the whole country.

Now, having experience of the working of that power of inspection, I think the powers that are being given to the Government or the Reserve Bank now will prove ultimately to be of greater benefit and use for the progress of banking institutions in India. After all, banks rely on deposits received from the public, and the Government and the Reserve Bank have a right and a duty to see that the money which is deposited in the banks is properly used, and the power which vests in the banks is not misused. It is for these purposes that the clauses of the amending Bill are intended to arm the Reserve Bank with the necessary powers.

Now, the Reserve Bank is being armed with these powers and I fully welcome it. But I hope the Finance Minister will consider whether the Reserve Bank itself is fully equipped and is in a position, as far as its officers and other departments are concerned, to exercise these powers in an impartial manner. As I have said, so far, the powers have been exercised in an extremely impartial manner, and I have not heard any serious complaint. But more powers are being concentrated in the Reserve Bank of India, and we have got to see that the Reserve Bank of India itself is in a position to exercise those powers impartially, fairly and in the general interest of the nation as a whole.

There is a general saying that there must be an inspection of the inspector himself. Who inspects the Reserve Bank? The Board is nominated by Government. . .

**Shri T. T. Krishnamachari:** I do.

**Shri Mohiuddin:** That is what I was mentioning. The Finance Minister may have the chance of inspecting; but has the Finance Minister the time to inspect the Reserve Bank?

**Shri T. T. Krishnamachari:** He has.

**Shri Mohiuddin:** I am happy that the Finance Minister has asserted that he has the time.

**Mr. Speaker:** Who inspects the Minister?

**Shri T. T. Krishnamachari:** All hon. Members of the House.

**Mr. Speaker:** Therefore, at some stage you must give power to somebody, to the Finance Minister.

**Shri Mohiuddin:** I am making this criticism with a view to offer some constructive suggestion. I am glad that the Finance Minister has the time and he has intention of inspecting the Reserve Bank and taking interest in the working of the Reserve Bank.

**Shri T. T. Krishnamachari:** I have already been twice to the Reserve Bank ever since I took office, which would beat the record of any of my predecessors.

**Mr. Speaker:** Let the hon. Member give his suggestions.

**Shri Mohiuddin:** I was going to suggest that with the concentration of these powers with the Reserve Bank, we might examine the constitution of the Reserve Bank or the Board of the Reserve Bank itself. I was going to suggest that the Board may be made a functional Board. The Reserve Bank has now got to deal with rural credit side. It is dealing with commercial banks and there are so many other very important functions. The Governor and the Board have full power under these various Acts which vest in them great responsibility. I was therefore suggesting that the Finance Minister may examine the possibility of making the Board a functional Board so that the Board, while being

jointly responsible to the Government and to this House, may at the same time have the facility of having specialised directors for looking after particular aspects of the banks.

In this connection I might also mention that the deposits of the commercial banks are, of course, increasing gradually. In 1955, according to *The Trend and Progress of Banking in India*, the deposits had increased by Rs. 91 crores but the credit expansion is much more than the increase in the deposits. That was the situation in 1955. In 1956, in spite of considerable decrease in the circulation of currency, the deposits have not increased as was expected. As pointed out by the Reserve Bank Report, which I mentioned before, the result is that the banks tend to draw on the cash that they hold, or the investments that they have made in the securities so that they may have more funds to meet extra demands for advances. The position of advances in 1956 is already very acute and with the progress of the year 1956-57, with the progress of heavy investments arising out of the Five Year Plan, the position may become still more acute, and the rates of interest may go up.

I am drawing attention to these facts only in a general way and I wish to suggest that although these clauses are necessary to control the working of the banks, I wish that the whole question of the progress of banking should be examined to see that the banks make progress with that speed and rate which is necessary for the development of the country as a whole.

With these words I fully support the amendment of the Act, and I do not agree with the proposal that it should be referred to a Select Committee.

**Pandit Thakur Das Bhargava** (Gurgaon) *rose.*

**Mr. Speaker:** So far as hon. Members are concerned, not only in the third reading stage but also in the clause-by-clause consideration stage, I will give them an opportunity to speak. Now I call on the hon. Minister.

**Shri T. T. Krishnamachari:** The main motion before the House is that it should be referred to a Select Committee with instructions to report at the beginning of the next session. If hon. Members had really voted down this measure, it would have had the same effect. I could have brought it up again six months afterwards. Instead of that, some hon. Members want me to refer this to a Select Committee and then bring it before the next session, which session will not be able obviously to consider this measure, and thereafter the Bill must lapse. I really cannot understand what rational reply I can give to the hon. Member who moved the motion for referring this Bill to a Select Committee.

**Shri Matthen:** Why can't we consider this in the next session?

**Shri T. T. Krishnamachari:** It is true that the motion was tantamount to negating this particular Bill before the House. I think my hon. friend, Shri Tulsidas, is certainly entitled to some admiration from me, because his opposition was straightforward, and he said "I do not want this measure; would heavens fall without this"? Heavens have never fallen on tragedies much worse than what is happening in the banking world. The only safety about heaven is that it never falls. I understand my hon. friend, but I cannot understand my hon. friends who want this motion to be accepted, and then for us to go through a farce of a Select Committee knowing full well that that *Committee's Report* is of no use. There will be another Bill; there will be another Select Committee or the Bill will be considered at the third Select Committee. I have gone to some trouble to understand what is behind all this. If you say: "We do not want the Bill", that, of course, I can understand...

**Shri Matthen:** Certainly not.

**Shri Kamath (Hoshangabad):** On a point of order, unless I misheard the

hon. Minister, he said "the farce of a Select Committee"....

**Shri T. T. Krishnamachari:** I said that it would be farcical.

**Shri Kamath:** I would only ask you to consider whether it is proper to use the word 'farce' with reference to a Committee of the House.

**Shri Feroze Gandhi:** At this stage it would be farcical. It is correct to say 'the farce of the Select Committee'.

**Mr. Speaker:** The reference has not been made to the Select Committee and the hon. Minister has cast no aspersions on the Select Committee. On the other hand, he is anxious that the Select Committee should do its work properly and that it will not end in a farce. I am sure the hon. Minister is anxious that the Select Committee with all its weight should go into this matter properly. He felt that the Bill which contains 50 or 60 clauses, when it is sent to the Select Committee and asked to look into it for a day will be a farce; it will not be doing justice to the Select Committee or to this House. He said therefore it would be better to prevent any such abuse other than quarrel with it after it comes out with the report.

**Shri T. T. Krishnamachari:** The language we have to use is rather difficult; it is a foreigners' language. Therefore, I can feel the hon. Member's anxiety and if he says that in the weight of opinion it should be withdrawn, it is a different matter.

**An Hon. Member:** No.

**Shri T. T. Krishnamachari:** If he says that so far as this question is concerned, I approve of the Bill, but do not want to push the Bill this time, that may have been better; I think even that would have been better than the Select Committee Motion. I would have appreciated if he had said: Do not push it before this session; let an opportunity be given to the various institutions that are likely to be affected, so that they can re-adjust

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their position and we may bring in a new Bill; either we must completely overhauled what they have done or we should allow the *status quo*. I do not say that any hon. Member who has put forward the suggestion of a Select Committee had any *mala fide* intention. Nobody has. I am aware of their *bona fides* but nevertheless they thought that this was not the right time or the time is not opportune. Much play has been made by my hon. friend, Shri Thomas on the effect of the original Bill, I mean the Bill which ultimately became an Act. There were three Select Committees and I had participated in two of them and I had not the good fortune to participate in the third one. I therefore asked for a report of the Select Committee. Mine is not a long record of legislative work; it started some time in 1937 and it is only a matter of 20 years. During these 20 years, it may be that I have said many things which are contrary or even contradictory to the views that I hold today; I might have given expression to many things and I have forgotten what I said then. In fact, that is why when I saw this particular reference, both the original and the one after the Select Committee had reported, I find that the persistence that I had at that time has been lost, that during the intervening period, between 1949 and perhaps 1956, I lost the fervour and enthusiasm that I had for re-shaping the economy of this country in the matter in which I wanted to do at that time. I shall read my speech here. I wanted a dividend limitation in respect of banks and said that the bank's dividend must be restricted to 9 per cent., and I complained bitterly against a former and very distinguished predecessor of mine for whose judgment and integrity I have the highest respect. I said that he is not doing the proper thing. I would like to quote again. I offer my apologies for what I might have been doing—for my misdeeds.

"I want this Government not to experiment on sociological ideas; I want them to embark on them."

I think I have probably forgotten all this in the amendment. If I do not want to embark on this idea, I should be untrue to the speech that I made in 1949, namely that I am not in a position to support the motion before the House and say that this motion must be got through, provided the House should permit us to allow this motion to go through.

That is what my hon. friend, Shri Thomas said of my having participated in the Select Committee by the amendments that I sought to move. I do not remember that I appended a minute of dissent to the motion.

**Mr. Speaker:** What harm is there if the hon. Minister changes?

**Shri T. T. Krishnamachari:** No, Sir. I agree that there is no harm in changing, but it appears that in the interval, I have changed for the worse, and if I have changed for the better, I do not think my hon. friend can blame me.

I come again to the point which I mentioned in 1949 that I do not want to experiment with sociological ideas; I have no desire to experiment with them. This Government has embarked on them and I think, we must go on with it.

Therefore, what Shri Thomas stated was not quite relevant because I have said nothing there which could be held up against me, even, assuming that I have the right to change—I think everybody has the right to change—I say once again I have not pursued the path which I objected to in 1949 as a private member. I do not know if I am doing justice to my present office in regard to the ideas that I had at that time.

**An Hon. Member:** Now we wish you to embark upon that.

**Shri T. T. Krishnamachari:** I have already explained yesterday why these amendments are necessary. Of course, I cannot give instances. I know the instances, but I cannot give them by saying Bank A or Bank B. Even

oday in regard to one particular set of institutions, I had asked for some report. I found that in spite of everything else, some one person is cornering some particular bank and he wants to amalgamate some three banks.

Therefore the opposition of my hon. friends to the Bill being put through now, which I thought was what those who are supporting the Select Committee motion want to do, is not a correct one. I have already explained that. I had not brought forward this Bill to allow the *status quo* to remain; it may be that some harm may happen or continue to happen but it would not be aggravated. My hon. friend Shri Punnoose explained very clearly how I am going to proceed with the Bill and certainly every loophole would be plugged in so far as my intentions covered by the present Bill are concerned. Shri Thomas mentioned about the failure of the Reserve Bank in regard to Travancore-Cochin. There is no bank in Travancore-Cochin which the Reserve Bank has recognized, barring one bank. Yes, Sir. It is true they have not issued a licence. Nonetheless the banks are functioning—at least most of them. Mention has been made that the Reserve Bank was of the opinion that the banks have fulfilled their functions in the proper way, as laid down in the Banking Companies Act; They have not negated the licences and the banks are functioning. What else is needed, I cannot see, unless it be that my hon. friend thinks that by the *imprimatur* of the Reserve Bank ink being attached to the particular banking institutions the stature is in some way safeguarded. I cannot see what harm has happened.

Another point has been mentioned by several speakers, particularly by my hon. friend Shri Tulsidas. He said the Banking Companies Act is there; your powers are there; why don't you use those powers? Why do you want these powers now? I do not want to appear somewhat amateurish in trying to put it in the form of a syllogism:

The forms are there. Why take these powers? If the powers are there, why should I not use them? Why have the Bill anyway? I do find that there are certain difficulties in the operation of the provisions, even in a limited form, in regard to the banking companies. But, I am not quite sure in my mind that the Companies Act gives me powers to check abuses where the abuses are not between the management and the shareholder. That is the defect which I think the Companies Act still has in many respects. I had no time to come to the House with an amendment of it. In any event I cannot come with an amendment until I have worked the Act for at least a full year. In some cases, we are merely seeking to burden ourselves in order to give our sanction for the appointment of a manager on Rs. 430. As I told this House yesterday I found in the Government's correspondence, an Under Secretary of the Company Law Administration had to give permission for the appointment of a person on Rs. 430. It is completely meaningless; it is not our intention at all. When big things change hands some people try to get hold of companies and we find that we are completely powerless. We can go up to a point but that point does not mean the logical end. We cannot stop the misuse of the privileges of a person who has temporarily acquired a control over the shares. I cannot say now as to how it is to be amended. It does happen that the emphasis so far as the Company Law is concerned is primarily to take the interest of the shareholders and therefore the same thing could not be applied in the same way to the banks. Our intention originally was to protect the interests of the deposit holders but now we want to use these powers as a tool for the purpose of controlling the economy of the country. It is something much bigger. Therefore, it is no use saying: "You have it already. Why don't you use it"? They are particular provisions in the Act. If, inadvertently, I had used them, I am perfectly sure that the parties concerned would be asked to go to the court and render whatever action f

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try to take infructuous. So, I can tell this to the hon. Member. If that is so, why do you object to the Bill? I think it is not so; I have been advised it is not so and I find it is not so.

I must also at the same time express my gratitude to friends like Shri Bhagwat Jha Azad and Shri Mohiuddin for the valuable support they gave to this measure. So far as Shri Tulsidas is concerned, he did not pin-point any particular aspect of this measure. His was a general speech which could have been fitted into any occasion and I am waiting for the wisdom and light he may throw on the particular provisions of this Bill in addition to what he has indicated or rather the cards that he has placed on the Table by the amendments he has moved.

The hon. Member on that side mentioned something about the Travancore-Cochin Banking Enquiry. The report has been submitted to the Government. The consideration of that report has reached an advanced stage and I cannot say whether the decision of the Government would be made known within a particular time. We will try to do it as early as possible. Naturally, the concerned interests will have to make their representation. But, I can tell Shri Punnoose, if he will trust me, that whatever action Government will take, will be fair to all parties concerned.

So far as the provisions of the Bill are concerned, I do not think the hon. Members have made any particular reference to any particular provision. I do not think it is necessary for me to deal with them now.

Though I have asked for half-an-hour, I think I have taken barely fifteen minutes and I do not think that I will take the time of the House any more at this stage.

**Mr. Speaker:** The question is:

"That the Bill be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri C. P. Mathew, Shri D. C.

Sharma, Shri N. C. Kasliwal, Shri Raghunath Singh, Shri K. P. Tripathi, Shri Radha Raman, Shrimati Tarkeshwari Sinha, Shri Anandchand, Shri C. P. Gidwani, Shri P. T. Thanu Pillai, Shri K. C. Wodeyar, Shri Mulchand Dube, Shri B. Ramachandra Reddi, Shri Tulsidas Kilachand, Shri M. S. Gurupadaswamy, Shri K. K. Basu, Shri H. V. Pataskar, Shri A. C. Guha, Shri T. T. Krishnamachari, and the Mover, with instructions to report on the first day of the first week of the next Session."

*The motion was negatived.*

**Mr. Speaker:** The question is:

"That the Bill further to amend the Banking Companies Act, 1949, be taken into consideration."

*The motion was adopted.*

**Clause 2.—(Substitution of new section for section 10)**

**Shri Tulsidas:** I beg to move:

(i) Pages 1 and 2—

omit lines 23 and 25 and 1 to 4 respectively.

(ii) Page 2, line 25—

for "salary, fees and perquisites" substitute "salary and fees"

(iii) Page 3, line 7—

for "thereon shall be final for all purposes"—

substitute "thereon shall be considered by the Board of Directors of the banking company; in the event of its disapproval by the Board it shall be laid before a special general meeting of the share-holders whose decision shall be final for all purposes."

(iv) Page 3, lines 6 and 7—

for "the decision of the Reserve Bank thereon shall be final for all purposes." substitute:

"and decision thereon has been taken by the Reserve Bank,

the banking company may within 30 days of the intimation of the decision of the Reserve Bank appeal to the Ministry of Finance whose decision shall be final for all purposes."

**Shri C. R. Iyyanni:** Sir, I beg to move:

Page 3—

omit lines 4 to 7.

My point is this. Certain powers are granted to the Reserve Bank to say whether a remuneration is excessive or not. It is said that what the Reserve Bank says is final and it should not be questioned in a court of law. It says here:

"(3) If any question arises in any particular case whether the remuneration is excessive within the meaning of sub-clause (iii) of clause (b) of sub-section (1), the decision of the Reserve Bank thereon shall be final for all purposes."

Firstly, there may not be many cases. Then, even if for any reason, the Reserve Bank comes to the conclusion that the salary is abnormal or not just or improper, the party concerned can go to the court of law. Why should he not? Why should there be a final settlement of the matter by the Reserve Bank? If the Reserve Bank does it properly, there may not be any complaint. But, if the party is aggrieved, that the decision of the Reserve Bank is not correct or just, he should have the right to go to the court. Unless there are several grounds and material for the aggrieved party to go to the court, he will not go. Why should he be prevented from doing that? I beg to submit that this sub-clause should be deleted.

**Mr. Speaker:** These amendments are before the House.

**Shri Tulsidas:** Regarding my amendment No. 7, the dispute between the employees of the banking companies and their employers in India has been a very well known affair. The settlement of the question of pay-

ment of bonus and other employment problems of the banking employees has taken no less than five to six years and still the question has not been adequately solved. The banking companies have appealed to the Supreme Court on the question of payment of bonus to the banking employees. The matter is still *sub judice*. Is the Government entitled to legislate even on a matter which is *sub judice* in some court? The words in the proviso contemplate the award, settlement or claim of a future bonus dependent upon the profits of the banking companies and in any event they are to be objected to as they would be construed by industrial courts as an authority to make such awards. In the case of industrial concerns, such awards have been made and may well be made without danger. In the case of a banking company, such a practice would be deplorable as the bank's profits are to be ascertained after providing for contingencies. On the one hand it could not be known what contingency may have to be provided for in a future year. On the other hand, it would not be advisable to allow an enquiry into it whether the provision for a contingency made by the bank's management was excessive. If the proviso is allowed to become law, it will lead to making public a number of facts which it would not be advisable from the point of view of banking companies to disclose. I may say why it is not possible to make certain facts public. As the hon. the Finance Minister knows banking companies have to make a certain amount of provision for contingencies. Now it so happens that certain advances have been made and those advances may have become bad debt. These contingencies are provided for that reason. Besides, a few years ago when the bank rate was changed and certain banks had secured their investment in government securities they had a tremendous fall in the evaluation of securities and these contingency funds which they had as secret reserves were not sufficient for the banks to meet the depreciation in government securities. In

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view of that I think that this proviso should be removed and should not be incorporated until at least the Supreme Court has given a decision and then the matter may be brought up. Otherwise this will again lead to a dispute between the employers and the employees. The present dispute has continued for the past five or six years and has not been resolved. Therefore, I would suggest the deletion of the first proviso to the new section 10(1) of clause 2. I am sure the hon. Minister will pay sympathetic attention to this important problem and will be good enough to accept my amendment.

Shall I speak on the other amendments also?

**Mr. Speaker:** Yes.

**Shri Tulsidas:** My other amendments are 10, 13 or 12, relating to remuneration.

This clause seeks to empower the Reserve Bank to restrict the total remuneration available to a manager or a chief executive of a banking company. The Reserve Bank is empowered firstly to decide as to whether remuneration of a chief executive in a particular case is excessive or not. It appears that the Reserve Bank will compare the remuneration of the chief executive in private banking concerns with the remuneration available to the chief executives in the State owned banks like the State Bank of India and will bring down the total remuneration to a level obtaining in them. They may also compare their salaries with the salaries paid by foreign exchange banks who are here. It has to be realised that they are merely managers of branches here; but the remuneration they get is much higher.

**Shri T. T. Krishnamachari:** What is the amendment of the hon. Member?

**Shri Tulsidas:** I am moving 13 first and then if he does not accept it I am coming to 12. That is the alternative.

I know he won't accept anyone of them. But I would like him to consider them.

As he himself pointed out, the company law provides that remuneration paid to a manager is subject to the approval of Government. He said that the Company Law administration had to deal with approving of appointment of managers under section 387. Now this provision is being brought in in the Banking Companies Law.

Now the Explanation to this proviso says:

"For the purpose of sub-clause (iii) of clause (b), the expression "remuneration", in relation to a person employed or continued in employment, shall include salary, fees and perquisites but shall not include any allowances or other amounts paid to him for the purpose of reimbursing him in respect of the expenses actually incurred by him in the performance of his duties."

What I am objecting to is this. If he includes salaries and fees I can understand. With regard to perquisites, I would like to explain to him that the Board of a Bank has to rely on Bank Managers and Chief Executives with regard to the entire amount of the depositors' money. These people are people who have been trained for years. They have been receiving a certain amount of perquisites. Some banks give houses or flats. Then they have other perquisites. The foreign exchange banks also allow these perquisites. Now I would like to explain why it is necessary to allow such perquisites. Bank executives have to deal with representatives of foreign banks who come to them; they have to meet them, they have to entertain them.

**Shri T. T. Krishnamachari:** May I point out that there is nothing to prohibit the Reserve Bank from allowing these perquisites and treating them as remuneration. What the

Explanation does is only to give a definition of "remuneration". There is nothing to prevent the Reserve Bank from taking into account all the facts that my hon. friend mentions. I do not know what is wrong in including them, unless it be that my hon. friend says that perquisites should not come within the purview of the Reserve Bank in assessing the remuneration.

**Shri Tulsidas:** That is what exactly I am saying—perquisites should not come under the purview of the Reserve Bank.

**Shri T. T. Krishnamachari:** Why should it not? The only method by which we can check a very large area of perquisites is by bringing it under the purview of the Reserve Bank. Perquisites are taxed. The Company Law also provides for it.

**Mr. Speaker:** The hon. Minister used the word "taxed" a little out of place. All that he wants to say is that he should control perquisites.

**Shri T. T. Krishnamachari:** My hon. friend says "On the perquisites would be brought under the purview of the Reserve Bank." It does not mean anything. Take the case of a company, which pays Rs. 6,000 as remuneration, of which Rs. 1,500 are treated as allowances and Rs. 1,500 as perquisites. The Reserve Bank will take the entire picture.

**Shri Tulsidas:** I am only trying to explain to him.....

**Shri T. T. Krishnamachari:** He is explaining to a person who knows what the hon. Member has in mind.

**Mr. Speaker:** In no shape or form should it exceed some amount which is considered reasonable and not excessive. It may vary with the individual bank, the amount of deposits, what the bank can afford to pay and all that. But the idea is that large sums should not be allowed to be taken away as perquisites. I am not justifying it. I have no place.

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**Shri Tulsidas:** My amendment No. 13 is to the effect that the decision of the Reserve Bank thereon shall be considered by the Board of Directors of the banking company; in the event of its disapproval by the Board it shall be laid before a special general meeting of the share-holders whose decision shall be final for all purposes. I would like to explain that, after all, the shareholders of a bank are also interested in a person who is looking after the entire interests of the banking institution. When the Reserve Bank makes a certain observation with regard to remuneration, the shareholders will naturally accept those things. My hon. friend will say that among the shareholders there may be people controlling the shares. But I may point out that under the Companies Act, any one person cannot hold more than a certain percentage of shares in an aggregate with a banking institution. Even under the Companies Act he has to disclose the beneficiary or beneficial interest of a shareholding with a particular bank. And a person does not hold, directly or indirectly, more than a particular number of shares. Therefore, the fear of a few persons trying to dominate the shareholders' meeting is not correct. And I would say that this particular direction on the part of the Reserve Bank would be approved by the shareholders, if the board of directors do not approve it.

If that is not acceptable, I have another amendment which suggests that if decision thereon has been taken by the Reserve Bank, the banking company may within 30 days of the intimation of the decision of the Reserve Bank appeal to the Ministry of Finance whose decision shall be final for all purposes.

I have these two amendments. I do not know which he would like to accept. I think that amendment No. 13 would be more appropriate, particularly when the shareholders will be able to appreciate the point of view of

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the Reserve Bank with regard to remuneration. I hope my hon. friend will accept any one of these amendments.

**Mr. Speaker:** Is there any hon. Member who has not had an opportunity of speaking and who would like to speak on this?

**Shri C. R. Iyyunni:** Opportunity should have been given earlier, not on these matters.

**Mr. Speaker:** I will finish the clauses early, and in the third reading allow opportunities to Members.

**Shri T. T. Krishnamachari:** Regarding Shri Iyyunni's amendment which, in the order, would come last, it is with reference to the proposed sub-section (3) which reads as follows:

"If any question arises in any particular case whether the remuneration is excessive within the meaning of sub-clause (iii) of clause (b) of sub-section (1), the decision of the Reserve Bank thereon shall be final for all purposes".

But he says 'No, it should be justifiable'. He says: Whatever limit that the Reserve Bank puts, the affected party should go to a court; why should the Reserve Bank have the final say? Perfectly logical. The only trouble is this. So far as the existing sub-section 10(2)—of which this is the amendment—is concerned, that particular sub-section also says, "If any question arises in any particular case where there is a remuneration etc."—word for word it is the same thing. So, it is a provision which already exists, and therefore I do not think we are agreeable to make it justifiable.

Then, the first amendment moved by Shri Tulsidas seeks to omit lines 23 to 25 on page 1 and lines 1 to 4 on page 2, that, is the proviso. The proviso reads:

"Provided that nothing contained in this clause shall apply to

the payment of any bonus by any banking company in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business".

15-04 HRS.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

The amendment that we have made in the Bill is due to the fact that there was a doubt which was expressed whether an employee in a bank will be eligible for bonus. That is one of the matters of doubt before a court of law. But we are not attempting by means of this amendment to make this provision retrospective. If we should do so, we will be offending very deeply the proprieties in this matter. But this is because there is a doubt—we have no doubt about it in our mind. So the future is being safeguarded. I am not, therefore, prepared to admit the argument of my hon. friend that we should eliminate this proviso, in order to confirm really an impression which we never carried in our minds.

As I said already while he was speaking, we do want perquisites to be included in the scope of salaries and fees. Therefore, I am not prepared to accept his amendment with regard to perquisites.

Then, amendment No. 13 which he has moved is an extremely novel amendment. Here is a question of the Reserve Bank fixing the salary, remuneration, perquisites and other allowances, and every conceivable kind of benefit that a bank manager or executive gets in relation to the general economy of the country. And that is why the Reserve Bank acts in this matter. And my hon. friend says that it must be by means of an appeal to the board of directors, and from the board of directors they must go to the shareholders, and the shareholders' opinion must be

exercised by the proxy-holders. I am really amazed that my hon. friend should have ever thought that any sane legislature would accept an amendment of that nature. I am afraid I cannot accept it.

**Shri Tulsidas:** What about the alternative amendment?

**Shri T. T. Krishnamachari:** The alternative amendment is there. As a matter of fact, my hon. friend, if he is affected tomorrow, would write a letter to the Finance Minister. And it does not need a person to be a member of the legislature. Here I have a telegram, for instance. Of course, the powerful interests have no difficulty. Even the people who are not powerful can write to the Government and they can review the matter. We have not abdicated Government's rights in regard to this matter. Government is always open to receive any appeal, any letter asking for a review of anything. And if we feel that an injustice has occurred, naturally we will look into the matter. And I can say that so far as I am concerned, I am looking into most of these things whenever a complaint occurs,

**Mr. Chairman:** I shall now put the amendments to vote. Shall I put Mr. Iyyunni's amendment No. 41?

**Shri C. R. Iyyunni:** I do not press it.

**Mr. Chairman:** Has the hon. Member the leave of the House to withdraw his amendment, No. 41?

*The amendment was, by leave withdrawn.*

**Mr. Chairman:** I shall put amendment No. 7 of Shri Tulsidas Kilachand.

The question is:

Pages 1 and 2—

omit lines 23 to 25 and 1 to 4 respectively.

*The motion was negatived.*

**Mr. Chairman:** I shall now put amendment No. 10 of Shri Tulsidas Kilachand.

The question is:

Page 2, line 25—

for "salary, fees and perquisites" substitute "salary and fees".

*The motion was negatived.*

**Mr. Chairman:** I shall now put amendment No. 13 of Shri Tulsidas Kilachand.

The question is:

Page 3, line 7—

for "thereon shall be final for all purposes",

substitute "thereon shall be considered by the Board of Directors of the banking company; in the event of its disapproval by the Board it shall be laid before a special general meeting of the shareholders whose decision shall be final for all purposes."

*The motion was negatived.*

**Mr. Chairman:** Then there is amendment No. 12.

**Shri Tulsidas:** I am not pressing it.

**Mr. Chairman:** Does the hon. Member have leave of the House to withdraw the amendment?

*The amendment was, by leave withdrawn.*

**Mr. Chairman:** There is no other amendment. I shall now put clause 2 to vote.

The question is:

"That clause 2 stand part of the Bill".

*The motion was adopted.*

Clause 2 was added to the Bill.

**Clause 3—(Substitution of new section for section 12)**

**Shri Tulsidas:** I am moving amendments Nos. 17, 18, 19, 21 and 22. I beg to move:

(i) Page 3—

omit lines 29 to 34.

[Shri Tulsidas]

(ii) Page 3, line 40—

omit "or".

(iii) Page 4—

omit lines 1 to 3.

(iv) Page 4, line 8—

omit "whether directly or indirectly".

(v) Page 4, line 12—

omit "general or special".

The proposed sub-section (3) provides that "Notwithstanding anything contained in any law for the time being in force or in any contract or instrument no suit or other proceeding shall be maintained against any person registered as the holder of a share in a banking company on the ground that the title to the said share vests in a person other than the registered holder".

My amendment No. 17 is to remove this proposed sub-section (3). The effect of this proviso will be to bar a beneficiary shareholder of a banking company from maintaining a suit by his title to the shares. There is no reason why the normal legal rule should be departed from in the case of shares of banking companies. It will deprive a person of his property, to which he is legally entitled. If this provision is meant for finding the true ownership of the shares, section 307 of the Companies Act contains sufficient provisions for investigating the ownership of shares in companies. I therefore feel that sub-section (3) of the proposed section 12 of the principal Act, together with part (b) of the proviso will cause unnecessary discrimination between the banking companies and other companies. Section 307 of the Companies Act gives sufficient scope to the authorities and the necessary power to detect benami holdings of shares resulting in control of directorship.

I have studied the report of the trend and progress of banking in India for several years and I do not find any serious complaints by the authori-

ties in respect of irregularities emanating through benami holdings of shares and resulting in the control of directorship. The provisions sought here are nothing but an attempt or thirst for powers for the Government to impose another rigour of the law.

I would like to understand another aspect of this provision. I would like to point out that the banking companies also hold shares in other banking companies, as nominees of the person who holds shares. They may like to hold shares in another banking company and ask another banking company to hold shares in the name of another banking company. Then what will happen? Nobody can have a suit against the banking company who holds shares on behalf of that person in another banking company. If this sub-section is retained, then the bank can immediately say that those shares belong to them and then nobody can file a suit against the banking company. There are banking companies who hold shares in other banking companies on behalf of their clients. If this proviso is there, then, automatically the person concerned has no suit against the banking company. I hope the implication has been realised in this respect.

Then, my amendment No. 18 arises in consequence of my amendment No. 17. I have tabled amendment Nos. 17 to 19 for this reason. Why should the right of the shareholder who holds a share be taken away? It is his own property even though it may be in the name of any banking company. Therefore, I would like this sub-section to be deleted, along with the other changes in the proviso which I have already mentioned.

I now come to amendment Nos. 21 and 22. Under sub-section (4), every chairman, managing director or chief executive officer of a banking company is required to furnish the Reserve Bank returns containing full particulars of the extent and value of his holding of shares, whether directly or

indirectly, in the banking company. There are sufficient powers in the hands of the Government to prevent the use of benami holding of shares in banking companies for acquiring control and direction. There is also the provision that no suit shall be maintained against a person registered as the holder of a share in a banking company. I feel that this provision is unnecessary, namely, the provision saying "directly or indirectly". It is unnecessary and meaningless. I have, therefore, asked for the deletion of the words "whether directly or indirectly" and "general or special".

Similarly, I have attempted through my amendment No. 22, as already said, the removal of the words "general or special". I have attempted to improve the position of the Reserve Bank by providing that they should pass an order to the particular bank asking for a statement of particulars about the shareholdings of their officials. It is impossible to conceive of the Reserve Bank passing a general order of this nature. I do not want the words "general or special".

**Shri T. T. Krishnamachari:** You are dealing with all the amendments?

**Shri Tulsidas:** Yes; If you want me to deal with them one by one, I do not mind it.

**Shri T. T. Krishnamachari:** You are dealing with No. 22 now. I am prepared to accept amendment Nos. 22, 24 and 25.

**Shri Tulsidas:** What about the amendment No. 27? I think you should accept that also.

**Shri T. T. Krishnamachari:** I said I accept amendment Nos. 22, 24 and 25.

**Shri Tulsidas:** With regard to amendment No. 21, my difficulty is with regard to the words "directly or indirectly".

**Shri T. T. Krishnamachari:** You have finished No. 21. You may pass on to No. 22.

**Shri Tulsidas:** For clause 3, my amendments are up to 22 only.

**Mr. Chairman:** Amendment Nos. 23 to 27 are to clause 4. For clause 3, there are no amendments beyond amendment No. 22.

**Shri Tulsidas:** Amendment No. 22 is to clause 3.

**Shri T. T. Krishnamachari:** The other ones are to clause 4. I said I am prepared to accept all the three.

**Mr. Chairman:** The hon. Member has moved amendments to clause 3 and not to clause 4.

**Shri T. T. Krishnamachari:** The clause under discussion is No. 3. The amendments which, I said, I would accept are Nos. 22, 24 and 25—No. 22 to clause 3, and Nos. 24 and 25 to clause 4. I am sorry I should not have mentioned it before the clause is discussed, but they are more or less consequential.

**Mr. Chairman:** Am I to understand that the hon. Member has moved all his amendments to clause 3—Nos. 17, 18, 19, 21 and 22?

**Shri Tulsidas:** Yes.

**Mr. Chairman:** Amendments moved:

- (i) Page 3—  
omit lines 29 to 34.
- (ii) Page 3, line 40—  
omit "or"
- (iii) Page 4—  
omit lines 1 to 3.
- (iv) Page 4, line 8—  
omit "whether directly or indirectly"
- (v) Page 4, line 12—  
omit "general or special"

**Shri T. T. Krishnamachari:** The first in this series of amendments is No. 17. The hon. Member wants to omit lines 29 to 34. These relate to the proposed sub-section (3) which reads as follows:

"Notwithstanding anything contained in any law for the time being in force or in any contract or instrument no suit or other

[Shri T. T. Krishnamachari]

proceeding shall be maintained against any person registered as the holder of a share in a banking company on the ground that the title to the said share vests in a person other than the registered holder”.

This is an attempt to deal with benami holdings. My hon. friend does not like it. We want to deal with benami holdings in this way. That is why we want a provision. It is fairly clear.

**Shri Tulsidas:** I have explained that benami holdings can be dealt with under the Companies Act. There is no difficulty.

**Shri T. T. Krishnamachari:** The thing is this. If it is already there, why should the hon. Member object to this provision here? If he finds that it is already there, he cannot object to it.

**Shri Tulsidas:** The point of mine is this.

**Shri T. T. Krishnamachari:** I have not got second sight. Somehow, I am able to read the hon. Member's mind so easily.

**Shri Tulsidas:** You may be able to read it. But I am afraid the hon. Minister does not understand another aspect of it. I just now mentioned that the banking company can also hold shares on behalf of his clients in another banking company. What will happen to that?

**Shri T. T. Krishnamachari:** It should not do it. That is all. If it is really a question of benami holding—

**Shri Tulsidas:** It is not a question of benami holding. It is a question of genuine holding.

**Shri T. T. Krishnamachari:** The position so far as this is concerned is this. The illegality of the possession can be remedied by the shares being re-transferred to the person who owns.

**Mr. Chairman:** It is not quite clear. Does not the last sentence say: “on the ground that the title to the said share vests in a person other than the registered holder”? It only relates to benami.

**Shri Tulsidas:** A banking company can hold shares in another banking company, who is a registered shareholder. Suppose Bank A holds shares in Bank B, on behalf of a person who is a client. Then, as it is, the client has no right on Bank A. Then what will happen?

**Shri T. T. Krishnamachari:** Either the bank holds it as an agent or it holds it in its own name. The whole position has got to be made clear. Where it is a subject-matter of legal proceedings, I really cannot understand what the hon. Member says.

In the case of minors and lunatics mentioned in sub-section (3)(b), I am afraid the position must be safeguarded in regard to anybody who holds shares on behalf of minors and lunatics.

The other amendment is that a bank should not get any information whether directly or indirectly. These words “directly or indirectly” occur in line 8 on page 4. The sub-section reads like this:

“Every chairman, managing director or chief executive officer by whatever name called of a banking company shall furnish to the Reserve Bank through that banking company returns containing full particulars of the extent and value of his holding shares, whether directly or indirectly,” etc.

The hon. Member says this should not be there. Actually, the holding of all such shares is tied up to this benami holding. Therefore, I cannot accept it.

I shall accept amendment No. 22. I realise the force of his argument that in all these cases, action must

be taken singly and not generally. Therefore, I accept this amendment, No. 22.

**Mr. Chairman:** No other amendments are being moved.

The question is:

Page 3—

omit lines 29 to 34.

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 3—

line 40, omit "or".

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 4—

omit lines 1 to 3.

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 4, line 8—

omit "whether directly or indirectly".

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 4, line 12—

omit "general or special".

*The motion was adopted.*

**Mr. Chairman:** The question is:

"That clause 3, as amended, stand part of the Bill".

*The motion was adopted.*

Clause 3, as amended, was added to the Bill.

Clause 4.— (*Insertion of new section 12A*).

**Shri T. T. Krishnamachari:** I will accept amendments Nos. 24 and 25. The hon. Member may speak.

**Shri Tulsidas:** I beg to move:

(1) Page 4, line 16—

omit "general or special".

(2) Page 4—

(i) line 17—

omit "banking companies generally or".

(ii) line 18—

omit "in particular".

(3) Page 4, line 24—

for "the order" substitute:

"the order; at such meeting all the directors, or the director or directors named by the Reserve Bank, as the case may be, shall retire from office but shall be eligible for re-election".

(4) Page 4, line 28—

after "Any election" insert "duly".

I am not speaking on amendments 24 and 25. I will speak on amendments 26 and 27. It is said here:

"The Reserve Bank may, by general or special order, require banking companies generally or any banking company in particular to call a general meeting of the shareholders of the company within such time, not less than two months from the date of the order, as may be specified in the order or within such further time as the Reserve Bank may allow in this behalf, to elect in accordance with the voting rights permissible under this Act fresh directors, and the banking company shall be bound to comply with the order."

I want to add these words:

"at such meeting all the directors, or the director or directors named by the Reserve Bank as the case may be, shall retire from office but shall be eligible for re-election."

If the election of directors is there, these people retire and they may not

[Shri Tulsidas]

be elected. Some of the directors may be eligible for re-election. You are taking away the whole power. You may be against one or two directors. There is the entire board. I would say that some of the directors should be eligible for re-election. That is what I want to say in this amendment No. 26.

As regards amendment No. 27. The wording here is, "Any election held...". It should be "duly held". Under this clause, an election shall not be called in question. It should be 'election duly held'. These are the two amendments. One relates to the language and the other one regarding directors that the Reserve Bank may not like to go out. They should be eligible for re-election.

**Mr. Chairman:** These amendments are now before the House.

**Shri T. T. Krishnamachari:** So far as amendment No. 26 is concerned, there is nothing in the Amending Bill to prevent them from standing for election. I do not want any doubt to be there on that question. I will accept amendment No. 27.

**Mr. Chairman:** No other amendment is being moved. The question is:

Page 4, line 16—

omit "general or special".

*The motion was adopted.*

**Mr. Chairman:** The question is:

Page 4—

(i) line 17, omit "banking companies generally or".

(ii) line 18, omit "in particular".

*The motion was adopted.*

**Mr. Chairman:** Amendment No. 26.

**Shri Tulsidas:** It is all right. If he says that they are eligible for re-election. I have no objection.

**Mr. Chairman:** So, he wants to withdraw?

**Shri Tulsidas:** Yes.

*The amendment was, by leave, withdrawn.*

**Mr. Chairman:** The question is:

Page 4, line 28—

after "Any election" insert "duly".

*The motion was adopted.*

**Mr. Chairman:** The question is:

"That clause 4, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 4, as amended, was added to the Bill.*

*Clause 5 was added to the Bill.*

*Clause 6— Amendment of section 27.*

**Shri Tulsidas:** I beg to move:

Page 5, lines 19 to 21—

for "or affairs of the banking company (including any business or affairs with which such banking company is concerned)" substitute "of the banking company".

This clause seeks to empower the Reserve Bank to call upon banking companies to furnish statements and information relating to the business or affairs of the banking company. This provision also affects others such as the large number of depositors and clients. The words 'affairs of the banking company (including any business or affairs with which such banking company is concerned)' empower the Reserve Bank to include in it the affairs of the clients and other private parties with whom the banking concern may be dealing. I really cannot see how this provision justifies the intention of the Government in setting things right as regards the banking concern. Do the Government desire to intrude into the affairs of private parties by the backdoor by asking the banking concern to provide information as regards the business relations as between the bank and its clients? According to the

Statement of Objects and Reasons, Government do not have this intention. If it is so, they should accept amendment No. 28 which will provide for the Reserve Bank power to enquire about the business and at the same time deny opportunities to go into the affairs of the clients and other parties dealing with the banking concern.

You know very well that a banking company is a matter of trust between the bank and the clients. It is not proper that the trust which a client puts in the bank should be disclosed to anybody else. I know well in a particular case,—I am talking of some time ago—this independence was shown. It was concerning a bank in a former Indian State. An official of the State, being a director of the bank, wanted that the accounts of a particular client should be shown to the directors. I had particularly at that time enquired whether it is the legal right of a director to go into the affairs of a client. The directors have a right to go into the affairs of the bank or particular policies with regard to the grant of loans and advances given to a particular client. To go into all the accounts of the clients is a breach of trust as between the client and the bank. I do not think that the intention of the Government is to go behind and see the client's accounts, private parties' accounts by this method. It that is not the intention, they should accept this amendment. They will have power to get all information with regard to the banking company. Why go further than that? That is why I say the affairs of the parties should not be brought into purview here. I hope I have made myself clear.

**Shri T. T. Krishnamachari:** I have explained when I was moving this motion yesterday, the scope of clause 6. The position is, that it is not a question of our wanting the affairs of clients to be known to all and sundry. Here is a bankers' bank which is inspecting the bank and wanting certain information. After all, the present position under section

27 is that they are not prepared to divulge the nature of the parties, information about the parties.

**Shri Tulsidas:** They are bound to.

**Shri T. T. Krishnamachari:** In fact, it is actually impossible. Supposing there is an account which the bank says is good and the Reserve Bank has all the information in its possession to say that it is not even doubtful, but it is bad. It might be of the order of about Rs. 20 to Rs. 25 lakhs which will tilt the scales in favour or against the soundness of the banking company. I think surely the Reserve Bank must have the power to know who the party is and to assess whether the party is sound, whether the balance-sheet as disclosed is a correct one. If they had put in really unsound accounts as being not even doubtful but good, then the total amount of assets that will be realisable that will make the bank safe is a thing they will not know. As a matter of fact, in actual practice we have found it is not possible to get adequate information so as to assess how the bank is being run and the worth of the bank. I am afraid if this thing is taken away, very possibly some of the provisions that we have put in, the structure which we want to build up so that the Reserve Bank would be able to know what each bank is doing and therefore act, all that would be rendered infructuous.

**Mr. Chairman:** The question is:

Page 5, lines 19 to 21—

for "or affairs of the banking company (including any business or affairs with which such banking company is concerned)" substitute "of the banking company".

*The motion was negatived.*

**Mr. Chairman:** The question is:

"That clause 6 stand part of the Bill".

*The motion was adopted.*

*Clause 6 was added to the Bill.*

**Clause 7.—(Insertion of new sections 35A and 35B).**

**Shri T. T. Krishnamachari:** I beg to move:

(i) Page 5, line 35—  
for "the banking" substitute  
"any banking".

(ii) Page 6, line 8—  
after "re-appointment" in-  
sert "or remuneration".

(iii) Page 6, line 21—

for "Nothing contained in  
section 268 or section 269" substi-  
tute:

"Nothing contained in sections  
268, 269, 310, 311 and 388 (in so  
far as section 388 makes the pro-  
visions of sections 310 and 311  
apply in relation to the manager  
of a company)".

(iv) Page 6, line 30—

for "section" substitute "sub-  
section".

**Shri Tulsidas:** I beg to move:

(i) Page 5, lines 37 and 38—

omit "banking companies gene-  
rally or to".

(ii) Page 5, line 38—

for "banking company in parti-  
cular" substitute "banking com-  
pany".

(iii) Page 5, line 40—

omit "the banking companies or".

(iv) Page 5, lines 40 and 41—

omit "as the case may be".

**Mr. Chairman:** These amendments are before the House.

**Shri Tulsidas:** The powers given to the Reserve Bank under this clause are not only wide and ambiguous looking to the objectives for which such directions may be issued by it to the banking companies. I welcome amendment No. 1 of the hon. Finance Minister in this connection. However, I feel that

these wide and arbitrary powers to the Reserve Bank under this clause will impair the trust and confidence of the general public with regard to the autonomous status of the banking concerns. If we read this clause along with the provisions of clause 6 and other clauses, it is clear that the banking concerns will become almost stooges of the Reserve Bank, they will become the agencies of the Government and the Reserve Bank, and will be deprived of their autonomy of internal administration.

As you know, Sir, progress of banking largely depends on the confidence of the general public in banking concerns. This confidence is a psychological phenomenon depending on the action and reaction of the human material which goes into the working of this concern. I have always maintained on the floor of this House that the provisions of any law, however perfect it may be, have always a limited effect if it is to be useful to the general community. Whatever may be the powers in the armoury of the law, if the human element which is to carry through the processes of work connected with the developmental activities in economic life feels doubtful about its place and position in the scheme of things, it would be difficult for the Government to ensure the compliance of the requirements and expectations both in letter and spirit even though the law may give them the power to direct human activities in a particular direction. The Government can ignore basic psychological aspects only to the detriment of general standards in economic life which would inevitably fall as a result of their over-zealousness to make the law rigorous. What I have said about the psychological factor is largely true in respect of banking because if a feeling gains ground in the public mind that banks have no autonomy in their day to day affairs, that they are subject to intensive control by governmental authorities, the public confidence will receive a setback and this will react adversely in the further progress of banking in this country.

Amendment 32 is about banking companies generally. I am again saying here that if they want the power to issue directions to one particular bank, let them not use it generally.

**Shri T. T. Krishnamachari:** The same thing. Consequential.

**Shri Tulsidas:** It is the same thing.

The hon. Minister has already accepted a few amendments which were of a general nature. These are consequential, and I hope all these amendments will be accepted by the hon. Minister.

**Shri N. R. Muniswamy:** I have not moved any amendment, but I oppose some of the main amendments sought to be introduced in the Bill.

The proposed section 35B(1) states that revision in the terms of appointment or re-appointment of a managing director or director will not be valid unless approved by the Reserve Bank, and with regard to new appointments or re-appointments of managing directors, manager or chief executive officer the previous approval of the Reserve Bank is necessary. I am opposing this because such a provision requiring the previous sanction or approval of the Reserve Bank for the appointment of a managing director etc., violates basic democratic principles. It looks as though the power of veto is vested with the Reserve Bank without any corresponding responsibility or liability. Ordinarily, the Reserve Bank is given wide powers and it can certainly exercise them. Ordinarily the directors are responsible to the shareholders or depositors—not the Reserve Bank. So, if the Reserve Bank is given such wide powers of veto over appointment, reappointment, remuneration etc., it would mean that the moral or legal responsibility is vested with one quarter, namely the directors, while the power of veto is vested in some other quarter, namely the Reserve Bank. There will be two different masters. The Reserve Bank should only supervise and see that

money is not mismanaged, that no misfeasance or malfeasance takes place. I do not find any basic principles relying on which we can vest these powers in the Reserve Bank. The vesting of these powers should ordinarily be only in the interests of the bank, or to see that the national interests or the interests of the depositors are safeguarded. I would therefore request the Finance Minister to at least throw some light as to why this principle is violated that no responsibility is added to the Reserve Bank while giving this additional power.

I request that this proposed section 35B(1) may be withdrawn, and the rest put to vote.

**Shri N. C. Chatterjee (Hooghly):** It would have been much better, possibly more straight forward, to nationalise banking completely than to have such wide and expansive powers as are given in the proposed section 35A. Just look at the powers:

“Where the Reserve Bank is satisfied that—

- (a) in the national interest; or
- (b) to prevent the affairs of of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or
- (c) to secure the proper management of the banking company generally;

it is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit.....”

The Reserve Bank, so far as I know, has continued power of inspection and control of banks which

[Shri N. C. Chatterjee]

has been fully utilised. Indeed, in the annual reports of the Reserve Bank it has been stated more than once that the general administration of banking companies in India has considerably improved, and where there was need for stricter control over the affairs of a bank, considerable conditions were imposed, and so far as we know, there has been no difficulty created. The reports of the Reserve Bank do not indicate that they suffer from any lack of authority or power to act, and act properly, and to control undesirable trends in banking policies in India. Therefore, we are objecting to the vesting with such wide, and, if I may also say, uncanalised power.

Of course, you know as a member of the legal profession that these words 'in the national interest' convey very little. Then, we have the words:

"to prevent the affairs of any company being conducted in a manner detrimental to the interests of the depositors.....".

So, it is really giving them a blank cheque to issue any directions to banking companies generally or to any banking company in particular. I think there is some force in Shri Tulsidas's suggestion. If the hon. Minister will pay some attention to it, it may be that the possible scope of the mischief may be restricted. Take power in a particular case; if a particular banking company is misbehaving or thwarting or non-co-operating or not acting according to your wishes, then you can issue directives and those directives shall be binding, and, therefore, they will have a statutory effect. But why do you take such very wide and extensive powers which may cripple the initiative and which may treat them as if they are disqualified proprietors, as if they ought to be under a court of wards, as if they have misbehaved so badly that they do not deserve to function; if so, take power; nationalise them thoroughly, weed them out

completely, wipe them out from the private sector, and do as you have acted in the case of life insurance companies.

There is also considerable force in what my hon. friend has just now observed. What is this power that you are taking?

"No appointment or re-appointment of a managing or whole-time director, manager or chief executive officer by whatever name called, shall have effect unless such appointment or re-appointment is made with the previous approval of the Reserve Bank."

Now, the directors or the trustees are elected; therefore, they have got some sense of responsibility. They are clothed with statutory powers and responsibilities, and, therefore, they are liable. Am I to understand that really you cannot appoint any whole-time director unless you get the approval of the Reserve Bank? After all, it means the approval of only one official of the Reserve Bank. Is that a proper check? Are you not tightening the screw too much? It so happened, of course, that no Select Committee could be appointed to go into this question. Therefore, it is very difficult, because we cannot get the real facts, to know how far the situation demands such very wide powers to be conferred on the Reserve Bank.

This will mean that the banking companies to a large extent will be paralysed and will be bereft of the sense of responsibility which should be entrusted to them; and too many fetters and too many curbs on the day-to-day working and functioning of banks will make their operations difficult. I do not know how it will react on the banking world, but, surely, no respectable bank with any amount of self-respect, which has not misbehaved in the past and which has had some reputation, which has served the public well and which has never betrayed the depositors or its

constituents, would agree to these powers being conferred on the Reserve Bank; those banks will certainly mind this kind of power being given to the Reserve Bank whereby the Reserve Bank can say, cut down this salary, cut down this appointment, and so on. Vetoing power is always treated with a good deal of resentment by the private sector.

As my hon. friend has pointed out,—and there is a good deal of force in what he said—this specialised mechanism of banking flourishes on trust and credit. Therefore, that mechanism should not be tampered with too frequently, especially at the direction of outside agencies which may imperil initiative and destroy the creditworthiness of bank.

**Shri U. M. Trivedi (Chittor):** There is great force in the opposition to this provision in clause 7. Unfortunately, the halting process of nationalisation is responsible for this motley of thinking.

Under proposed section 35-B (1) (a) no amendment of any provision relating to the appointment or re-appointment of a managing or whole-time director or of a director not liable to retire by rotation or of a manager or a chief executive officer by whatever name called, shall have effect unless approved by the Reserve Bank. In this, provision has already been made that if you make any amendment of that nature, it must be approved by the Reserve Bank. That means that once you have agreed to the method to be adopted in getting this recruitment done or in making any amending provision of that nature, it will have to be approved by the Reserve Bank. Once that is done, I see no justification whatsoever for the provision in sub-section (1) (b) which says that even if such an appointment is made after the amendment of the rules or even before the amendment of the rules, under the rules as they stand, such appointment will not have effect without the previous approval of the Reserve Bank.

How is this previous approval to be sought for? In other words, you are opening the door to corruption, jobbery, nepotism and grafting. Who will give this previous approval? Are we going to know, or for the matter of that, is anybody going to know which candidates have applied, who will be selected, and how they will be approved? In other words, if certain candidates are selected who are of an exceptional merit, but who do not suit the taste of the Government in power or of the party in power who are the ultimate controlling authority over the Reserve Bank, they will simply veto it, saying, 'We do not agree to the appointment of these men'. Already, we are having this blanket power in the case of appointment of certain persons in Government service. Although on paper it is written that for purposes of appointment in Government service, caste, class, creed, race and religion will not count at all, yet it is an every-day affair that a man with a little tinge attached to him of a particular party is being refused appointment. If he is honest enough to admit that he belongs to a particular party or that he had at any time belonged to a particular party, he will be told, 'All right, we will not have you'. If he is dishonest enough to secrete that fact....

**Shri N. C. Chatterjee:** Or, he can join the Congress.

**Shri U. M. Trivedi:** ....and get appointed, then immediately his antecedents are called for, and after verification, he is told 'You hid this fact from us that you belonged to such and such a party. So, it is not because that you belonged to that party that we do not want to give you this appointment, but because you hid this fact from us. Therefore, you go out'. So to begin with, if he says that he belonged to such and such a party, he will not get a job. Similarly, if he hides the fact first and later on it is found that he had belonged to a particular party, he will not get the job because he had hidden the fact. If that is the operation which is going

[Shri U. M. Trivedi]

on today in the day-to-day administration, it stands to reason that when such big appointments are concerned, that is, appointments in a banking concern, such as the appointment of a director or manager or a chief executive officer, which are all important appointments, which carry high salaries and big responsibilities, and are key appointments, they will be made at the sweet will of Government, and everyone who counts for anything will have to know to the wishes of the Government of the day; they will have to become mere sycophants, and they will have to be of that temperament only.

Therefore, my contention is that in this democratic form of government, either you decide once and for all that you will nationalise all the banking companies and make a clean slate of the whole picture saying that you do not want to have them, or do not take such wide powers as these. Otherwise, there is absolutely no justification whatsoever for conferring these powers on the Reserve Bank. Even with the best of intentions, this clause is going to hit hard the people who are ultimately going to be recruited.

Now, leave aside, for the moment, the case of the director. A director will, of course, be an elected person, yet his choice is left in the hands of the Reserve Bank; even if he is elected by the shareholders, the Reserve Bank may not accept it. In the case of a manager, however, the position is different; he is a man of particular qualifications, and he is chosen because of those qualifications. If, in spite of these qualifications, he is told, 'All right, we do not approve of your choice', there is no provision whatsoever for any reasons to be recorded in writing why the Reserve Bank refuse to give their approval to the appointment of that man. It is an absolutely clean power that has been given to the Reserve Bank; a clean slate has been given to the Reserve Bank that they may not approve. There are no reasons whatsoever to be recorded in writing.

In this very clause, if there were a provision to the effect that no one who has become an insolvent or who has entered into composition with his creditors will be allowed to become a director, that would have been welcome; we could have appreciated it. Similarly, if a man has been convicted of moral turpitude, we could have provided that he will not be allowed to become a director. We could have appreciated such a provision. But there is no provision here to the effect that the Reserve Bank while acting under this provision will record any reasons for not approving of the choice.

The absolute power that is given is resented, and I hope the Finance Minister will see his way to delete this provision completely from this Bill.

Then in 35A, it said: "Where the Reserve Bank is satisfied...." You know very well that at the time of the discussion of the Preventive Detention Bill, this was the very word, 'satisfied' over which we had the greatest fight. 'Satisfied' means whose satisfaction?

**Shri N. C. Chatterjee:** Subjective satisfaction.

**Shri U. M. Trivedi:** It is subjective satisfaction.

**Shri N. R. Muniswamy:** What is the standard of satisfaction?

**Shri N. C. Chatterjee:** Will and pleasure.

**Shri U. M. Trivedi:** How is it to be satisfied? If it had been said: "Where the Reserve Bank is satisfied on reasonable ground", then there it would have been something. But here the power is given to the Reserve Bank to be satisfied, and to decide that it is satisfied. Everything will be in the dark. The provision is of such a nature that under the guise of this word, things may be done in a concealed way. It may be *mala fide* satisfaction, may be satisfaction for a concealed object and may not be easy of detection.

Then this power is being given in the 'national interest'. 'National interest' is the vaguest of terms. Everything is in 'national interest'. Even taking away is in 'national interest'. If it had been said 'Whenever the Reserve Bank so desires, they could take over the management of a banking company, that would have been fine and I could have understood it. I would rather support that position. But here the position is pregnant with the difficulties that are there, bribery, corruption and other various nefarious things which may be underlying the whole object.

Perhaps the Finance Minister may be a very honest man. He is an honest man. But the difficulty is that we will not be able to have the same Finance Minister and the same party in power, and we do not know what will happen next.

Under these circumstances, giving this power to persons who will not be motivated by *bona fide* purposes is not a desirable thing. It is not a desirable power that is contemplated to be given.

**Shri Tek Chand (Ambala-Simla):**  
rose—

**Mr. Chairman:** We have already spent too much time on this. It is now ten minutes to 16-00 hours. We propose to dispose of this Bill by 16-30 hours.

**Shri Tek Chand:** The Speaker was kind enough to give some sort of assurance that those who could not get an opportunity earlier would be given one at this stage.

**Mr. Chairman:** The difficulty is that now only a few minutes are left.

**Shri Tek Chand:** I shall be grateful if a few minutes are given to me.

**Mr. Chairman:** If there is time left at the third reading stage, I shall certainly give the hon. Member a chance.

**Shri Tek Chand:** A few minutes may be given now.

**Mr. Chairman:** All right.

**Shri Tek Chand:** With the spirit underlying this measure, I am in agreement, but about the soundness of the specific provisions, I feel a little sceptical.

This is a measure well conceived, but in its execution, it may create difficulties and in some of its consequences, it may turn out to be disastrous. Therefore, it would have been better if the matter had been referred to a Select Committee who would have examined it clause by clause and would have been in a position to suggest to the Government the shape and form it should take, preserving the ~~int~~ and the purpose that it has got.

Banks are brittle like glass and they deserve the caption, 'To be handled with care'.

**Shri T. T. Krishnamachari:** We put them in cotton wool.

**Shri Tek Chand:** So far as banking concerns are concerned, I do feel that the interests of the depositors and the interests of the shareholders have to be safeguarded at the hands of those who are responsible for conducting the affairs of the banks. These are propositions well known, to which I subscribe with all the power at my command. But I feel that the Reserve Bank, whereas it deserves to be adequately armed, ought to be armed with protective armour rather than destructive armour. That is to say, the object should be that the Reserve Bank retains the power whereby the banking companies should be permitted to grow, should be permitted to become strong and should be nursed up in a climate of confidence. Any other attempt, whereby the Reserve Bank may be in a position to stifle the banks and create panic among the investing public, will be detrimental to the banking principle and banking practice as such. With these remarks, I wish to invite the pointed attention of the hon. Minister to clause 7.

[Shri Tek Chand]

The first thing is the expression, 'Where the Reserve Bank is satisfied that in the national interest. . .'. I feel that in retaining the word 'national', the hon. Minister has not reserved for himself adequate power. He would have had adequate power if the word 'public' had been used, because national interest is a rare eventuality when interference is called for but public interest is a matter where he may be able to interfere, oftener, and to better effect.

Then in sub-clause (1)(b), I do not understand the retention of two words with similar meaning.

"Where the Reserve Bank is satisfied that to prevent the affairs of any banking company being conducted in a manner *detrimental* to the interests of the depositors or in a manner *prejudicial* to the interests of the banking company".

The well-known canon of interpretation of statutes is that when two different words are used, they are intended to carry different meaning. To my mind, the retention of the word 'detrimental' would have been beneficial and the word 'prejudicial' ought not to have been there. The word 'detrimental' ought to have governed the interest of depositors as well as the interest of the banking company. I do not see any point in saying that the Reserve Bank will issue the necessary directives if it entertains any apprehension that the conduct of the affairs of the banking company is going to be detrimental to the interest of the depositors but not if it is detrimental to the interest of the banking company. It is contradiction in terms. Therefore, it is highly desirable that the language should be precisely examined so that it may be accurately used at a later stage.

Then I come to item (c), which says:

"Where the Reserve Bank is satisfied that to secure the proper management of the banking company generally, it is necessary to

issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the banking companies or the banking company, as the case may be bound to comply with such directions."

16 hrs.

The same object could be carried out if the language had been different and the words 'directions' or 'directives' are a little too vague. Is it in the nature of a mandate which is obligatory or is it in the nature of a directive, the disobedience to which does not incur any serious consequences? But assuming from the intent of the language used that it is of a mandatory nature and amounts to substantial interference according to the ideas of the Reserve Bank, then I wish that at least there should have been a provision of the nature of a "show cause" provision, that is to say, before any directive of this character is issued which substantially interferes with the banking practice. The banking companies generally or a particular banking company might at least be given an opportunity in order to show cause why a directive ought not be there. Once the direction is issued and it is then decided to vary it, then of course, it will be open to the banking company to make a representation. A provision ought to have been there that a representation could be made before it was finally decided to issue those directions. Therefore, to my mind there is a lacuna; there should have been a provision whereby it should have been open to the banking company concerned to make a suggestion or to give its explanation or to satisfy the Reserve Bank that the directive of the nature contemplated ought not to be there. The expression "Where the Reserve Bank is satisfied" relates to the subjective satisfaction of the Reserve Bank. . . .

**Shri T. T. Krishnamachari:** The hon. Member is still in the early stages of the particular clause. I am afraid that by the time he finishes it will be 4-30.

**Mr. Chairman:** I request the hon. Member to conclude as early as possible; he wanted only 2 minutes and he has taken about 10 minutes.

**Shri Tek Chand:** Very good, Sir. I submit that if it is the desire that even a little beam of light that might be directed should be screened off, I am willing to conclude in a second and I submit that it is very much better to examine the provisions more carefully, closely and with circumspection rather to bring in amendments later when substantial damage has been done to the very cause which it is intended by this very Bill to serve.

**Shri T. T. Krishnamachari:** So far as Shri Tulsidas's amendment Nos. 32, 33, 35 and 36, are concerned they are not on all fours with the amendments that I have accepted in regard to clauses 3 and 4. Two separate phrases are being used, i.e. 'banking company' and 'banking companies'; I mentioned yesterday that I deliberately used them when dealing with particular section. There were certain instances where we could not deal with a particular act of a bank, namely when they declare a dividend under section 36. This section does not permit the Reserve Bank to take action; there are other practices; there was also another case in which the position was different. The question was about certain advances about which we had to ask them not to do it. These things are done. If it is actually a matter where a single company is concerned, the notice will issue. If a number of cases are covered then it will be a general direction and the banks are not affected or completely unconcerned about it. I do not think I am in a position to accept Shri Tulsidas's remuneration".

In general criticism of this particular clause, I am glad that we had the benefit and the wisdom of three distinguished members of the legal profession; it may be that it started with melodrama and ended with semantics. I am glad they have not chosen to give their advice on this particular clause. It is undoubtedly the crux of the whole scheme; it is this clause which is the most important one and naturally it has drawn the attention of the lawyers. Of course, we are taking powers. I do not deny it. The question is whether this Bill should be modified according to the advice given by the distinguished members of the legal profession such as my hon. friend, Shri Tek Chand or the whole thing should be just as it is and not be touched. If you do that, to use if I may borrow the language used by my hon. friend "the heavens would fall", that kind of melodramatic approach is all right; sometimes a lawyer has no brief and he talks for a long time and melodrama is useful if started at a high pitch and so you throw up your voice, so that people think that something very big and something which is a tragedy is being enacted; you have got to portray it. This, I am afraid, is something which does not require any reply. I do not think the hon. Members require them, because I find that they have gone away and are not in their seats. The clause is a good one and it is the crux of the whole scheme of amendments and it should be there.

**Mr. Chairman:** The question is:

Page 5, line 35—

for "the banking" substitute  
"any banking".

*The motion was adopted.*

**Mr. Chairman:** The question is:

Page 6, line 8—

after "re-appointment" insert "or  
(remuneration)."

*The motion was adopted.*

**Mr. Chairman:** The question is:

Page 6, line 21—

for "Nothing contained in section 268 or section 269" substitute:

"Nothing contained in sections 268, 269, 310, 311 and 388 (in so far as section 388 makes the provisions of sections 310 and 311 apply in relation to the manager of a company)".

*The motion was adopted.*

**Mr. Chairman:** The question is:

Page 6, line 30—

for "section" substitute "sub-section".

*The motion was adopted.*

**Mr. Chairman:** Does Shri Tulsidas want me to put his amendments?

**Shri Tulsidas:** Yes, Sir.

**Mr. Chairman:** The question is:

Page 5—

lines 37 and 38—

omit "banking companies generally or to".

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 5, line 38—

for "banking Company in particular" substitute "banking company".

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 5, line 40—

omit "the banking companies or".

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 5, lines 40 and 41—

omit "as the case may be".

*The motion was negatived.*

**Mr. Chairman:** The question is:

"That clause 7, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 7, as amended, was added to the Bill.*

**Clause 8.—** (Amendment of section 36).

**Shri Tulsidas:** I beg to move:

Page 7—

Omit lines 3 to 19.

This is also one of the very important amendments to section 36. My hon. friend did not accept my amendment Nos. 32, 33, 35 and 36 and under section 36 he takes extraordinary powers. Sub-clauses (ii), (iii) and (iv) clothe the Government with such arbitrary powers and I consider it is most novel and I do not think that any country has got these special powers. On the one hand the banking companies' directors are responsible to the shareholders and to the depositors and on the other hand the Reserve Bank has got the right to depute one or more observers to report on the conduct of the affairs of a banking company. The meeting of the Board of directors takes place where the affairs of different clients are discussed and so on and so forth. Now there is going to be an observer on behalf of the Reserve Bank for every bank. The hon. Minister has not accepted my amendments and he is going to have section 36 applied to every bank. Under this, he can send officers to every bank and require the Board of Directors of the banking company or any committee or any other body constituted by it to give in writing to any officer specified by the Reserve Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the Board, committee or other body constituted by it. Look at the powers that they take. I can understand if it was meant for any particular purpose or any particular case.

But here they take the powers for everybody. The clause says—

“appoint one or more of its officers to observe the manner in which the affairs of the banking company or of its offices or branches are being conducted and make a report thereon;”

The power has been taken to such an extent that it will do more harm than good to the banking structure of this country. As I said, there is a human element. Just as in banking companies, there may be officers also in the Reserve Bank who may be inclined to utilise these powers in a manner which will do harm to the banking structure of this country. I cannot understand why these powers are taken and I do not see any reason for their taking these powers. In the first speech which I made on this measure, I said that the Reserve Bank has utilised some of these powers, of supervision, etc., in a manner, for which they have been able to make amends. Why do they want to have these powers in the hands of these officers? How will they, these officers, administer them? I do not know how they are going to administer the powers. No matter what the hon. Finance Minister says,—he says he will look into it most carefully, and see that the power is not used in a manner which will harm the interests of the banking companies—my fear is that the Minister is not really considering the question from the point of view we are putting. In our opinion it is bound to harm the whole banking structure of the country in a very bad way. I am sure my hon. friend, the Finance Minister, will consider this aspect and accept my amendment No. 39.

**Mr. Chairman:** Amendment moved:

Page 7—

omit lines 3 to 19.

Is amendment No. 40 going to be moved?

**Shri C. R. Iyyanari:** I do not want to move it, Sir.

**Shri Ramachandra Reddi (Nellore):** I shall be very brief. I get my chance very rarely to speak.

I wish to point out to the hon. Finance Minister that having taken power, under clause 7 or section 35B of the Act, to appoint every possible officer in the bank and also in an indirect way to supervise the entire system of the working of the bank, it seems to be extraordinary for the Government to think of having further powers under clause 8. Clause 8 speaks of deputing one or more of its officers to watch the proceedings at any meeting of the Board of Directors, requiring the Board of Directors to give in writing to any officer specified by the Reserve Bank all notices and other communications relating to any meeting of the Board, appointing one or more of its officers to observe the manner in which the affairs of the banking company or of its offices or branches are being conducted, requiring the banking company to make, within such time as may be specified in the order, such changes in the management as the Reserve Bank may consider necessary etc. All these things seem to be not only unnecessary but also very superfluous, after having taken powers under clause 7. It looks as if the entire clause 8 seems to be drawn in a Draconian way. This clause takes powers to supervise, observe and direct also. This unseemly interference seems to be unnecessary and unwanted. If that is the nature in which Government want to supervise the working of banks, it is much better that they liquidate the banks or take over the management of such banks, supersede them and administer the whole thing themselves.

This sort of watch-dog policy seems to be very unnecessary, and I would earnestly request the Finance Minister to drop the clause entirely or, if it need be, to recast it in such a manner that it is less draconian and less harmful to the banking enterprise itself. I am not interested in any banks myself. We know that the Directors' meetings are kept a

[Shri Ramachandra Reddi]

secret. The meeting is held in secrecy, and any violation of the secrecy would be repugnant to the very system of the working of any bank or any other company of that type. This clause amounts to unnecessary interference in the internal working of the company as well as unnecessary observation and looking into the secret working of the company.

Further, what surprises me is that there is no time limit placed for this observation. Clause 8 evidently thinks of having an eternal supervision over the working of the banks. If there is a time limit within which this supervision can be had and later on cut off, I can understand it. The clause does not say anything definite about the way in which it is going to be exercised and the way in which such supervision and vigilance will be ended within a particular period. This clause seems to be unnecessary, and I therefore earnestly request the hon. Finance Minister to recast the clause. Some of these amendments do show that it would have been very easy for the hon. Minister to get through this Bill if it had been sent to the Select Committee and the Select Committee sat over it and did their business within a couple of hours.

**Shri T. T. Krishnamachari:** The objection is basically to the entire section. I was explaining yesterday this particular section at some length and mentioned how one follows the other.

In this particular matter, all that is asked for is to send an observer—it is not a question of appointing a director—to watch the position. The other things follow.

Here it is said that the directors' meeting should be kept a secret. It is precisely so as bank directors are colluding there. They say that this question of secrecy itself is a bar

against reform. The idea is that it should not be kept a secret against the Reserve Bank. The Reserve Bank must know what is being done in secret. The power that you have in the foregoing section to ask for the approval of the appointment of the chief executive does not fit in here. The chief executive might be appointed, but the Board of Directors might do things in their own way. We have instances of very big banks in which the chief executive and the Board of Directors are at variance. It may be that in one particular case the chief executive is in the wrong and in another case the Board of Directors are in the wrong. The mere fact that we have some kind of a power over the appointment of the chief executive is not something which does not make it necessary for us to know what is being done in Board meetings, what kind of observation is necessary and how we are to get the information. The arguments advanced by hon. Members do not seem to arise from an appreciation of this fact. I am, therefore, unable to accept my hon. friend's amendment.

**Shri N. R. Muniswamy:** One small clarification. The hon. Finance Minister has said that the function of these observers is to see what is being conducted in the Board meetings. But here I find that the company must see that those officers, who are so deputed, are heard at such meetings. I want to know whether these observers will observe the proceedings simply or whether they should be given an opportunity also to say something to the Board of Directors.

**Shri T. T. Krishnamachari:** I do not know what my hon. friend wants.

**Mr. Chairman:** The point is clear if you read the clause. They should be heard.

**Shri N. R. Muniswamy:** I want to know whether they should say anything at that time.

**Shri T. T. Krishnamachari:** The whole point is this. They would not vote. If they want to correct certain things, they will have to express their opinion.

**Mr. Chairman:** The question is:

Page 7—

omit lines 3 to 19.

*The motion was negatived.*

**Mr. Chairman:** The question is:

"That clause 8 stand part of the Bill."

*The motion was adopted.*

*Clause 8 was added to the Bill.*

*Clause 9 was added to the Bill.*

**Clause 10.—** (Insertion of new section 46A)

**Mr. Chairman:** There is an amendment by Shri Iyyunni.

**Shri Tulsidas:** I want to oppose this clause.

**Shri U. M. Trivedi:** I want to say a few words.

**Mr. Chairman:** I am only asking if the hon. Member is moving his amendment.

**Shri C. R. Iyyunni:** Sir, I beg to move:

Page 7, line 34—

omit "and any other employee".

This clause is all embracive. In the bank, there will be a number of employees. In addition to the chairman, director, auditor, liquidator, manager and others, there is a peon also. For some small mistake, he will be taken to task. It is not like a Government office. People will rush to the chairman and say that such and such person has taken such and such amount from him and that man would be sent to the police. He can be removed. The others, chairman, etc. are all high officials. If they misbehave that is a different matter. In the case of small fries, it will be too much. So,

I want the omission of the words 'and any other employee'. The others may be retained. This will exclude the smaller people. It is a small thing and without knowing anything something may happen to them. They shall be deemed to be public servants. I do not know exactly what the meaning is. There are certain safeguards in the case of other public servants. With regard to these people, there are no such safeguards. A man may do something *bona fide*. If he is a public servant, it will be condoned. But, will the same safeguards apply in the case of a person who is deemed to be a public servant? It is not clear. So, I beg to submit that this amendment may be accepted.

**Mr. Chairman:** Amendment moved:

Page 7, line 34—

omit "and any other employee".

**Shri U. M. Trivedi:** Sir, whosoever drafted clause 10, must have drafted it with a special purpose. There is no doubt. There is great force in the suggestion made by Shri Tulsidas that the object in view is nationalisation by the back door. It says that every chairman, director, auditor, liquidator, manager and any other employee of a banking company shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code. Certain things can be done *bona fide*. If the public servant has committed an offence, you must obtain the permission of the Government before the man is prosecuted. Section 161 of the I.P.C. should be read with the Corruption Act. The further provision there is that such a complaint will be lodged by the Government. Such a complaint cannot be lodged without the sanction of the Government. The investigation cannot be carried on by any person other than the Deputy Superintendent of Police. Further, the trial also cannot proceed before a particular type of Magistrate. Here, this person will not be debarred from standing as a candidate for the Lok Sabha or the Rajya

[Shri U. M. Trivedi]

Sabha; he is not a public servant for this purpose. Only in a certain event, the whole machinery of the police will be let loose upon such a person declared as a 'public servant'. An example was given by Shri Iyyunni. There is great force in it. After all, there would be peons also. All of them are to be treated as 'public servants', not for the purpose of giving them some protection. If somebody comes and beats him in the course of performing his duties, he is not protected. No protection has been granted to them but only a liability has been put on them. It is all take and no give. There is no protection afforded to the man for discharging the onerous duties.

I think the hon. Finance Minister is a very considerate person and should apply his mind to this position and find things out for himself. It is not that the provision *ipso facto* is bad. I was looking at the implications....

**Mr. Chairman:** May I just point out to the hon. Member that this Bill should end at 4-30? Does he want that all the other provisions should be put together and guillotined? I have no objection to do so.

**Shri U. M. Trivedi:** I bow to the wish of the Chairman.

**Mr. Chairman:** There is no question of my wishing. The House accepted the time and we should stick to it.

**Shri U. M. Trivedi:** Let this go on for one hour tomorrow.

**Mr. Chairman:** Order, order. The time given by the Business Advisory Committee will be over at 4-30. The House accepted the proposal. He has already advanced his arguments and now he is talking almost on extraneous matters. He may kindly conclude.

**Shri U. M. Trivedi:** I am pointing out the redundancy of the provision and also the extremely conflicting

nature of the provision if this comes to play. The words 'legal remuneration' are defined in the explanation to section 161 of the IPC.

"The words 'legal remuneration' are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government, which he serves, to accept."

Is this public servant getting that legal remuneration as per the definition given here? If not, how are you going to prosecute? My contention is this. Let us not make a law which will be difficult to operate. There will be difficulties in giving effect to it. That is why I submit that the pros and cons of the whole situation had not been looked into. This provision is not at all necessary in this Bill.

**Shri T. T. Krishnamachari:** I have nothing to say.

**Mr. Chairman:** The question is: Page 7, line 34—omit "and any other employee".

*The motion was negatived.*

**Mr. Chairman:** The question is:

"That clause 10 stand part of the Bill".

*The motion was adopted.*

*Clause 10 was added to the Bill.*

*Clause 11 was added to the Bill.*

**Clause 12.—** Amendment of section 50).

**Mr. Chairman:** There is an amendment to clause 12.

**Shri T. T. Krishnamachari:** It is a consequential amendment.

*Amendment made:* Page 8—  
for clause 12, substitute:

'12. In section 50 of the principal Act, for the words, brackets,

figures and letter "contained in sections 10 and 16 or by reason of the compliance by a banking company with any order given to it under sub-clause (ii) of clause (d) of sub-section (1) of section 36" the following shall be substituted, namely:—

"contained in sections 10, 12A, 16, 35A, 35B and 36 or by reason of the compliance by a banking company with any order or direction given to it under this Act".'

— [Shri T. T. Krishnamachari]

**Mr. Chairman:** The question is:

"That clause 12, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 12, as amended, was added to the Bill.*

*Clauses, 13, 14 and the Schedule were added to the Bill.*

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

**Mr. Chairman:** The bell is being rung. Now there is quorum.

**Mr. Chairman:** The question is:

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

*The motion was adopted.*

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

**Shri T. T. Krishnamachari:** Sir, I beg to move:

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

**Mr. Chairman:** The question is:

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

*The motion was adopted.*

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

SIXTY-SEVENTH REPORT

**Shri Ramachandra Reddi (Nellore):** Sir, I beg to move:

"That this House agrees with the Sixty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 19th December, 1956."

**Mr. Chairman:** The question is:

"That this House agrees with the Sixty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 19th December, 1956."

*The motion was adopted.*

OLD AND INFIRM PERSONS' HOMES BILL\*

**Shri Krishnacharya Joshi (Yadgir):** Sir, I beg to move for leave to introduce a Bill to provide for the protection and maintenance of old and infirm persons under Directive Principles of State Policy.

**Mr. Chairman:** The question is:

"That leave be granted to introduce a Bill to provide for the protection and maintenance of old and infirm persons under Directive Principles of State Policy."

*The motion was adopted.*

**Shri Krishnacharya Joshi:** Sir, I introduce the Bill.