

LOK SABHA

**THE BANKING LAWS (AMENDMENT)
BILL, 1967**

(Report of the Select Committee)

(Presented on the 6th May, 1968)



**LOK SABHA SECRETARIAT
NEW DELHI**

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**JOINT/SELECT COMMITTEE REPORTS
PRESENTED TO LOK SABHA
DURING - 1968**

Sl. No.	Name	Presented
1.	Salary, Allowances and other Amenities to Members of Parliament - J.C. Report.	7.8.68
2.	Constitution (Amendment) Bill, 1967 By Shri Nath Pai, M.P. - Report J.C.	22.7.68
3.	- do- Statement	
4.	- do- Evidence	
5.	Banking Laws (Amendment) Bill, 1967 Report of Select Committee.	6.5.68
6.	-do- Evidence	
7.	Gold (Control) Bill, 1968 Report of Joint Committee.	13.8.68
8.	Insurance (Amendment) Bill, 1968 Report of the Joint Committee.	11.11.68
9.	-do- Evidence	
10.	Criminal and Election Laws (Amendment) Bill, 1968 - Report of Joint Committee.	2.12.68
11.	Union Territories (Separation of Judicial and Executive Functions) Bill, 1968 (Report of Joint Committee.	10.12.68

LOK SABHA SECRETARIAT

CORRIGENDA

TO
THE REPORT OF THE SELECT COMMITTEE ON THE
BANKING LAWS (AMENDMENT) BILL, 1967.

1. Page (iii), in the heading, after "BANKING"
insert "LAWS".

Bill as reported

2. Page 4, line 2, after "connected" insert "with,"
 3. Page 4, line 3, for "agent," read "agent, -".
 4. Page 6, line 12, for "trade" read "trade,".
 5. Page 7, in the marginal heading 2 section 10D,
for "contracts." read "contracts,".
 6. Page 12, omit the rule against marginal
heading to section 36AD.
 7. Page 24, line 18, for "Applicaion"
read "Application".
 8. Page 28, line 25, for "liabiltties"
read "liabilites".
 9. Page 28, line 34, for "sharehoulder"
read "shareholder".
 10. Page 29, line 24, for "ative" read "rative".
 11. Page 31, in the marginal heading to clause 28,
for "tion 54AA." read "section 54AA.".
 12. Page 32, line 22, for "pur" read "pur-".
 13. Correct line numbers on pages 2, 3, and 8.
- APPENDIX I
14. Page 33, S.No. (10), for "Semarendra"
read "Samarendra".

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**SELECT COMMITTEE ON THE BANKING (AMENDMENT)
BILL, 1967**

COMPOSITION OF THE COMMITTEE

Shri G. S. Dhillon — Chairman

MEMBERS

2. **Shri Frank Anthony**
3. **Shri Kamalnayan Bajaj**
4. **Shri S. S. Kothari**
5. **Shri N. Dandekar**
6. **Shri C. T. Dhandapani**
7. **Shri Madhu Limaye**
8. **Shri C. M. Kedaria**
9. **Shrimati Sucheta Kripalani**
10. **Shri Samarendra Kundu**
11. **Shri Lalit Sen**
12. **Shri Indrajit Gupta**
13. **Chaudhary Nitiraj Singh**
- *14. **Shri Hem Raj**
15. **Shri Krishna Chandra Pant**
16. **Shri S. R. Rane**
17. **Shri M. Thirumala Rao**
18. **Shri Dwaipayan Sen**
19. **Shri K. N. Tewari**
20. **Shri Jyotirmoy Bosu**
21. **Chawdhury Sadhu Ram**
22. **Shri Morarji R. Desai**

LEGISLATIVE COUNSEL

**Shri S. K. Maitra, Joint Secretary and Legislative Counsel,
Ministry of Law.**

REPRESENTATIVES OF THE MINISTRIES

1. **Shri S. S. Shiralkar, Additional Secretary, Department of
Economic Affairs, Ministry of Finance.**
2. **Shri B. N. Adarkar, Deputy Governor, Reserve Bank of India.**

* **Appointed on the 22nd April, 1968 vice Shrimati Vijaya Lakshmi Pandit
resigned.**

3. **Shri R. K. Seshadri, Executive Director, Reserve Bank of India.**
4. **Dr. V. A. Pai Panandiker, O.S.D., Ministry of Finance.**
5. **Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.**
6. **Shri B. N. Mehta, Legal Adviser, Reserve Bank of India.**

SECRETARIAT

Shri M. C. Chawla — Deputy Secretary.

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill* further to amend the Banking Regulation Act, 1949, so as to provide for the extension of social control over banks and for matters connected therewith or incidental thereto, and also further to amend the Reserve Bank of India Act, 1934, and the State Bank of India Act, 1955, was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee, annexed thereto. .

2. The Bill was introduced on the 23rd December, 1967. The motion for reference of the Bill to a Select Committee was moved in Lok Sabha by Shri Krishna Chandra Pant, Minister of State in the Ministry of Finance, on the 26th March, 1968 and was discussed and adopted on the same day (Appendix I).

3. The Committee held nine sittings in all.

4. The first sitting of the Committee was held on the 1st April, 1968 to draw up their programme of work. The Committee at this sitting decided to hear evidence from associations, etc. and to issue a press communique inviting memoranda for the purpose. The Chairman was authorised to decide, after examining the memoranda submitted by the associations, as to which of them should be called upon to give oral evidence before the Committee.

5. 7,749 memoranda/representations/telegrams etc. on the Bill were received by the Committee from different associations/individuals (Appendix II).

Also, a petition from Shri A. Sunder Rao and others was presented to Lok Sabha by Shri Indrajit Gupta, M.P., on the 2nd May, 1968 which stands referred to the Select Committee under Direction 82 of the Directions by the Speaker. The Committee have carefully gone through the petition and find that the points raised therein have already been exhaustively brought before the Committee by the various Bank employees' associations through their numerous memoranda/representations and their oral evidence. The Committee have already modified the original provisions of the proposed section 36AD in the light of these representations vide para 18(i) of this Report/ and do not consider any further modification necessary.

* Published in Gazette of India, Extraordinary, Part II, Section 2, dated the 23rd December, 1967.

6. At their second to sixth sittings held from 15th to 19th April, 1968 respectively, the Committee heard the evidence given by eight parties (Appendix III).

7. The Committee have decided that the evidence given before them should be printed and laid on the Table of the House in extenso.

8. The Report of the Committee was to be presented by the 25th April, 1968. As this could not be done, the Committee requested for extension of time for the presentation of their Report upto the 6th May, 1968, which was granted by the House on the 22nd April, 1968.

9. The Committee considered the Bill clause-by-clause at the seventh and eighth sittings held on the 24th and 25th April, 1968.

10. The Committee considered and adopted the Report on the 2nd May, 1968.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. Clause 1 and enacting formula. — The changes made therein are of a formal character.

13. Clause 2, — (i) Sub-clause (i): The definition of 'banking policy' has been amended so as to emphasise that in specifying any policy in the interest of the banking system or in the interest of monetary stability or sound economic growth, due regard will be paid to the interests of the depositors.

(ii) New sub-clause (ii): A proviso to clause (h) of section 5 of the principal Act has been added to make it clear that the managing director of a banking company shall exercise his powers subject to the superintendence, control and direction of the Board of directors.

(iii) Sub-clause (iv) / Original sub-clause (iii) /

(a) The Committee feel that, having regard to the changing economic conditions and trends in industrial development, the power of the Central Government to specify the amount of investment in plant and machinery of an industrial concern which would make it eligible for inclusion in the category of 'small-scale industrial concerns' should be extended so as to enable the Central Government to raise the amount to twenty lakhs of rupees, from fifteen lakhs of rupees, as originally proposed.

(b) The Committee further feel that, in order to constitute 'substantial interest', whether in relation to a company or a firm, the beneficial interest held therein by an individual or his spouse or minor child, whether singly or taken together, should represent more than ten per cent of the paid up share capital of such company or subscribed capital of such firm, instead of five per cent, as originally proposed. The definition has been amended accordingly.

14. Clause 3. — (i) Proposed section 10A: The amendments made in sub-sections (1), (2) and (6) are clarificatory or formal in nature.

(i) Proposed section 10B:

(a) Sub-section (1): A proviso has been added to make it clear that the chairman shall exercise his powers, subject to the superintendence, control and direction of the Board of directors. The existing proviso has been made the second proviso.

(b) Sub-section (6): The Bill requires the Reserve Bank to give a reasonable opportunity of being heard to a chairman who is proposed to be removed from his office on the ground that he is not a fit and proper person to hold such office. The Committee feel that since the chairman is appointed by the banking company, a reasonable opportunity of being heard should also be given to the banking company. The sub-section has been amended accordingly.

(c) New sub-section (9): A new sub-section has been added to enable a banking company to appoint, with the approval of the Reserve Bank, a chairman for a period not exceeding four months, when there is a casual vacancy in that office by reason of death or resignation or where the incumbent of the office is unable for the time being to discharge the duties of his office.

(d) Other amendments made in this section are of a formal or consequential nature.

15. Clause 5. — The Committee have made the following changes in this clause:—

(i) Under the provisions of the Bill, as introduced, a banking company was prohibited from giving or renewing any guarantee on behalf of any of its directors or any firm or company in which he was interested or any individual in respect of whom he was a partner or guarantor. The Committee feel that the guarantees should be omitted from the scope of

prohibition as in case of guarantees third parties are affected. In their opinion, it will not be practicable to impose on third parties the necessity to verify whether the bank giving the guarantee is legally competent to do so.

(ii) In the Bill, as introduced, the grant of loans and advances after the commencement of the Act was prohibited. This would have had the effect of prohibiting the grant of loans and advances even in cases where the commitment to grant such loan or advance had been made before the commencement of the Act. The Committee have, therefore, suggested that only new commitments for the grant of loans and advances after the commencement of the Act should be prohibited, and the grant of loans and advances against commitments previously entered into should be permitted, subject to the provisions of sub-clause (2).

(iii) Under the provisions of the Bill, as introduced, the prohibition applied to all companies of which the director of banking company was interested as a director, managing agent, manager, etc. The Committee are of the view that the subsidiaries of banking companies, Government companies and non-profit making companies registered under section 25 of the Companies Act, 1956, should be exempted from the scope of this prohibition.

(iv) The Committee have also suggested that the period for the recovery of loans and advances should be curtailed from three years to one year and powers given to the Reserve Bank to extend the period of recovery if need be for a period not exceeding three years from the commencement of section 5 of the Act. The loans for a term should be repayable within the period stipulated for repayment. A proviso has been added to make it clear that this prohibition will not apply if the director of a company who is also a director of the banking company granting the loan, vacates his office as the director of such banking company.

(v) The Reserve Bank has been empowered to define loans and advances so that no genuine operational difficulties may arise in the application of the section. The scope of the expression 'director' has also been widened to cover members of any advisory committee constituted by any bank.

The clause has been substituted accordingly.

16. Clause 8.— Sub-clause (b) of sub-section (1) of section 30 of the principal Act permits banks incorporated outside India to get the accounts of their Indian business audited by Auditors not registered in India. The

Committee have amended this provision so as to make it obligatory for such banks to get the accounts of their Indian business audited by Auditors registered in India.

17. Clause 13. — The Committee feel that the insertion of the words "or in the interest of banking policy" is not quite appropriate in the context of section 36AA. They have, therefore, deleted item (1) of sub-section (a).

18. Clause 15. — (1) Proposed section 36AD: The following changes have been made in section 36AD, as originally introduced:

(a) Sub-clause (a) has been amplified so as to provide that the prohibition shall apply to any person lawfully entering or leaving the premises of a banking company or from carrying on any business there.

(b) The original sub-clause (b) prohibited holding of any 'indecent' demonstration (including shouting of any slogan) within the precincts of any building in which the office of a banking company was situated or within ten metres from any entrance to or exit from such building. The sub-clause has been amended to restrict the prohibition to only such demonstrations within the office or place of business of a banking company which are violent or prevent or are calculated to prevent the transaction of normal business by the banking company. References to demonstrations outside the building have been omitted.

(c) The amendment made in sub-clause (c) is clarificatory in nature.

(d) Under the original clause (3), a complaint was required to be filed by the Reserve Bank or by a person authorised by the bank. The clause has been omitted to enable any aggrieved person to file a complaint in this behalf.

(1) Proposed section 36AE: In the opinion of the Committee, the expression 'persistently' used in the proposed sub-section (1)(a) was vague and apt to convey an impression that the power of the Central Government to acquire undertakings of a banking company would be exercised only after the said company had repeatedly disregarded the directions given to it by the Reserve Bank. The Committee, therefore, intend to make it clear that the Central Government may exercise its powers in this behalf if the banking company fails to comply with the directions of the Reserve Bank on more than one occasion. The Committee further feel that, in the context of the proposed sub-section (1)(a), the direction issued by the Reserve Bank should not cover procedural matters but should relate to banking policy and such direction should be given in writing under sections 21 and 35A. The proposed sub-section (1)(a) has been amended accordingly.

(ii) Proposed sections 36AF and 36AG: Under the provisions of the Bill as introduced, compensation has to be paid to shareholders in case of acquisition of a banking company. But where an acquired bank is a banking company incorporated outside India, payment of compensation will have to be made to the acquired bank and not to the shareholders. The necessary amendments have been carried out at the appropriate places.

19. **Clause 22.** — The Committee have made two amendments, one of which is consequential to the amendments in the proposed sections 36AF and 36AG. The other amendment is to make it clear that the liabilities of the Indian offices of a foreign bank include its liabilities to its office and branches outside India.

20. **Clause 24.** — (i) Under section 17(12) of the Reserve Bank of India Act, 1934, the Reserve Bank has been authorised to purchase gold coin and gold bullion. The Committee feel that the Reserve Bank should also be authorised to purchase silver coin and silver bullion.

Provisions have also been made to provide facilities for training and for promotion of research in banking by the Reserve Bank.

The clause has been amended accordingly.

(ii) The other amendment made in this clause is of a formal nature.

21. **Clause 29.** — Under section 33 of the State Bank of India Act, 1955, the maximum period for which the State Bank of India can grant a loan is ten years. The Committee desire that, in the context of the changed economic conditions in the country, this period should be extended to fifteen years.

The clause has been amended accordingly.

22. **Clause 30.** — Under clause 29 of the Bill, the State Bank of India can normally grant loans and advances for any period upto twelve months. A corresponding amendment has been made in section 34 of the State Bank of India Act, 1955.

23. During the course of discussion on sub-section (6) of the proposed section 10B of the Banking Regulation Act, 1949, empowering the Reserve Bank of India to remove an elected chairman of the Board of directors of a banking company, if, in the opinion of the Reserve Bank of India, he is not a fit and proper person to hold the office of chairman, the Committee were assured by Government that there would be no victimization of the chairman

merely because of his being a critic of the monetary and banking policies of the Reserve Bank of India or of the fiscal and economic policies of the Central Government or the Government of any State.

The Committee trust that in cases where the Reserve Bank of India feels obliged to take recourse to the provisions of this sub-section, it will keep the above assurance given by Government in view.

24. The Select Committee recommend that the Bill as amended be passed.

G. S. DHILLON,
Chairman,
Select Committee.

New Delhi;
The 2nd May, 1968.
Vaisakha 12, 1890 (Saka).

MINUTES OF DISSENT

I

I regret my inability to subscribe to the Report of the Select Committee in respect of some of the aspects of the Bill.

2. While I am in agreement with the broad objective sought to be achieved by tightening the control over the banking industry so as to subordinate the individual profit motive to larger social purpose, I feel unhappy that an important measure affecting a vital sector of the industry should have been brought out without a thorough impartial probe into the working of the industry as a whole in general and the working of the Banking Regulation Act in particular. I feel that a comprehensive high-powered enquiry committee should have been appointed to go into the various facets of the problem and its terms of reference, *inter alia*, should have included the formulation of a draft for an integrated and comprehensive banking law; the determination of the extent to which the banking laws provide an instrument of social control and of modifications in the existing provisions as may be considered necessary, and an enquiry into the working of the banking laws.

3. I have a two-fold objection to the provisions of the proposed section 36AD and the policy underlying it.

Firstly, the proposed section deals with one facet of the problem of industrial relations in the banking industry and not with the subject of social control of the banking industry, which, according to the preamble of the Bill, is the purpose of this Bill. The subject could more appropriately be dealt with on an amendment of the Industrial Disputes Act.

Secondly, while I do concede that the problem of checking the growing use of violence in the settlement of industrial disputes needs to be tackled firmly and that the Government should give this matter due consideration and take suitable steps, I feel that the problem posed by recent militant tendencies in the trade union movement, is not peculiar to the banking industry. It is of general importance, requiring comprehensive study and examination so that a proper balance is struck between the right of the working people to embark on legitimate agitation and the imperative necessity of maintaining industrial peace so that the trade union activity may not be allowed to impede the course of production. It is true that the banking industry enjoys a somewhat special position in the economic life of the country. I do not, however, think that this by itself justifies singling

out of bank employees for the type of prohibition which is sought to be imposed by this clause. I strongly feel that this facet of the industrial relations should be left to be considered in the broader context of the impact of violent demonstrations of industrial relations and should, if at all, find a place in the general law relating to industrial relations rather than in a special Bill of this kind.

4. Subject to this note of dissent, I am in agreement with the Report of the Select Committee.

New Delhi;
May 3, 1968.

SUCHETA KRIPALANI

II

The role of Banks in the modern economy is pivotal in that it mobilises the country's money, resources and those pooled resources are placed at the disposal of capital market and others such that the developmental as well as the financial activities depend upon such placements by the Banks. Some industrial houses in possession of Banks have become so powerful that their power, influence and the direction of their activities were thought to be so dangerous and harmful to the national economy and therefore warranted severe restriction on those harmful effects.

2. The suggestion for the nationalisation has also been on the agenda of the nation but the Government were not in a mood to think over it. The harmful effects by the holders of the Banks inflicted on the national economy were engaging the attention of some of the progressive minded people in the country and this question of power of the Banks over the nation has been discussed by them in a very purposeful forum and now they come in to influence the ruling party who instead of taking action to nationalise the Banks has thought it fit to bring control over them and they have termed this as "Social Control over Banks."

3. Various provisions in this Bill would defeat the basic idea of restrictions over the Banks. Instead of aiding this industry, that would affect the normal functions of Banking industry.

4. It would be very hard to attract more deposits from the public. — Resources also could be utilised by the persons who are connected with the directors and management — a sense of unrest would prevail in this industry unless the author of this Bill removes some anomalies incorporated in this Bill.

5. A new section 10A has been proposed to be inserted to the Banking Regulation Act, 1949 and section 10A (2) prescribed that "not less than 51 per cent of the total number of members of the Board of Directors of a Banking Company shall consist of persons who shall have special knowledge or practical experience in respect of one or more of the following matters".

6. Hence it has not been specified what those terms special knowledge and practical experience mean. If the term special knowledge is taken to mean as academic qualification, practical experience would go to mean no academic qualification for the member. The standard, quality and recognition of practical experience possessed by a member have not been clarified in this section. If no such classification setting standards of practical experience is provided in this section, malpractices and political influences with constitutions of Board of Directors would be the order of the day and the purpose of setting up an enlightened Board of Directors to the Banks Board would be defeated.

7. The said section also provides that in every reconstituted Board not less than 2 directors must represent agriculture, rural economy, co-operation and small scale industries. It would be in accordance with the cherished socialistic goal of our economy that labour also should be given a due place in the future set up of the banking industry. The Bill failed to make a provision to have employees' representatives in the Board of Directors of each Banking Company. It is most essential for the successful running of the Banking Industry and it would also be a check on the activities of directors which may help to the benefit of big industrial houses.

8. Clause 3 inserting new section 10B, sub-section (2), the lines 30 to 32 ought to have been omitted from the Bill. As otherwise, the Chairman will not function independently and impartially and members fall a prey to the allurements of re-election or re-appointment. Re-appointment would take place according to the whims and fancies of the Finance Ministry and it also would give room for favouritism in the appointment. Thus, it would frustrate the whole purpose of social control over banks.

9. In clause 5, proposed section 20(1) a sub-clause should be added in order to safeguard the interest of depositors and the share-holders and in order to achieve the purpose of the amending section, it is essential that such loans, as are connected with the management should not be controlled by any Bank without the permission of the Reserve Bank of India. In this section a provision has not been made to grant loans and advances to any one of the persons who are connected with the management of the Bank without prior sanction of the Reserve Bank of India.

10. Another new provision for acquisition of undertakings of Banking Companies has been introduced by Part II C with section 36 AE to the Banking Regulation Act, 1949. This section lays down the procedure for acquiring Banking Companies that have persistently failed to comply with sections 21 or 35A and the procedure pre-supposes elaborate correspondence and reports between such Banking Companies, Reserve Bank and government of India. This sort of prolonged correspondence for acquisition of failing companies will end in covering up of certain irregularities and losses of those Banking Companies and ultimately the depositors would have to suffer. To avoid this a time limit for acquisition of such failing banking companies should be set up and the acquisition completed at the end of that time limit set up. It is my strong belief that a provision should be made in this regard.

11. In the Fifth Schedule to the Bill (under Section 36AG) the conversion of foreign currency has been fixed to be converted at the market rate of exchange. What prompted the Government to resort to market rate of exchange while the official rate of exchange exists? Permitting such conversion at market rate would amount to legalising black market in foreign exchange and this should not be done at least to save the 'Nation's Honour'. Hence this provision should be modified for conversion at official rate of exchange.

12. Another important factor should be analysed. Within the framework of the schemes of social control of Banks, National Credit Council is to be set up to assess periodically the demand for Bank credit and indicate the priorities for lending and investment between all sectors of the economy that require credit, in particular the priority sectors such as agriculture, small-scale industries and export. This Council will consist of representatives from large, medium and small-scale industries, agriculture, co-operative sector, trade and banking and professional groups such as economists, chartered accountants etc. The Finance Minister will be the Chairman and the Governor of Reserve Bank, the Vice-Chairman.

13. The creation of composition and functions of this Council not be from out of this Bill but through a Resolution of Parliament. How this creation of this Council was taken away from the legislative provisions has not been spelt out nor indicated. Actually such a Council was set up during the first week of February, 1968 with 25 members and on three years term. Without statutory provision, how this National Credit Council got into the scheme of "Social Control of Banks" Scheme, no one knows.

14. At present, the Reserve Bank and the Government possess the required powers for the assessment formulation and implementation of credit policies on the lines mentioned above and it is not known as to why such redundant organisation as this 'National Credit Council' is drafted in this so called scheme of social control.

15. We have, in this country, all sorts of Committees, Councils, Corporations and what not, but the results towards improvements those ones brought out could not be identified. With such a conglomeration of all interests in the country vying with one another to have precedence over the other in obtaining the scarce allotment of finance for its section the working of its credit council turns out to be new instrument forged in the interest of strengthening monopoly and the reasons are not far to seek in view of power and that is going to be played within the Council.

16. The author of this Bill, Mr. Morarji Desai, has expressed a significant view. I quote in full below:

"Perhaps, the long term objective would be the development of the banking system on the lines of regional banks which would be not only in a better position to mobilise deposits in rural and semi-urban areas but will also be in a better position to assess and meet the needs of the small entrepreneurs and agriculturists in those areas".

Mr. Desai has not indicated whether these regional banks will be in the private sector or if the public sector will be subsidiaries to the State Bank of India or directly linked to the Reserve Bank of India. But this would be ideal if the concept of regional banks is modified and the State Governments permitted to run commercial banks with a net-work of numerous branches all over the State. I hope this would be considered broadly when the Bill is passed.

17. Before I conclude I must express my views on clause 15 inserting

section 36AD. The clause that has now emerged from the Select Committee is in no way acceptable to me. The sub-clause (1) (a) prohibits peaceful picketing and also prohibits sit-down and stay-in strikes.

I am unable to countenance the Bill unless clause 15 thereof proposing to add a new section 36AD in the Banking Regulation Act is completely deleted from the bill. The existing laws of the country amply cover the activities sought to be prohibited by this new section and passage of this law would bring about an overlapping condition and create confusions and chaos in the Banking Industry. I analyse the provisions of this section below:—

36 AD (1)

18. Peaceful Satyagraha or picketing constitutes a legitimate and fundamental right of the people. The ambit of this right is that one can request another not to enter the premises before which a picket is placed but the said person cannot be physically obstructed to enter the premises as such restraint would be a cognizable offence under the existing laws. The nuance is very slight and only the person concerned can state whether his decision not to enter the premises had been voluntary or enforced. It would be ridiculous to delegate the authority to another unconnected person to determine this fact. If a person's movement is physically restrained, he will have the liberty to have recourse to existing laws and no new law is necessary in this respect.

19. Holding of any demonstrations within the Bank premises within or after the office hours, constitutes a "gross misconduct" under the Bank Awards which presently govern the service conditions of the bank employees and the offending employees can be dismissed from service under the Award provisions. Further, staging of spontaneous demonstration within the working hours would amount to an 'illegal strike' as per definitions given by the Supreme Court and hence, such acts would fall under the penal provisions of the Industrial Disputes Act. These provisions are ample and no harsher treatment is called for and no new law is necessary to prevent such activities.

20. Further, this new law confining its scope to Bank employees alone would cause a discriminating position in the application of law which would be bad and untenable in law. Whereas an act committed by Bank employees would be a cognizable offence under the new law, the same act committed by the workers in other industrial sectors, would continue to be regarded as non-cognizable offence. In this context the provision which envisages a further additional punishment of imprisonment is to say the least extremely

harsh. The provision relating to the fine of Rs. 1,000/- is again an additional punishment and ought to be reduced to a token amount if at all to be imposed. The sub-section in this form must be amended.

This will defeat the fundamental principles of equality and justice in the application of law. The application of law cannot be so discriminated between a person and another person.

21. In sub-clause (c), the words 'calculated to undermine the confidence of' is a vague provision. The confidence of the depositors generally depends on the financial stability of the institution and the extent of various facilities offered to the depositors by the respective Banks in which the subordinate employees have no control. On a given occasion, it would be extremely difficult to determine as to what caused the depositors to lose their confidence on a particular Bank. Moreover, when the Chairman of a Bank may, under the provisions of this Bill, criticise openly the financial operations of the Reserve Bank of India and fiscal policies of the Government, the employees cannot be debarred from exercising such rights.

22. Under the existing industrial enactments, appropriate Government has been designated as the 'Authority' to take cognisance of offences delegated to the employers. If it is done, it will lead to large-scale abuse of the authority and the entire atmosphere in the banking industry will be vitiated.

23. Various industrial legislations have been brought out in this country to secure industrial stability and good harmonious relations between the employers and the workmen. Experience has shown unmistakably that these objectives can never be secured by browbeating and stifling the workers. The Government of India in the Labour Ministry have taken various measures to secure good industrial relations viz. voluntary acceptance of Code of Discipline, established Joint Consultative Machineries etc. Tripartite Industrial Committee on Banking and these are under process. The harsh and the unnecessary imposition as sought to be made by section 36AD of this Bill, will retard the good work initiated by the Labour Ministry and, rather vitiate the atmosphere.

24. I, therefore, in the larger interests of public and industrial peace in the Banking sector, strongly advocate deletion of section 36AD from the Bill.

25. The clause 28 inserting Section 54 AA of the Reserve Bank of India Act should be deleted; as it grants unbridled power to the authorities of the Reserve Bank, as the employer to transfer anybody they like. This question relates to the service conditions which in turn are subject to collective bargaining and therefore should not be a part of this Bill.

26. On a careful reading of the Bill, it can be seen that the existing concentration of monopolistic power of the big industrial houses in their sphere of influence has not been touched upon. Providing security to the society at large, viz. the depositors and controlling these Banks in all the field of operation entailing in the security to the depositors can be called a social purpose behind a legislation connected with Banking laws and this is conspicuous by its absence in this Bill seeking social control over banks.

27. Therefore, there is nothing social in this Bill much less control over the Banks which has been deceptively conceived.

28. I highly regret to agree with the majority of the Select Committee whose views according to me have watered down the original inadequate restrictions proposed in the Bill for extension of social control over Banks.

New Delhi ;
May 3, 1968.

C. T. DHANDAPANI

III

I regret to have to append the following Minute of Dissent to the Report of the Select Committee on the Banking Laws (Amendment) Bill, 1967.

1. Clause 2(f) of the Bill, inserting new clause (ca) in Section 5 of the Principal Act, to define banking policy:

The definition of "banking policy", though somewhat improved, still remains loose so far as the interests of the depositors are concerned.

It would permit the Reserve Bank of India (hereinafter referred to as R. B. I.), if so directed by the Central Government under Section 7(1) of the R. B. I. Act or suo motu, to enunciate policies, (and in pursuance thereof to issue mandatory directives to banking companies), which might even

be detrimental to the interests of the depositors, if such policies were thought necessary, for instance, in the interests of "sound" economic growth as conceived by the Central Government or the Reserve Bank of India.

The protection sought to be afforded in this regard by the considerations which the R.B.I. would have to keep in mind in enunciating any such policies, namely —

"having due regard to the interests of the depositors, the volume of deposits and other resources of the bank and the need for equitable allocation and the efficient use of these deposits and resources;"

is illusory, for the simple reason that these are merely qualitative considerations, not mandatory.

Even more serious is the possibility inherent in the proposed statutory definition of "banking policy", when read with the relevant operative provisions of the Banking Regulation Act, 1949, as sought to be amended by the present Bill, that it would enable the R.B.I. to enunciate policies which, but for the proposed definition, might be open to challenge as not in the "public interest". This was frankly conceded by the Governor of the Reserve Bank of India in his evidence before the Select Committee. Indeed, he urged precisely this argument as the only reason for framing a statutory definition of "banking policy" which, without such a definition, has hitherto always meant in practice only such policy as was in the public interest or in the interests of the depositors.

I regret therefore I am unable to subscribe to the proposed definition of "banking policy", even as amended by the Select Committee, or to the consequential other clauses in the Bill empowering the R.B.I. to implement the "banking policy" as so defined. The present position as described above is, in my judgment, wholly adequate to meet the needs of re-orientation of R.B.I's policies in regard to the matters sought to be covered by the definition so long as the two over-riding interests, namely, the interests of the depositors subject only to public interest, are kept in view.

2. Clause 3 of the Bill:

(1) Insertion of new Section 10A in the Principal Act. — This seeks to improve the composition of the Boards of Directors of banking companies in regard to the special knowledge or practical experience of certain relevant subjects which a specified proportion of their directors should possess as a necessary qualification.

It is a welcome change. But it seems to me unwise to jump in this respect from the present situation, where there need be no such "expert" directors at all, to the statutory requirement that as many as fifty-one per cent of the directors should be so qualified. It will not only open the way for large scale patronage of an undesirable kind but also encourage alleged experts to scramble for directorships of banking companies.

(2) Insertion of new Section 10B in the Principal Act. — That the Chairman of the Board of Directors of a banking company should be a whole-time officer entrusted with the management of the whole of its affairs, subject to the superintendence, control and direction of the Board of Directors, is a change long overdue and must be welcomed. It is also acceptable that he should have no interest in any other business or vocation, nor any connection with any other trading, commercial or industrial concern in any capacity.

But it is odd, if not indeed contrary to the interests of banking policy generally, that he should be prohibited from being a director of even those financial institutions in which the banking company itself and/or the Central or State Government may have substantial interest.

Moreover, under the provisions of this new section, read with the provisions of Section 36AA of the Principal Act (as amended by Clause 13 of this Bill), the Chairman of a banking company will in future virtually hold office at the pleasure of the Reserve Bank of India. It is indeed expressly so provided in sub-section (6) of the new section 10B that in addition to the specific circumstances (set out in Section 36AA) in which the Chairman of a banking company can be dismissed from office by the R.B.I., he can also be removed from office if the R.B.I. "is of opinion", without assigning any reason, that he "is not a fit and proper person" to hold such office.

Notwithstanding the provision made for an appeal to the Central Government against such an order of the R.B.I., I find it difficult to support this blanket power. In particular, and having regard to the very debatable economic, fiscal and monetary policies of Government in recent years (including the new orientation now sought to be given to banking and credit policies), I am anxious that bankers of the eminence of chairmen of the leading banks should not be exposed to such cavalier treatment if, for instance, they happen to be vigorous critics of such policies. Experience has shown that the one thing above all that all Governments dislike most is free, frank and vigorous criticisms of

their policies; and the most knowledgeable among the critics of government policies could well be bank Chairmen. But the ever present threat of removal from office by the Reserve Bank of India would effectively muzzle them. Such a situation would obviously be against the best public interest in a democratic State and cannot be accepted.

3. Clause 5 of the Bill:

Section 20 of the Principal Act is sought to be entirely recast by this clause, the object being inter alia to prohibit the grant of loans and advances, as also the continuance (beyond a certain period) of loans and advances already granted or committed to be granted, to concerns in which the directors of a banking company may be interested.

The object is laudable, but the prohibition is far too wide in its scope and too sudden in its application to existing loans and advances.

- (a) The prohibition of loans and advances by a banking company to concerns, of which a director of that banking company may merely be a director or partner, but in which he did not hold substantial interest, is without any virtue or justification.
- (b) The period of one year, within which the earlier loans and advances (other than term loans) validly made under the present law to the now-prohibited categories should be repaid, is much too short. The statutory compulsion to repay all such loans, —the aggregate of which for the whole banking system is well over 10 per cent of its total advances, —by having to make alternative arrangements within the short period of twelve months will cause a great deal of dislocation, and even grave hardship in many cases, without serving any corresponding demonstrable public purpose.
- (c) On the other hand, the provision that in such cases the R. B. I. may relax the time limit in suitable cases for a further period of two years is altogether unwise, having regard to the hyper-critical attitude in regard to such matters which has been so much in evidence in both Houses of Parliament in recent months. It would be most unfortunate if the R. B. I. were exposed in this way to allegations of favouritism (if not worse) in granting concessions to "big business". The only way to avoid this would be for the R. B. I. to refuse to be burdened with

this power to relax the time limit; and this in turn requires that the time limit for the repayment of old loans and advances to the newly-created prohibited categories must be restored to the period of three years contemplated in the original Bill as introduced in the Lok Sabha.

4. Clause 15 of the Bill, in so far as it seeks to insert a new "Part II C" into the Principal Act:

The object of inserting the proposed Part II-C into the Principal Act is to confer upon the Central Government the enabling power to nationalise by purely executive orders a banking company in certain circumstances.

In my view this provision is wholly unjustified and improper. It is also unlawful because it is ultra vires and unconstitutional. Whatever the circumstances, nationalisation can never be the subject matter of an enabling act; much less should it, nor can it lawfully, be provided for by inserting such enabling provisions in an Act of which the whole purpose is mainly regulatory, not acquisitive; still less, can or should nationalisation be undertaken by mere executive orders. And it is no answer to this challenge that there is also provision made for payment of "compensation" of a sort.

In this view of the matter, I do not propose in this minute of dissent to deal with the many objectionable features as to the details of this exercise contained in this new Part II-C.

5. Clause 22 of the Bill, inserting "Fifth Schedule" to the Principal Act:

This Schedule sets out the principles upon which the "compensation" payable to the share-holders of a banking company upon its nationalisation shall be computed.

In the view I take of the provisions of the new Part II-C concerning nationalisation, sought to be inserted in the Principal Act by Clause 15 of the Bill, this Schedule becomes otiose.

6. General:

I regret to have to say that the main purpose of this Bill appears to me to be not so much the genuine re-orientation of banking policy, in the direction of achieving better the social objectives of national policy in regard to

control over and the allocation of the credit resources generated by banking system with the indispensable aid of depositors, as the nationalisation of the banking companies by the back door with the aid of slow torture.

In so far as reform in the management of banks, including the composition of their Board of Directors, is concerned, the provisions contemplated in the Bill are reasonably sound subject to necessary amendments in certain directions.

Similarly, in so far as the de-linking of the personal aspect the power of banks to lend, from the legitimate needs of business enterprises to borrow, is concerned, the provisions contemplated in the Bill are reasonably sound subject, again, to necessary amendments in certain directions.

But the fatal sting lies in two other directions. First, in the devising of a definition of "banking policy" such that admittedly it could justify the issuing of directives by the R.B.L. which may not be defensible either on the grounds of the interests of the depositors or of the wider public interest. And secondly, in the provision for nationalisation of banks by the back door, supported by mere executive opinions and orders but without the specific sanction of Parliament in each case.

It would be hard to discover a more sinister example of that "NEW DESPOTISM" of whose growing power Lord Hewart warned all democratic countries so urgently some forty years ago.

N. DANDEKER

New Delhi;
May 3, 1968.

IV

We regret we cannot agree with the majority of the Committee whose views according to us have further watered-down the inadequate restrictions originally proposed in the Bill for the extension of Social Control over Banks.

2. The Bill was introduced with an objective to rectify many ills some of which were enumerated in the "Statement of Objects and Reasons". The Minister of Finance declared that the link between a few industrial houses

and the banks was to be snapped or at least made ineffective. The resources of the banking system should be distributed equitably and purposefully. The exclusive orientation of the banks towards industry and business had to be changed and the credit decisions by the bank managements must be made to conform to the priorities of our economic development. The main object of the Bill was to amend the Banking Regulations Act and incorporate certain new provisions towards achieving the above noted purposes.

3. The Bill originally introduced suffers from many infirmities and it was expected that the Select Committee will plug the loop holes in order to impose effective Social Control over the banking system which is responsible for the growth of monopoly at the cost of the country's economic development.

4. The Bill as it has emerged from the Select Committee has not only failed to tighten the grip over the banks, but has further relaxed many of the provisions introduced in the original Bill to the detriment of the declared objects.

5. Certain provisions envisaged are irrelevant to the objectives of the Bill and amount to an encroachment on trade union rights of the bank employees in particular and citizens in general. Against such measures there have been strong protests from all the Central Trade Union Organisations, leading Trade Federations of employees, political parties, eminent lawyers, medical practitioners, educationists, literateurs, artists, legislators and tens of thousands of people from all walks of life and from all the bank employees of the country working in the public and private sectors. There have been agitations and strike action as well by the bank employees in protest against the Clause 15 i.e., Section 36AD. We would also like to draw attention to the joint Petition signed by 7,26,831 persons which was presented to the Lok Sabha on May 2, 1968. The Select Committee failed to appreciate the feelings and sentiments of the employees and the justness of the demand and retained the clause no doubt in a different form but certainly not less harmful.

6. We give hereunder our comments on certain provisions of the Bill to which we do not agree with the majority view of the Select Committee:-

(1) Clause 2, sub-clause (na) - the definition of small scale industrial concern has been expanded to include concerns with an investment upto 20 lakhs of rupees. This size of investment is not in conformity with what constitutes at present, the concept of small-scale industries. It is a common knowledge that the real small-scale industries suffer from very many handicaps from supply of raw material to the marketing of finished products. They will be

starved of credit as before. The ancillary industries which are an appendage of big industrial houses will have the advantage of the amendment and thus there is every possibility of continuation of concentration of finance capital and defeat of the objective of diversification of credit.

(ii) In clause 2(nc) "substantial interest" has been redefined as the amount paid up of 5 lakhs and 10 per cent whichever is less. Earlier in the original Bill it was 5 lakhs and 5 per cent. This increase of 5 per cent to 10 per cent will mean the limit of holding of 5 lakhs of rupees because that will always be the lesser amount. Earlier with 5 per cent, this holding would have been in many cases less than 5 lakhs and thus would have been purposeful as a measure of restriction. Regarding "firms", this 10 per cent holding by an individual of the total paid up capital is too large, and is in itself a substantial interest. Thus the embargo sought to be put in under proposed sections 10A and 10B will be frustrated. We do not agree with this raising of the limits.

(iii) Although the original provisions envisaged that a whole time paid Chairman who will give his entire time to the banking business and who is not elected but appointed would not be under the control of the vested interests in the Board of Directors, a new proviso has been added under proposed section 10(B)(i) which will make the Chairman subservient to the very same vested interests which so long held sway over the banks.

(iv) The suggestion for mentioning in the report that Chairman will be free to criticise the monetary policy of the Reserve Bank and fiscal and economic policies of the Government is an open invitation to denounce the Government's policy of imposing Social Control over Banks. This suggestion is ridiculous. It appears that the Finance Ministry has half-heartedly initiated the Bill on Social Control over Banks and then accepted certain amendments with a view to seeing that at the earliest all the restrictions and semblance of control are withdrawn. That is why the proviso, by inviting the persons who will be running the banking industry to criticise even the limited restrictions would create pressure on the Government to retrace its steps. While the public has been prohibited on the threat of penal action from criticising banking practices in the name of "undermining the confidence of depositors", the Chairman of the banks have been given free licence to criticise banking policies as laid down by the Reserve Bank and thus to create grounds for reducing them to a nullity.

(v) The restrictions on loans and advances as laid down in clause 5 have also been withdrawn in sub-clause (iii) where a company does not include a

Company registered under section 25 of the Companies Act 1956. It is a common knowledge that the malpractices of the companies under section 25 exist and these companies often serve as a link between one group and another. The companies registered under section 25 of the Companies Act should not be excluded.

(vi) CLAUSE 15 INSERTING SECTION 36AD. - The clause as it has emerged from the Select Committee is in no way acceptable to us. The sub-clause (1)(a) prohibits peaceful picketing and also prohibits pen-down, sit-down and stay-in strikes. Both these rights have been admitted as the lawful rights of the trade unions by the highest court of the land. Any restriction imposed on these rights will be against basic rights of the trade union functioning and frustrates the right of association guaranteed under Article 19 of the Constitution of India. Whilst employees have been prohibited from carrying on peaceful picketing the management has been granted the right to prohibit persons who attract the animus and vendetta of the management and necessarily will always mean trade union leadership.

(vii) Sub-clause (b) All the words after the word 'violent' should be deleted, since they are inconsistent with the intention of this clause.

(viii) Sub-clause (c) The words "calculated to under-mine the confidence of " are vague enough to attract any action within its ambit. The confidence of the depositors is wholly subjective which is shaken or remains firm according to the likes or dislikes of the depositors. It is difficult to say what will undermine depositors' confidence. This sub-clause should be deleted.

(ix) Sub-section 2 of section 36AD imposes severe punishments which the Select Committee has not interfered with. In fact such severe penalties are totally uncalled for. The provision of a "term of imprisonment for picketing or demonstration " is preposterous as at present under the Standing Orders, the managements have enough rights upto and including the termination of the services of an employee and even dismissal without notice for indulging in such mis-conducts and the cessation of contract between the employer and employee has been admitted to be sufficient punishment. In that context the provision which envisages a further additional punishment of imprisonment is to say the least extremely harsh. The provision relating to the fine of 1000 rupees is again an additional punishment and ought to be reduced to a token amount if it is at all to be imposed.

(x) The responsibility for the implementation of various provisions of imposing restrictions starting from issuance of directions, checking up whether the directives have been followed and ultimately to take action if not followed has been vested with the Reserve Bank. Again the "Banking policy" which is a guide line for this amendment Bill is to be specified from time to time by the Reserve Bank. Only section 36 AD has been taken out of the purview of the Reserve Bank of India. The section is otherwise irrelevant and surreptitiously introduced and has been left entirely in the hands of the bank managements for implementation. This will definitely have the effect of embittering the employer-employee relations in the banking industry and encourage a vendetta against the bank employees trade unions. The sub-clause (3) should not be deleted and should be kept as it was in the original bill.

(xi) It has been the convention hitherto that any legislation involving labour relations and trade union rights should first be discussed by the Tripartite Labour Conference. It was on this ground that the SVD Ministry in Uttar Pradesh was advised not to proceed with its Bill providing for the compulsory recognition of trade unions and ballot to settle the Union's rival claims. It is, therefore, regrettable that sections seeking to put curbs on the trade union movement should be included in this Bill without obtaining clearance from the Tripartite Labour Conference as is being done in regard to other labour legislation.

(xii) This section as a whole appears to be super-imposed over the Standing Orders and it discriminates between the bank employees and other workers and takes away the right of effective collective bargaining power. The provisions envisaged under section 36AD are already actionable under the Civil Law and in fact there are instances of pending cases where actions have been taken by the banks against bank employees trade unions and the matter is subjudice before the various courts. These provisions, therefore, are designed to preclude the judiciary from coming to a reasonable conclusion after hearing parties in dispute.

(xiii) Cumulative effect of section 36AD impedes and prejudices the work entrusted to the National Commission on Labour. This Commission is the first of its kind since independence. It is entrusted with the task of examining all aspects of labour, productivity and the causes which affect them. It is also entrusted with examination of all aspects of industrial relations and the activities of both employers and workers and to find proper solutions for it. In such a context, therefore, the provisions of section 36AD debar the National Commission on Labour from arriving at a conclusion which would be independent and unfettered by legislations relating to service conditions, collective bargaining and other allied matters.

7. The Clause 28 inserting section 54AA of the Reserve Bank of India Act should be deleted, as it grants unbridled power to the authorities of the Reserve Bank as the employer to transfer anybody they like. This question relates to the service conditions which in turn are subject to collective bargaining and therefore should not be a part of this Bill.

8. The Bill as it has emerged from the Select Committee has shattered the expectations of the people and miserably failed to take effective measures to control the banking system which is of imperative importance at the present juncture of the deepening economic crisis as manifested in various ways of high prices, fall in real wages, neglect of agricultural credit and stagnation of economic growth.

9. We hope that the House which has expressed its serious concern time without number over the functioning of the commercial banks whose involvement in very many shady deals and their active help for the growth of monopoly capital was criticised on the floor of the House will amend the Bill in order to achieve the objectives for which this Bill has been introduced.

New Delhi;
May 4, 1968.

INDRAJIT GUPTA
MADHU LIMAYE
JYOTIRMOY BOSU
SAMARENDRA KUNDU

Under proposed section 36 AE there is a provision by which Commercial Banks could be acquired if the banks flout the directions given by the Reserve Bank "on more than one occasion" or "is being managed in a manner detrimental to the interests of its depositors" etc. When such banks are acquired the Central Government is called upon to pay a large sum as compensation amount under proposed section 36 AG(i) and clause 1 of the Fifth Schedule which is "equal to the value of the assets of the acquired banks less the total amount of liabilities thereof". These provisions in the

Act will leave two loopholes i. e. (i) the Central Government will always hesitate to acquire banks since it will involve payment of large sum of money. This in other words will make the proposed section 36 AE in-operative and therefore will remain in the body of the Act as a decorative piece, (ii) besides these it is redundant to provide for payment of compensation for acts akin to criminal nature. The Act ought to have provided for strict penal action against the bankers acting "detrimental to the interests of depositors", but instead it provides payment of substantial compensation.

2. Moreover the payment of large sum of compensation being not commensurate with the spirit of social justice of the much vaunted Social Control of the banks, I strongly oppose the Bill.

New Delhi;
May 4, 1968.

SAMARENDRA KUNDU

VI

I do not find myself in agreement with certain of the provisions of the Banking Laws (Amendment) Bill, 1967, as they have emerged from the Select Committee. Besides, certain safeguards for the protection of the depositors' money and for the proper and legitimate functioning of social control of banks, have not been incorporated in the Bill. As such, I am constrained to attach this minute of dissent to the Report of the Select Committee.

2. Clause 3 inserting section 10(A):

The Reserve Bank has been given powers to reconstitute the Board of Directors. Sub-section (2) of section 10(A) provides that not less than 51 per cent of the total number of members of the Board of Directors shall consist of persons who shall have special knowledge or practical experience in respect of specified matters and are not connected with large scale industry. From a theoretical standpoint, the change may appear to be for the good, but it is apprehended that social control may in effect degenerate into political control of the banks by the party in power. Retired or active politicians may infiltrate into the Board of Directors and pressurise executive chairman to give loans and advances to persons in the agricultural or small scale sector who may owe allegiance to their party, irrespective of their credit-worthiness. In other words, loans may be

(contd)

used for political patronage. This may jeopardise not only the depositors' money but also the stability and progress of the banking industry in the future. The danger is real, because the bank chairmen would very largely be under the control of the Reserve Bank, and the Reserve Bank officials are not immune from pressures from the Government and perhaps members of the party in power. It is necessary that the Government's powers vis-a-vis the Reserve Bank should be reduced to a minimum and be clearly defined, and the Reserve Bank should be given complete autonomy.

The Government, in its anxiety to secure social control over the banking system, has not provided adequate safeguards for the interests of the depositors. Certain safeguards are particularly necessary. The banks should not be coerced by the Reserve Bank, in the name of credit policy being made to conform to social objectives, to make any loans and advances, which in their unfettered discretion they do not consider proper to give. Here again the danger is real, because the bank chairmen may always have the apprehension that if they do not divert a certain percentage of loans and advances made by their banks to particular sectors of the economy, the Reserve Bank may some day remove them. This may adversely affect the judgment of the bankers and they may give loans and advances which normally may not be justifiable. Besides, the Government should establish a Corporation for insurance of bank advances. Such a Corporation would indemnify the banks against losses that they may incur on account of loans given by them to small scale industries, agricultural sector and even the industrial sector. Deposits upto Rs. 5,000 per depositor have been guaranteed by the Government, but the balance of the deposits have not been so guaranteed. In view of the above, it should have been provided in the Bill—

- (i) that the Reserve Bank of India shall on no account bring to bear influence, direct or indirect, on the chairmen or the board of directors of the banks or give instructions in respect of granting loans or increasing loan limits to individuals or particular persons; nor compel banks to give specified percentages of their loans to select sectors, if they do not find sufficient creditworthy customers in those sectors;
- (ii) that the Reserve Bank of India in determining banking policy shall have paramount regard to the safeguarding of the interests of the depositors; and,
- (iii) that a Corporation to underwrite the recovery of loans and advances made by banking companies shall in due course be formed by the Government of India.

3. Clause 5 inserting section 20:

I am not in agreement with the change effected by the Select Committee in providing that the period for recovery of the existing loans and advances to companies and firms in which Directors of the banks are interested should be curtailed from three years to one year from the commencement of the amending Act. The overdrafts taken by certain companies from banks may amount to even more than a crore of rupees and it may not be easy for a company to switch over its cash credit account to another bank within a period of one year. In my opinion, the period of three years should have been retained. Of course, a degree of flexibility has been provided by giving the Reserve Bank the power to extend the period for recovery to three years, but every time the extension is to be made, the Reserve Bank would have to be approached by the bank concerned. If the Reserve Bank does not agree, the company may have to face severe difficulties.

4. Clause 15 inserting section 36 AD:

During the proceedings of the Select Committee on the Banking Laws (Amendment) Bill 1967, I had urged that the new section 36 AD relating to prohibition of certain activities by bank employees and others in relation to banking companies be deleted. The Committee, however, did not agree to the deletion. The provisions embodied in the new section do not have any legitimate place in a Bill primarily concerned with amending the banking laws and introducing social control of banks. Besides, the powers that are sought to be bestowed on the bank managements more or less already exist in the standing orders and the relevant 'Awards'. In any case, even if this section was retained in the Bill, the punishment provided viz. imprisonment for a term which may extend to six months or with fine which may extend up to Rs. 1,000 or with both, is severe and excessive. If a bank employee contravenes the provisions of the section, not only is he liable to dismissal, thereby losing his means of livelihood, but he would also, besides, be liable to fine and imprisonment. In my opinion, imprisonment should not have been provided for and the amount of fine should have been scaled down. The Government did not agree to this.

5. Clause 15 inserting section 36 AE:

I am unable to reconcile myself with the change effected by the Select Committee in sub-clause 1(a). The expression 'persistently' had been used in the original clause and the implication was that only if the bank committed repeated defaults in complying with the directions of the Reserve Bank, the Central Government could nationalise the bank. This

expression has been replaced by the words "on more than one occasion", which implies that if a company defaults twice in obeying the orders of the Reserve Bank, the Government could exercise the power to take over the bank.

In my opinion, it is absolutely improper that a bank may be nationalised by the Government without Parliament's express sanction and just because the Chairman or the Board of Directors did not comply with the directives of the Reserve Bank — the assumption, of course, being that the Reserve Bank can do no wrong. In any case, the Government has the power to remove the Chairman of a bank who does not follow the advice or the directions of the Reserve Bank; the question of taking over the bank should not arise at all. The blanket power, given to the Central Government in the Bill, could be abused to effect back-door nationalisation of banks by a subsequent government, which may not be inclined to owe sufficient allegiance to constitutional proprieties. No nationalisation should be permitted without recourse to Parliamentary procedures; and in any case, the word 'persistently' should be resubstituted for the expression 'on more than one occasion'.

6. Compensation:

As regards the clause relating to compensation, it is regrettable that compensation has been provided for only on the basis of the value of assets less liabilities. No provision has been made for compensation for goodwill in respect of loss of the company's business and exhaustion of the source of its income and profits. In the case of nationalisation of road haulage undertakings in the U. K., the value of goodwill, computed as a multiple of the net yearly profit averaged over three years, was paid in addition as compensation. A similar provision should have been included in the Bill.

New Delhi;
May 5, 1968.

S. S. KOTHARI

VII

In order to keep cordial relations between the Banks and their employees it is better that their relations be governed by the Industrial Disputes Act, as heretofore, in which ample powers exist to take action.

2. Therefore, the insertion of the proposed section 36AD in clause 15 of the Bill seems to me to be inappropriate in the context of the enforcement of the proposed social control of the Banks as envisaged in the Bill.

New Delhi;
May 6, 1968.

HEM RAJ

THE BANKING LAWS (AMENDMENT) BILL, 1967

(AS REPORTED BY THE SELECT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

▲

BILL

further to amend the Banking Regulation Act, 1949, so as to provide for the extension of social control over banks and for matters connected therewith or incidental thereto, and also further to amend the Reserve Bank of India Act, 1934, and the State Bank of India Act, 1955.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Banking Laws (Amendment) Act, 1968. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act.

CHAPTER II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

Amend-
ment of
section 5.

2. In the Banking Regulation Act, 1949 (hereinafter in this Chapter referred to as the principal Act), in section 5,—

10 of 1949.

(i) after clause (c), the following clause shall be inserted, 5
namely:—

'(ca) "banking policy" means any policy which is specified from time to time by the Reserve Bank in the interest of the banking system or in the interest of monetary stability or sound economic growth, having due regard to the interests of the depositors, the volume of deposits and other resources of the bank and the need for equitable allocation and the efficient use of these deposits and resources;'

(ii) after clause (g), the following clause shall be inserted, 10
namely:—

'(gg) "managing agent" includes,— 15

(i) secretaries and treasurers,

(ii) where the managing agent is a company, any director of such company, and any member thereof who holds substantial interest in such company, 20

(iii) where the managing agent is a firm, any partner of such firm;'

(iii) to clause (h), the following proviso shall be added, 25
namely:—

"Provided that the managing director shall exercise his powers subject to the superintendence, control and direction of the Board of directors.";

(iv) after clause (n), the following clauses shall be inserted, 30
namely:—

'(na) "small-scale industrial concern" means an industrial concern in which the investment in plant and machinery is not in excess of seven and a half lakhs of rupees or such higher amount, not exceeding twenty lakhs of rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf, having regard to the trends in industrial development and other relevant factors; 35

(nb) "subsidiary bank" has the meaning assigned to it in the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(nc) "substantial interest",—

(i) in relation to a company, means the holding of 40
a beneficial interest by an individual or his spouse or

minor child, whether singly or taken together, in the shares thereof, the amount paid-up on which exceeds five lakhs of rupees or ten per cent. of the paid-up capital of the company, whichever is less;

5 (ii) in relation to a firm, means the beneficial interest held therein by an individual or his spouse or minor child, whether singly or taken together, which represents more than ten per cent. of the total capital subscribed by all the partners of the said firm;'

3. After section 10 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 10A, 10B, 10C and 10D.

“10A. (1) Notwithstanding anything contained in any other law for the time being in force, every banking company,—

Board of directors to include persons with professional or other experience.

(a) in existence on the commencement of section 3 of the Banking Laws (Amendment) Act, 1968, or

15 (b) which comes into existence thereafter, shall comply with the requirements of this section:

20 Provided that nothing contained in this sub-section shall apply to a banking company referred to in clause (a) for a period of three months from such commencement.

(2) Not less than fifty-one per cent. of the total number of members of the Board of directors of a banking company shall consist of persons, who—

25 (a) shall have special knowledge or practical experience in respect of one or more of the following matters, namely:—

- (i) accountancy,
- (ii) agriculture and rural economy,
- (iii) banking,
- (iv) co-operation,
- 30 (v) economics,
- (vi) finance,
- (vii) law,
- (viii) small-scale industry,
- (ix) any other matter the special knowledge of, and

35 practical experience in, which would, in the opinion of the Reserve Bank, be useful to the banking company:

40 Provided that out of the aforesaid number of directors, not less than two shall be persons having special knowledge or practical experience in respect of agriculture and rural economy, co-operation or small-scale industry; and

(b) shall not—

(1) have substantial interest in, or be connected
whether as employee, manager or managing agent,

(i) any company, not being a company registered
under section 25 of the Companies Act, 1956, or 5 1 of 1956.

(ii) any firm,

which carries on any trade, commerce or industry and
which, in either case, is not a small-scale industrial concern, or

(2) be proprietors of any trading, commercial or 10
industrial concern, not being a small-scale industrial
concern.

(3) If, in respect of any banking company, the requirements,
as laid down in sub-section (2), are not fulfilled at any time, the
Board of directors of such banking company shall re-constitute 15
such Board so as to ensure that the said requirements are fulfilled.

(4) If, for the purpose of re-constituting the Board under
sub-section (3), it is necessary to retire any director or directors,
the Board may, by lots drawn in such manner as may be prescribed, 20
decide which director or directors shall cease to hold office
and such decision shall be binding on every director of the Board.

(5) Where the Reserve Bank is of opinion that the composition
of the Board of directors of a banking company is such that
it does not fulfil the requirements of sub-section (2), it may, 25
after giving to such banking company a reasonable opportunity
of being heard, by an order in writing, direct the banking
company to so re-constitute its Board of directors as to ensure
that the said requirements are fulfilled and, if within two
months from the date of receipt of that order, the banking com- 30
pany does not comply with the directions made by the Reserve
Bank, that Bank may, after determining, by lots drawn in such
manner as may be prescribed, the person who ought to be removed
from the membership of the Board of directors, remove
such person from the office of the director of such banking com- 35
pany and with a view to complying with the provisions of sub-
section (2), appoint a suitable person as a member of the Board
of directors in the place of the person so removed whereupon
the person so appointed shall be deemed to have been duly elect-
ed by the banking company as its director. 40

(6) Every appointment, removal or reconstitution duly made, and every election duly held, under this section shall be final and shall not be called into question in any court.

5 (7) Every director elected or, as the case may be, appointed under this section shall hold office until the date up to which his predecessor would have held office, if the election had not been held, or, as the case may be, the appointment had not been made.

10 (8) No act or proceeding of the Board of directors of a banking company shall be invalid by reason only of any defect in the composition thereof or on the ground that it is subsequently discovered that any of its members did not fulfil the requirements of this section.

15 10B. (1) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, every banking company in existence on the commencement of section 3 of the Banking Laws (Amendment) Act, 1968, or which comes into existence thereafter shall have a chairman of its Board of directors who shall be entrusted with the management of the whole of the affairs of the banking company: Banking company to be managed by whole-time chairman.

20 | Provided that the chairman shall exercise his powers subject to the superintendence, control and direction of the Board of directors:

25 | Provided further that nothing in this sub-section shall apply to a banking company in existence on the commencement of the said section for a period of three months from such commencement.

30 (2) Every chairman of the Board of directors of a banking company shall be in the whole-time employment of such company and shall hold office for such period, not exceeding five years, as the Board of directors may fix, but shall, subject to the provisions of this section, be eligible for re-election or re-appointment:

35 | Provided that nothing in this sub-section shall be construed as prohibiting a chairman from being a director of a subsidiary of the banking company or a director of a company registered under section 25 of the Companies Act, 1956.

(3) Every person holding office on the commencement of section 3 of the Banking Laws (Amendment) Act, 1968, as managing director of a banking company shall—

40 (a) if there is a chairman of its Board of directors, vacate office on such commencement, or

45 (b) if there is no chairman of its Board of directors, vacate office on the date on which the chairman of its Board of directors is elected or appointed in accordance with the provisions of this section.

(4) Every chairman of the Board of directors of a banking company shall be a person who has special knowledge and practical experience of—

(a) the working of a banking company, or of the State Bank of India or any subsidiary bank or a financial institution, or

(b) financial, economic or business administration:

Provided that a person shall be disqualified for being a chairman, if he—

(a) is a director of any company other than a company referred to in the proviso to sub-section (2), or

(b) is a partner of any firm which carries on any trade, business or industry, or

(c) has substantial interest in any other company or firm, or

(d) is a director, manager, managing agent, partner or proprietor of any trading, commercial or industrial concern, or

(e) is engaged in any other business or vocation.

(5) A chairman of the Board of directors of a banking company may, by writing under his hand addressed to the company, resign his office but shall continue in office until his successor assumes office.

(6) Without prejudice to the provisions of section 36AA, where the Reserve Bank is of opinion that any person who is, or has been elected to be, the chairman of the Board of directors of a banking company is not a fit and proper person to hold such office, it may, after giving to such person and to the banking company a reasonable opportunity of being heard, by order in writing, require the banking company to elect or appoint any other person as the chairman of its Board of directors and if, within a period of two months from the date of receipt of such order, the banking company fails to elect or appoint a suitable person as the chairman of its Board of directors, the Reserve Bank may, by order, remove the first-mentioned person from the office of the chairman of the Board of directors of the banking company and appoint a suitable person in his place whereupon the person so appointed shall be deemed to have been duly elected or appointed, as the case may be, as the chairman of the Board of directors of such banking company and any person elected or appointed as chairman under this sub-section shall hold office for the residue of the period of office of the person in whose place he has been so elected or appointed.

(7) The banking company and any person against whom an order of removal is made under sub-section (6) may, within thirty days from the date of communication to it or to him of the order, prefer an appeal to the Central Government and the decision of the Central Government thereon, and subject thereto, the order made by the Reserve Bank under sub-section (6), shall be final and shall not be called into question in any court.

(8) Notwithstanding anything contained in this section, the Reserve Bank may, if in its opinion it is necessary in the public interest so to do, permit the chairman to undertake such part-time honorary work as is not likely to interfere with his duties as such chairman.

(9) Notwithstanding anything contained in this section, where a person appointed as chairman dies or resigns or is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the banking company may, with the approval of the Reserve Bank, make suitable arrangements for carrying out the duties of chairman for a total period not exceeding four months.

10C. Any director or chairman appointed by the Reserve Bank under section 10A or section 10B, as the case may be, shall not be required to hold qualification shares in the banking company.

Chairman
or
Director
appointed
by the
Reserve
Bank not
to be
required
to hold
qualifica-
tion
shares.

10D. Any appointment or removal of a director or chairman in pursuance of section 10A or section 10B shall have effect and any such person shall not be entitled to claim any compensation for the loss or termination of office, notwithstanding anything contained in any law or in any contract, memorandum or articles of association."

Provisions
of sections
10A and
10B to
over-ride
all other
laws,
contracts.
etc.

Amendment of section 16.

4. In section 16 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Nothing in sub-section (1) shall apply to, or in relation to, any director appointed by the Reserve Bank.”.

Substitution of new section for section 20.

5. For section 20 of the principal Act, the following section shall be substituted, namely:—

Restrictions on loans and advances.

‘20. (1) Notwithstanding anything to the contrary contained in section 77 of the Companies Act, 1956, no banking company shall,—

(a) grant any loans or advances on the security of its own shares, or

(b) enter into any commitment for granting any loan or advance to or on behalf of—

(i) any of its directors,

(ii) any firm in which any of its directors is interested as partner, manager, employee or guarantor, or

(iii) any company (not being a subsidiary of the banking company or a company registered under section 25 of the Companies Act, 1956, or a Government company) of which any of the directors of the banking company is a director, managing agent, manager, employee or guarantor or in which he holds substantial interest, or

(iv) any individual in respect of whom any of its directors is a partner or guarantor.

(2) Where any loan or advance granted by a banking company is such that a commitment for granting it could not have been made if clause (b) of sub-section (1) had been in force on the date on which the loan or advance was made, or is granted by a banking company after the commencement of section 5 of the Banking Laws (Amendment) Act, 1968, but in pursuance of a commitment entered into before such commencement, steps shall be taken to recover the amounts due

to the banking company on account of the loan or advance together with interest, if any, due thereon within the period stipulated at the time of the grant of the loan or advance, or where no such period has been stipulated, before the expiry of one year from the commencement of the said section 5:

Provided that the Reserve Bank may, in any case, on an application in writing made to it by the banking company in this behalf, extend the period for the recovery of the loan or advance until such date, not being a date beyond the period of three years from the commencement of the said section 5, and subject to such terms and conditions, as the Reserve Bank may deem fit:

Provided further that this sub-section shall not apply if and when the director concerned vacates the office of the director of the banking company, whether by death, retirement, resignation or otherwise.

(3) No loan or advance, referred to in sub-section (2), of any part thereof shall be remitted without the previous approval of the Reserve Bank, and any remission without such approval shall be void and of no effect.

(4) Where any loan or advance referred to in sub-section (2), payable by any person, has not been repaid to the banking company within the period specified in that sub-section, then, such person shall, if he is a director of such banking company on the date of the expiry of the said period, be deemed to have vacated his office as such on the said date.

Explanation.—In this section—

(a) “loans or advance” shall not include any transaction which the Reserve Bank may, having regard to the nature of the transaction, the period within which, and the manner and circumstances in which, any amount due on account of the transaction is likely to be realised, the interest of the depositors and other relevant considerations, specify by general or special order as not being a loan or advance for the purpose of this section:

(b) “director” means a member of any board or committee in India constituted by a banking company for the purpose of advising it in regard to the management of its affairs.

(5) If any question arises whether any transaction is a loan or advance for the purposes of this section, it shall be referred to the Reserve Bank, whose decision thereon shall be final.

Amend-
ment of
section 21.

6. In section 21 of the principal Act, in sub-section (1), after the words "in the interests of depositors", the words "or banking policy" shall be inserted.

Amend-
ment of
section
24.

7. In section 24 of the principal Act, in sub-section (2A), in sub-clause (iii) of clause (b), for the words "any balances maintained by a scheduled bank with the State Bank of India", the words "any balances in current account maintained in India by a scheduled bank with the State Bank of India" shall be substituted.

Amend-
ment of
section 30.

8. In section 30, of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The balance-sheet and profit and loss account prepared in accordance with section 29 shall be audited by a person duly qualified under any law for the time being in force to be an auditor of companies.;"

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, every banking company shall, before appointing, re-appointing or removing any auditor or auditors, obtain the previous approval of the Reserve Bank.

(1B) Without prejudice to anything contained in the Companies Act, 1956, or any other law for the time being in force, where the Reserve Bank is of opinion that it is necessary in the public interest or in the interests of the banking company or its depositors so to do, it may direct the auditor of the banking company to audit the accounts of the banking company in relation to any transaction or class of transactions specified in the order, and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the company.

(1C) The expenses of, or incidental to, the audit of the transaction or class of transactions specified in the order made by the Reserve Bank shall be borne by the banking company."

Amend-
ment of
section
34A.

9. In section 34A of the principal Act, in sub-section (3), the words, brackets and figures "as defined in the State Bank of India (Subsidiary Banks) Act, 1959" shall be omitted.

Amend-
ment of
section
35A.

10. In section 35A of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) in the interest of banking policy; or"

1 of 1956.

38 of 1959.

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11. In section 35B of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words “appointment or re-
 5 appointment or remuneration of a”, the words “appointment
 or re-appointment or termination of appointment or remuneration of a chairman, a” shall be substituted;

(ii) for clause (b), the following clause shall be substituted, namely:—

10 “(b) no appointment or re-appointment or termination of appointment of a chairman, a managing or whole-time director, manager or chief executive officer by whatever name called, shall have effect unless such
 15 appointment, re-appointment or termination of appointment is made with the previous approval of the Reserve Bank.”;

(iii) in the *Explanation*, for the words “of the manager”, the words “of the chairman or the manager” shall be substituted;

(b) in sub-section (3), for the words “as a managing or
 20 whole-time director”, the words “as chairman or a managing or whole-time director” shall be substituted and for the word “appointment”, wherever it occurs, the words “appointment or re-appointment” shall be substituted.

12. In section 36 of the principal Act, in sub-section (1), in
 25 clause (d),—

(i) for the words and figures “during the course, or after the completion, of any inspection of a banking company under section 35,”, the words “at any time, if it is satisfied that in the
 30 public interest or in the interest of banking policy or for preventing the affairs of the banking company being conducted in a manner detrimental to the interests of the banking company or its depositors it is necessary so to do,” shall be substituted;

(ii) in sub-clause (v), the words “in consequence of the state of affairs disclosed during or by the inspection” shall be
 35 omitted.

13. In section 36AA of the principal Act,—

(a) in sub-section (1), * * * for the words “any director,”, the words “any chairman, director,” shall be substituted;

(b) in sub-section (2),—

(i) for the words “unless the director”, the words “unless the chairman, director” shall be substituted;

Amend-
 ment of
 section
 35B.

Amend-
 ment of
 section
 36.

Amend-
 ment of
 section
 36AA.

(ii) in the proviso—

(a) for the words “the director or, as the case may be, chief executive officer”, the words “the chairman or, as the case may be, director or chief executive officer” shall be substituted; 5

(b) in clause (a), for the words “act as such director”, the words “act as such chairman or director” shall be substituted;

(c) in sub-section (4),—

(i) for the words “a director”, where they occur for the first time, the words “a chairman, director” shall be substituted; 10

(ii) for the words “a director or, as the case may be,”, the words “a chairman or, as the case may be, a director” shall be substituted; 15

(d) in sub-section (6), for the words “the director”, the words “the chairman or director” shall be substituted;

(e) in sub-section (7), for the words “director or chief executive officer”, wherever they occur, the words “chairman, director or chief executive officer” shall be substituted. 20

Amend-
ment of
section
36AB.

14. In section 36AB of the principal Act, in sub-section (1), for the words “opinion that”, the words “opinion that in the interest of banking policy or in the public interest or” shall be substituted.

Insertion
of new
Parts IIB
and IIC.

15. After Part IIA of the principal Act, the following Parts shall be inserted, namely:— 25

‘PART IIB

PROHIBITION OF CERTAIN ACTIVITIES IN RELATION TO BANKING COMPANIES

36AD. (1) No person shall—

Punish-
ments for
certain
activities
in relation
to bank-
ing com-
panies.

(a) obstruct any person from lawfully entering or leaving any office or place of business of a banking company or from carrying on any business there, or 30

(b) hold, within the office or place of business of any banking company, any demonstration which is violent or which prevents, or is calculated to prevent, the transaction of normal business by the banking company, or 35

(c) act in any manner calculated to undermine the confidence of the depositors in the banking company.

(2) Whoever contravenes any provision of sub-section (1) without any reasonable excuse shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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* * * * *

(3) For the purposes of this section, "banking company" includes the Reserve Bank, the Industrial Development Bank of India, the State Bank of India, and any subsidiary bank.

PART IIC

10 ACQUISITION OF THE UNDERTAKINGS OF BANKING COMPANIES IN CERTAIN CASES

36AE. (1) If, upon receipt of a report from the Reserve Bank, the Central Government is satisfied that a banking company—

Power of Central Government to acquire undertakings of banking companies in certain cases.

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(a) has, on more than one occasion, failed to comply with the directions given to it in writing under section 21 or section 35A, in so far as such directions relate to banking policy, or

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(b) is being managed in a manner detrimental to the interests of its depositors,—

and that—

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(i) in the interests of the depositors of such banking company, or

(ii) in the interest of banking policy, or

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(iii) for the better provision of credit generally or of credit to any particular section of the community or in any particular area,

it is necessary to acquire the undertaking of such banking company, the Central Government may, after such consultation with the Reserve Bank as it thinks fit, by notified order, acquire the undertaking of such company (hereinafter referred to as the acquired bank) with effect from such date as may be specified in this behalf by the Central Government (hereinafter referred to as the appointed day):

Provided that no undertaking of any banking company shall be so acquired unless such banking company has been given a reasonable opportunity of showing cause against the proposed action.

Explanation.— In this Part,—

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(a) “notified order” means an order published in the Official Gazette;

(b) “undertaking”, in relation to a banking company incorporated outside India, means the undertaking of the company in India.

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(2) Subject to the other provisions contained in this Part, on the appointed day, the undertaking of the acquired bank and all the assets and liabilities of the acquired bank shall stand transferred to, and vest in, the Central Government.

(3) The undertaking of the acquired bank and its assets and liabilities shall be deemed to include all rights, powers, authorities and privileges and all property, whether movable or immovable, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in, or arising out of, such property as may be in the possession of, or held by, the acquired bank immediately before the appointed day and all books, accounts and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations, of whatever kind, then existing of the acquired bank.

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(4) Notwithstanding anything contained in sub-section (2), the Central Government may, if it is satisfied that the undertaking of the acquired bank and its assets and liabilities should, instead of vesting in the Central Government, or continuing to so vest, vest in a company established under any scheme made under this Part or in any corporation (hereinafter in this Part and in the Fifth Schedule referred to as the transferee bank) that Government may, by order, direct that the said undertaking, including the assets and liabilities thereof, shall vest in the transferee bank either on the publication of the notified order or on such other date as may be specified in this behalf by the Central Government.

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(5) Where the undertaking of the acquired bank and the assets and liabilities thereof vest in the transferee bank under

sub-section (4), the transferee bank, shall, on and from the date of such vesting, be deemed to have become the transferee of the acquired bank and all the rights and liabilities in relation to the acquired bank shall, on and from the date of such vesting, be deemed to have been the rights and liabilities of the transferee bank.

(6) Unless otherwise expressly provided by or under this Part, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the acquired bank is a party or which are in favour of the acquired bank shall be of as full force and effect against or in favour of the Central Government, or as the case may be, of the transferee bank, and may be enforced or acted upon as fully and effectually as if in the place of the acquired bank the Central Government or the transferee bank had been a party thereto or as if they had been issued in favour of the Central Government or the transferee bank, as the case may be.

(7) If, on the appointed day, any suit, appeal or other proceeding of whatever nature is pending by or against the acquired bank, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the acquired bank or of anything contained in this Part, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government or the transferee bank, as the case may be.

36AF. (1) The Central Government may, after consultation with the Reserve Bank, make a scheme for carrying out the purposes of this Part in relation to any acquired bank.

Power of the Central Government to make scheme.

(2) In particular, and without prejudice to the generality of the foregoing power, the said scheme may provide for all or any of the following matters, namely:—

(a) the corporation, or the company incorporated for the purpose, to which the undertaking including the property, assets and liabilities of the acquired bank may be transferred, and the capital, constitution, name and office thereof;

(b) the constitution of the first Board of management (by whatever name called) of the transferee bank, and all such matters in connection therewith or incidental thereto

as the Central Government may consider to be necessary or expedient;

(c) the continuance of the services of all the employees of the acquired bank (excepting such of them as, not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme) in the Central Government or in the transferee bank, as the case may be, on the same terms and conditions so far as may be, as are specified in clauses (i) and (j) of sub-section (5) of section 45; 14 of 1947.

(d) the continuance of the right of any person who, on the appointed day, is entitled to or is in receipt of, a pension or other superannuation or compassionate allowance or benefit, from the acquired bank or any provident, pension or other fund or any authority administering such fund, to be paid by, and to receive from, the Central Government or the transferee bank, as the case may be, or any provident, pension or other fund or any authority administering such fund, the same pension, allowance or benefit so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises whether he has so observed such conditions, the question shall be determined by the Central Government and the decision of the Central Government thereon shall be final; 10 15 20

(e) the manner of payment of the compensation payable in accordance with the provisions of this Part to the shareholders of the acquired bank, or where the acquired bank is a banking company incorporated outside India, to the acquired bank in full satisfaction of their, or as the case may be, its, claims; 25 30

(f) the provision, if any, for completing the effectual transfer to the Central Government or the transferee bank of any asset or any liability which forms part of the undertaking of the acquired bank in any country outside India;

(g) such incidental, consequential and supplemental matters as may be necessary to secure that the transfer of the business, property, assets and liabilities of the acquired bank to the Central Government or transferee bank, as the case may be, is effectual and complete. 35

(3) The Central Government may, after consultation with the Reserve Bank, by notification in the Official Gazette, add to, amend or vary any scheme made under this section. 40

(4) Every scheme made under this section shall be published in the Official Gazette.

(5) Copies of every scheme made under this section shall be laid before each House of Parliament as soon as may be after it is made.

5 (6) The provisions of this Part and of any scheme made there-
under shall have effect notwithstanding anything to the contrary
contained in any other provisions of this Act or in any other
law or any agreement, award or other instrument for the time
being in force.

10 (7) Every scheme made under this section shall be binding
on the Central Government or, as the case may be, on the trans-
feree bank and also on all members, creditors, depositors and
employees of the acquired bank and of the transferee bank and
on any other person having any right, liability, power or func-
tion in relation to, or in connection with, the acquired bank or
15 the transferee bank, as the case may be.

20 36AG. (1) Every person who, immediately before the ap-
pointed day, is registered as a holder of shares in the acquired
bank or, where the acquired bank is a banking company incor-
porated outside India, the acquired bank, shall be given by the
Central Government, or the transferee bank, as the case may be,
such compensation in respect of the transfer of the undertaking
of the acquired bank as is determined in accordance with the
principles contained in the Fifth Schedule.

Compensation to be given to shareholders of the acquired bank.

25 (2) Nothing contained in sub-section (1) shall affect the
rights *inter se* between the holder of any share in the acquired
bank and any other person who may have any interest in such
shares and such other person shall be entitled to enforce his in-
terest against the compensation awarded to the holder of such
share, but not against the Central Government, or the transferee
30 bank.

35 (3) The amount of compensation to be given in accordance
with the principles contained in the Fifth Schedule shall be de-
termined in the first instance by the Central Government, or the
transferee bank, as the case may be, in consultation with the
Reserve Bank, and shall be offered by it to all those to whom
compensation is payable under sub-section (1) in full satisfac-
tion thereof.

40 (4) If the amount of compensation offered in terms of sub-
section (3) is not acceptable to any person to whom the compen-
sation is payable, such person may, before such date as may be
notified by the Central Government in the Official Gazette, re-
quest the Central Government in writing, to have the matter
referred to the Tribunal constituted under section 36AH.

(5) If, before the date notified under sub-section (4), the Central Government receives requests, in terms of that sub-section, from not less than one-fourth in number of the shareholders holding not less than one-fourth in value of the paid-up share capital of the acquired bank, or, where he acquired bank is a banking company incorporated outside India, from the acquired bank, the Central Government shall have the matter referred to the Tribunal for decision. 9

(6) If, before the date notified under sub-section (4), the Central Government does not receive requests as provided in that sub-section, the amount of compensation offered under sub-section (3), and where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all parties concerned. 10 15

Constitution of the Tribunal.

36AH. (1) The Central Government may, for the purpose of this Part, constitute a Tribunal which shall consist of a Chairman and two other members.

(2) The Chairman shall be a person who is, or has been, a Judge of a High Court or of the Supreme Court, and, of the two other members, one shall be a person, who, in the opinion of the Central Government, has had experience of commercial banking and the other shall be a person who is a chartered accountant within the meaning of the Chartered Accountants' Act, 1949. 20 25

38 of 1949.

(3) If, for any reason, a vacancy occurs in the office of the Chairman or any other member of the Tribunal, the Central Government may fill the vacancy by appointing another person thereto in accordance with the provisions of sub-section (2), and any proceeding may be continued before the Tribunal, so constituted, from the stage at which the vacancy occurred. 25 30

(4) The Tribunal may, for the purpose of determining any compensation payable under this Part, choose one or more persons having special knowledge or experience of any relevant matter to assist it in the determination of such compensation. 30

Tribunal to have powers of a civil court.

36AI. (1) The Tribunal shall have the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 35

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

5 (2) Notwithstanding anything contained in sub-section (1), or in any other law for the time being in force, the Tribunal shall not compel the Central Government or the Reserve Bank,—

(a) to produce any books of account or other documents which the Central Government, or the Reserve Bank, claims to be of a confidential nature;

10 (b) to make any such books or documents part of the record of the proceedings before the Tribunal; or

(c) to give inspection of any such books or documents to any party before it or to any other person.

36AJ. (1) The Tribunal shall have power to regulate its own procedure.

Proced-
ure of the
Tribunal.

15 (2) The Tribunal may hold the whole or any part of its inquiry *in camera*.

20 (3) Any clerical or arithmetical error in any order of the Tribunal or any error arising therein from any accidental slip or omission may, at any time, be corrected by the Tribunal either of its own motion or on the application of any of the parties.'

25 16. Section 39 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1), as so re-numbered, the following sub-section shall be, and shall be deemed always to have been, inserted, namely:—

Amend-
ment of
section 39.

30 "(2) Subject to such directions as may be made by the High Court, the remuneration of the official liquidator appointed under this section, the cost and expenses of his establishment and the cost and expenses of the winding up shall be met out of the assets of the banking company which is being wound up, and notwithstanding anything to the contrary contained in any other law for the time being in force, no fees shall be payable to the Central Government, out of the assets of the banking company."

35 17. After section 47 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
47A.

"47A. (1) Notwithstanding anything contained in section 46, if a contravention or default of the nature referred to in sub-section (3) or sub-section (4) of section 46, as the case may be,

Power of
Reserve
Bank to

impose
penalty.

is made by a banking company, then, the Reserve Bank may impose on such banking company—

(a) where the contravention is of the nature referred to in sub-section (3) of section 46, a penalty not exceeding twice the amount of the deposits in respect of which such contravention was made; 5

(b) where the contravention or default is of the nature referred to in sub-section (4) of section 46, a penalty not exceeding two thousand rupees; and where such contravention or default is a continuing one, a further penalty which may extend to one hundred rupees for every day, after the first, during which the contravention or default continues. 10

(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall hold an inquiry in the prescribed manner after giving the banking company a reasonable opportunity of being heard. 15

(3) While holding an inquiry under this section, the Reserve Bank shall have power to summon and enforce the attendance of any person to give evidence or to produce any document or any other thing which, in the opinion of the Reserve Bank, may be useful for, or relevant to, the subject matter of the inquiry. 20

(4) No complaint shall be filed against any banking company in any court of law in respect of any contravention or default in respect of which any penalty has been imposed by the Reserve Bank under this section. 25

(5) Any penalty imposed by the Reserve Bank under this section shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the banking company and in the event of failure of the banking company to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of the banking company is situated; or, in the case of a banking company incorporated outside India, where its principal place of business in India is situated: 30 35

Provided that no such direction shall be made except on an application made to the court by the Reserve Bank or any officer authorised by that Bank in this behalf.

(6) The court which makes a direction under sub-section (5) shall issue a certificate specifying the sum payable by the banking company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

(7) Where any complaint has been filed against any banking company in any court in respect of the contravention or default of the nature referred to in sub-section (3) or, as the case may be, sub-section (4) of section 46, then, no proceedings for the imposition of any penalty on the banking company shall be taken under this section.

18. In section 51 of the principal Act,—

Amend-
ment of
section
51.

(a) in clause (c) of the proviso, after the words and figures “in section 46”, the words, figures and letter “or in section 47A” shall be inserted;

(b) the *Explanation* shall be omitted.

19. In section 52 of the principal Act, in the proviso to sub-section (3), after the words “this section”, the brackets, words, figures and letters “(including the rules made for the first time on matters specified in sections 10A and 47A)” shall be inserted.

Amend-
ment of
section
52.

20. After section 55 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
after sec-
tion 55.

“55A. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, as occasion requires, do anything (not inconsistent with the provisions of this Act) which appears to it to be necessary for the purpose of removing the difficulty:

Power to
remove
difficulties.

Provided that no such power shall be exercised after the expiry of a period of three years from the commencement of section 20 of the Banking Laws (Amendment) Act, 1968.

Amend-
ment of
Part V.

21. In Part V, in the provisions of the principal Act, as applied to or in relation to co-operative societies,—

(a) in section 5A, as substituted by clause (d) of section 56 of the principal Act,—

(i) in sub-section (1), for the words “this Part”, the words “this Act” shall be substituted; 5

(ii) in sub-section (2), for the words “this Part”, the words “this Act” shall be substituted;

(b) in section 7, as substituted by clause (f) of the said section 56, in sub-section (2), after clause (b), the following clause shall be inserted, namely:— 10

“(c) any co-operative society, not being a primary credit society, formed by the employees of a banking company or the State Bank of India or any other banking institution notified by the Central Government under section 51 or the employees of a subsidiary of such banking company or the State Bank of India or, as the case may be, such banking institution.”; 15

(c) in clause (g) of the said section 56, for the word and figures “section 10”, the words, figures and letters “sections 10, 10A, 10B, 10C and 10D” shall be substituted; 20

(d) in section 18 of the principal Act, as substituted by clause (j) of the said section 56, in the *Explanation*, for clause (c), the following clause shall be substituted, namely:—

“(c) in the case of a State or central co-operative bank, also any deposit of money with it representing the reserve fund or any part thereof required to be maintained with it by any other co-operative society within its area of operation, and in the case of a central co-operative bank, also an advance taken by it from the State co-operative bank of the State concerned;” 25

(e) for clause (l) of the said section 56, the following clause shall be substituted, namely:—

“(l) for section 20 of the principal Act, the following section shall be substituted, namely:— 35

20. (1) No co-operative bank shall—

(a) make any loans or advances on the security of its own shares; or

Restric-
tions on
loans
and ad-
vances.

(b) grant unsecured loans or advances—

(i) to any of its directors; or

5 (ii) to firms or private companies in which any of its directors is interested as partner or managing agent or guarantor or to individuals in cases where any of its directors is a guarantor; or

10 (iii) to any company in which the chairman of the Board of directors of the co-operative bank (where the appointment of a chairman is for a fixed term) is interested as its managing agent, or where there is no managing agent, as its chairman or managing director:

15 Provided that nothing in clause (b) shall apply to the grant of unsecured loans or advances—

(a) made by a co-operative bank—

20 (i) against bills for supplies or services made or rendered to Government or bills of exchange arising out of *bona fide* commercial or trade transactions, or

(ii) in respect whereof trust-receipts are furnished to the co-operative bank;

25 (b) made by a primary co-operative bank to any of its directors or to any other person within such limits and on such terms and conditions as may be approved by the Reserve Bank in this behalf.

30 (2) Every co-operative bank shall, before the close of the month succeeding that to which the return relates, submit to the Reserve Bank a return in the prescribed form and manner showing all unsecured loans and advances granted by it to companies in cases [other than those in which the co-operative bank is prohibited under sub-section (1) to make unsecured loans and advances] in which any of its directors is interested as director or managing agent or guarantor.

35 (3) If, on examination of any return submitted under sub-section (2), it appears to the Reserve Bank

that any loans or advances referred to in that sub-section are being granted to the detriment of the interests of the depositors of the co-operative bank, the Reserve Bank may, by order in writing, prohibit the co-operative bank from granting any such further loans or advances or impose such restrictions on the grant thereof as it thinks fit, and may by like order direct the co-operative bank to secure the re-payment of such loan or advance within such time as may be specified in the order.”;

(f) in sub-section (2) of section 22, as substituted by clause (o) of the said section 56, for the proviso, the following proviso shall be substituted, namely:—

“Provided that nothing in clause (b) of sub-section (1) shall be deemed to prohibit—

(i) a co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, or

(ii) a co-operative bank which has come into existence as a result of the division of any other co-operative society, or the amalgamation of other co-operative societies carrying on business in either case as a co-operative bank or banks at such commencement, or

(iii) a primary credit society which becomes a primary co-operative bank after such commencement, from carrying on banking business until it is granted a licence in pursuance of this section or is, by a notice in writing, notified by the Reserve Bank that the licence cannot be granted to it.”;

(g) in sub-section (1) of section 23, as substituted by clause (p) of the said section 56, in clause (b) of the proviso, for the words “opening of branches”, the words “opening or changing the location of branches” shall be substituted;

(h) in sub-section (2A) of section 24, as substituted by clause (q) of the said section 56, for clause (b), the following clause shall be substituted, namely:—

“(b) In computing the amount for the purpose of clause (a),—

(i) any cash or balances maintained in India by a co-operative bank, other than a scheduled State co-operative bank, with itself or in current account with the

Reserve Bank or the State Bank of India or with any other bank which may be notified in this behalf by the Central Government and also any balances maintained with the State co-operative bank of the State concerned, and, in the case of a primary co-operative bank, also any balances maintained with the central co-operative bank of the district concerned or with the State co-operative bank of the State concerned in excess of the aggregate of the cash or balances or both required to be maintained under section 18; and

(ii) any balance maintained by a scheduled State co-operative bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934, and any balances in current account maintained in India by a scheduled State co-operative bank with the State Bank of India or with any other bank which may be notified by the Central Government,

shall be deemed to be cash maintained in India.

Explanation.—For the purposes of this sub-section,—

(a) approved securities, or a portion thereof, representing investment of Agricultural Credit Stabilization Fund of a co-operative bank shall not be deemed to be unencumbered approved securities;

(b) balance with the State co-operative bank of the State concerned or with the central co-operative bank of the district concerned, or a portion thereof, representing investment of Agricultural Credit Stabilization Fund of a co-operative bank shall not be deemed to be cash maintained in India;

(c) in case a co-operative bank has taken an advance against any balance maintained with the State Bank of India or with any other bank which may be notified in this behalf by the Central Government or with the State co-operative bank of the State concerned or with the central co-operative bank of the district concerned, such balance to the extent to which it has been drawn against or availed of shall not be deemed to be cash maintained in India.”;

(i) in the proviso to sub-section (1) of section 35, as inserted by clause (w) of the said section 56, the following shall be added at the end, namely:—

“and may, if it considers it necessary and expedient so to do, supply a copy of the said report to the State co-operative bank or the Registrar of co-operative societies of the State in which the inspected bank is registered”;

(j) in clause (zb) of the said section 56, after the word, figures and letter “Part IIA”, the word, figures and letter, “Part IIC,” shall be inserted.’

Insertion
of new
Schedule.

22. After the Fourth Schedule to the principal Act, the following Schedule shall be inserted, namely:—

‘THE FIFTH SCHEDULE

(See section 36AG)

PRINCIPLES OF COMPENSATION

1. The compensation to be given under section 36AG shall be an amount equal to the value of the assets of the acquired bank as on the day immediately before the appointed day, computed in accordance with the provisions of Part I of this Schedule less the total amount of liabilities thereof computed in accordance with the provisions of Part II of this Schedule.

Part I.—Assets

For the purposes of this Part “assets” means the total of the following:—

(a) the amount of cash in hand and with the Reserve Bank and the State Bank of India (including foreign currency notes which shall be converted at the market rate of exchange);

(b) the amount of balances with any bank, whether on deposit or current account, and money at call and short notice, balances held outside India being converted at the market rate of exchange;

Provided that any balances which are not realisable in full shall be deemed to be debts and valued accordingly;

(c) the market value, as on the day immediately before the appointed day, of any securities, shares, debentures, bonds and other investments, held by the bank concerned.

Explanation.—For the purposes of this clause,—

(i) securities of the Central and State Governments [other than the securities specified in sub-clauses (ii) and

(iii) of this *Explanation*] maturing for redemption within five years from the appointed day shall be valued at the face value or the market value, whichever is higher;

5 (ii) securities of the Central Government, such as Post Office Certificates and Treasury Savings Deposit Certificates and any other securities or certificates issued or to be issued under the Small Savings Scheme of the Central Government, shall be valued at their face value or the encashable value of the market value, as on the day immediately before
10 the appointed day, whichever is higher;

(iii) where the market value of any Government security such as the zamindari abolition bonds or other similar security in respect of which the principal is payable in instalments, is not ascertainable or is, for any reason, not
15 considered as reflecting the fair value thereof or as otherwise appropriate, the security shall be valued at such an amount as is considered reasonable having regard to the instalments of principal and interest remaining to be paid, the period during which such instalments are payable, the
20 yield of any security, issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;

(iv) where the market value of any security, share, debenture, bond or other investment is not considered
25 reasonable by reason of its having been affected by abnormal factors, the investment may be valued on the basis of its average market value over any reasonable period;

(v) where the market value of any security, share, debenture, bond or other investment is not ascertainable,
30 only such value, if any, shall be taken into account as is considered reasonable having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;

(d) the amount of advances (including loans, cash credits, overdrafts, bills purchased and discounted), and other debts,
35 whether secured or unsecured, to the extent to which they are reasonably considered recoverable, having regard to the value of the security, if any, the operations on the account, the reported worth and respectability of the borrower, the prospects of
40 realisation and other relevant considerations;

(e) the value of any land or buildings;

(f) the total amount of the premia paid, in respect of all leasehold properties, reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease; 5

(g) the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings;

(h) the market or realisable value, as may be appropriate, 10 of other assets appearing on the books of the bank, no value being allowed for capitalised expenses, such as share selling commission, organisational expenses and brokerage, losses incurred and similar other items.

Part II.—Liabilities 15

For the purposes of this Part "liabilities" means the total amount of all outside liabilities existing on the appointed day, and all contingent liabilities which the Central Government or the transferee bank may reasonably be expected to be required to meet out of its own resources on or after the appointed day and where the 20 acquired bank is a banking company incorporated outside India, includes the liabilities of the offices and branches in India of the acquired bank to its offices and branches outside India.

2. If the acquired bank is not incorporated in India, the assets or, as the case may be, the liabilities of the bank shall be, for the purposes of Part I and Part II, and subject to the other provisions therein, the assets and liabilities of the offices of the bank situated in India. 25

COMPENSATION PAYABLE TO SHAREHOLDERS

3. Every shareholder of the acquired bank to whom the compensation is payable, shall be given such amount as compensation as bears to the total compensation, calculated in accordance with the provisions of paragraph 1, the same proportion as the amount of paid-up capital of the shares held by the shareholder bears to the total paid-up capital of the acquired bank. 30 35

CERTAIN DIVIDENDS NOT TO BE TAKEN INTO ACCOUNT

4. No separate compensation shall be payable for any profits or any dividend in respect of any period immediately preceding the appointed day, for which, in the ordinary course, profits would have been transferred or dividend declared after the appointed day. 40

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

2 of 1934.

23. In the Reserve Bank of India Act, 1934 (hereinafter in this Chapter referred to as the principal Act), in section 2,—

Amend-
ment of
section 2.

5 (a) to clause (cii), the following proviso shall be added, namely:—

10 “Provided that this sub-clause shall not apply to the admission of a co-operative bank as a member by reason of such co-operative bank subscribing to the share capital of such co-operative society out of funds provided by the State Government for the purpose.”;

(b) to clause (ciii), the following proviso shall be added, namely:—

15 “Provided that this sub-clause shall not apply to the admission of a co-operative bank as a member by reason of such co-operative bank subscribing to the share capital of such co-operative society out of funds provided by the State Government for the purpose.”;

20 (c) to clause (civ), the following proviso shall be added, namely:—

25 “Provided that this sub-clause shall not apply to the admission of a co-operative bank as a member by reason of such co-operative bank subscribing to the share capital of such co-operative society out of funds provided by the State Government for the purpose.”.

24. In section 17 of the principal Act,—

(1) in the proviso to clause (3A)—

Amend-
ment of
section 17.

(a) for sub-clause (b) of clause (i), the following sub-clause shall be substituted, namely:—

30 “(b) maturing not later than one hundred and eighty days from the date of the loan or advance, and

it will, so long as any part of such loans and advances remains unpaid, continue to hold such bills of exchange of a value not less than the amount of such loans or advances outstanding for the time being; or”;

35

(b) for clause (ii), the following clause shall be substituted namely:—

“(ii) it has granted a pre-shipment loan or advance to an exporter or any other person in India in order to enable him to export goods from India, the amount of the loan or advance drawn and outstanding at any time being not less than the outstanding amount of the loan or advance obtained by the borrowing bank from the Bank.” 5

(2) in clause (12), for the words “gold coin and bullion”, the words “gold or silver coins and gold and silver bullion” shall be substituted; 10

(3) after clause (15A), the following clause shall be inserted, namely:—

“(15B) the providing of facilities for training in banking and for the promotion of research, where, in the opinion of the Bank, such provision may facilitate the exercise by the Bank of its powers and functions, or the discharge of its duties.” 15

Amendment of section 24.

25. For section 24 of the principal Act, the following section shall be substituted, namely:— 20

Denominations of notes.

“24. (1) Subject to the provisions of sub-section (2), bank notes shall be of the denominational values of two rupees, five rupees, ten rupees, twenty rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees, five thousand rupees and ten thousand rupees or of such other denominational values, not exceeding ten thousand rupees, as the Central Government may, on the recommendation of the Central Board, specify in this behalf. 25

(2) The Central Government may, on the recommendation of the Central Board, direct the non-issue or the discontinuance of issue of bank notes of such denominational values as it may specify in this behalf.” 30

Amendment of section 33.

26. In section 33 of the principal Act, in sub-section (4), for the figures and word “2.88 grains”, the figures and word “0.118489 grammes”, and for the words “at the market rate”, the words “at rates not exceeding the market rates” shall be substituted. 35

Amendment of section 45 I.

27. In section 45I of the principal Act, to clause (c), the following *Explanation* shall be added, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that a company registered under section 3 of the Insurance 40

4 of 1938.

Act, 1938, for any class of insurance business and a company, not being a banking company, a corporation or a firm, carrying on, as its principal business, the management, conduct or supervision, as the foreman or agent, of any transaction or arrangement by which it enters into an agreement with a number of subscribers that every one of them shall subscribe a certain sum by instalments for a definite period and that each subscriber in his turn, as determined by lot or by auction or by tender or in such other manner as provided for in the agreement, shall be entitled to a prize amount shall be deemed to be, a financial institution as defined in this clause.”.

28. After section 54A of the principal Act, the following section shall be inserted, namely:—

‘54AA. (1) The Bank may, notwithstanding anything contained in any law for the time being in force or in any contract, depute any member of its staff for such period as it may think fit to any institution which is either wholly or substantially owned by the Bank, and thereupon the person so deputed shall, during the period of his deputation, render such service to the institution as that institution may require.

(2) Where a person has been deputed to an institution under sub-section (1), he shall not be entitled to claim any salary, emoluments and other terms and conditions of service which he would not have been entitled to claim if he had not been so deputed.

(3) Nothing contained in this section shall empower the Bank to depute any member of its staff to any institution on any salary, emoluments or other terms and conditions which is or are less favourable to him than that or those to which he is entitled immediately before such deputation.

(4) For the purposes of this section, an institution shall be deemed to be substantially owned by the Bank if in the capital of the institution the Bank has not less than forty per cent. share.

Explanation.—The word “capital” means, in relation to the Unit Trust, the initial capital of that Trust.’

CHAPTER IV

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

23 of 1955.

29. In the State Bank of India Act, 1955 (hereinafter in this Chapter referred to as the principal Act), in section 33,—

(a) in sub-clause (f) of clause (i), for the words “goods which are hypothecated”, the words “goods or other assets which are hypothecated or assigned” shall be substituted;

Insertion of section 54AA. Power of Bank to depute its employees to other institutions.

Amendment of section 33.

(b) in clause (xviii), for the words "six months", the words "twelve months" shall be substituted;

(c) in clause (xixb),—

(i) for the words "the advancing or lending of money to", the words "the advancing or lending of money to, or discounting or purchase of any negotiable instrument on behalf of," shall be substituted; 5

(ii) for the words "in excess of six months but not exceeding ten years", the words "in excess of twelve months but not exceeding fifteen years" shall be substituted; 10

(d) in clause (xixc), for the words "six months", the words "twelve months" shall be substituted.

Amend-
ment of
section 34.

30. In section 34 of the principal Act,—

(a) in clause (a) of sub-section (1), for the words "six months", the words "twelve months" shall be substituted; 15

(b) in sub-section (3),—

(1) for sub-clause (ii) of clause (b) (excluding the proviso), the following sub-clause shall be substituted, namely:—

"(ii) save as otherwise provided in this Act, twelve months from the date aforesaid if the instrument or security is drawn or issued for any other purpose."; 20

(2) in the proviso, for the words "six months," the words "twelve months," shall be substituted.

APPENDIX I

(Vide para 2 of the Report)

Motion in Lok Sabha for reference of the Bill to Select Committee

"That the Bill further to amend the Banking Regulation Act, 1949, so as to provide for the extension of social control over banks and for matters connected therewith or incidental thereto and also further to amend the Reserve Bank of India Act, 1934, and the State Bank of India Act, 1955, be referred to a Select Committee consisting of 22 members, namely:-

- (1) Shri Frank Anthony
- (2) Shri Kamalnayan Bajaj
- (3) Shri S. S. Kothari
- (4) Shri N. Dandeker
- (5) Shri C. T. Dhandapani
- (6) Shri G. S. Dhillon
- (7) Shri Madhu Limaye
- (8) Shri C. M. Kedaria
- (9) Shrimati Sucheta Kripalani
- (10) Shri Semarendra Kundu
- (11) Shri Lalit Sen
- (12) Shri Indrajit Gupta
- (13) Chaudhary Nitiraj Singh
- (14) Shrimati Vijaya Lakshmi Pandit
- (15) Shri Krishna Chandra Pant
- (16) Shri S. R. Rane
- (17) Shri M. Thirumala Rao
- (18) Shri Dwaipayan Sen
- (19) Shri K. N. Tewari
- (20) Shri Jyotirmoy Bosu
- (21) Chawdhury Sadhu Ram
- (22) Shri Morarji R. Desai

with instructions to report within one month."

APPENDIX II

(Vide para 5 of the Report)

**STATEMENT SHOWING THE NAMES OF ASSOCIATIONS/INDIVIDUALS
ETC. FROM WHOM MEMORANDA/REPRESENTATIONS ETC. WERE
RECEIVED BY THE SELECT COMMITTEE.**

S.No.	From whom received	Action taken
1.	2.	3.
1.	The All India Bank Employees Federation, Kanpur.	Circulated to members and evidence taken on 15th April, 1968.
2.	Indian Banks Association, Bombay.	Circulated to members and evidence taken on 16th and 18th April, 1968.
3.	Shri V. T. Dehejia, Chairman, State Bank of India, Bombay.	Circulated to members and evidence taken on 16th and 19th April, 1968.
4.	The All India Overseas Bank Employees' Union, Madras.	Circulated to members and evidence taken on 17th April, 1968.
5.	The All India Bank Employees' Association, Delhi.	Circulated to members and evidence taken on 17th and 18th April, 1968.
6.	The All India State Bank of India Staff Federation, Calcutta.	Circulated to members and evidence taken on 17th and 18th April, 1968.
7.	The Indian Merchants' Chamber, Bombay.	Circulated to members and evidence taken on 19th April, 1968.
8.	Federation of Gujarat Mills and Industries, Baroda.	Circulated to members.
9.	The Institute of Chartered Accountants of India, New Delhi.	-do-
10.	P. C. Hansotia & Co., Bombay	-do-
11.	Madurai-Ramnad Chamber of Commerce, Madurai.	-do-
12.	Dr. N. B. Parulekar, Poona.	-do-
13.	U. P. Bijli Karamchari Sangh, Lucknow.	-do-

S.No.	From whom received	Action taken
1.	2.	3
14.	U. P. Water Works Employees' Union, Lucknow.	Circulated to members.
15.	Government Press Mazdoor Union, Lucknow.	-do-
16.	U. P. Transport Employees Union, Lucknow.	-do-
17.	U. P. Bank Employees' Union, Lucknow.	-do-
18.	Punjab National Bank Employees Union (Haryana) Regd., Rohtak.	-do-
19.	General Council of Indian National Trade Union Congress.	-do-
20.	All India Reserve Bank Employees' Association, Calcutta.	-do-
21.	Samyukta Trade Union Committee, Jodhpur.	-do-
22.	All India Insurance Employees' Association, Calcutta.	-do-
23.	Rajya Karamchari Samyukta Parishad, Lucknow.	-do-
24.	Hind Mazdoor Panchayat, Kotah.	-do-
25.	Trade Union Council, Kotah.	-do-
26.	Shri S. C. Majumdar, Calcutta.	-do-
27.	Mysore Chamber of Commerce, Bangalore.	-do-
28.	Federation of Andhra Pradesh Chambers of Commerce & Industry.	-do-
29.	All India Manufacturers' Organisation, Secunderabad.	-do-
30.	Shri Ram Pratap Chopra, Delhi.	-do-
31.	Federation of Indian Chambers of Commerce and Industry, New Delhi.	-do-
32.	Bharat Chamber of Commerce, Calcutta.	-do-
33.	Bengal National Chamber of Commerce and Industry, Calcutta.	-do-
34.	Indian Chamber of Commerce, Calcutta.	-do-
35.	Lucknow Division Insurance Employees' Association, Lucknow.	-do-
36.	7,714 representations/telegrams/letters etc. received from different associations/ individuals.	Members informed.

APPENDIX III

(Vide para 6 of the Report)

List of parties who gave evidence before the Select Committee

S. No.	Names of parties	Dates on which evidence was taken
1.	The All India Bank Employees Federation, Kanpur.	15. 4. 1968
2.	Indian Banks Association, Bombay.	16. 4. 1968 and 18. 4. 1968
3.	Shri V. T. Dehejia, Chairman, State Bank of India, Bombay.	16. 4. 1968 and 19. 4. 1968
4.	Shri L. K. Jha, Governor, Reserve Bank of India, Bombay.	16. 4. 1968
5.	The All India Overseas Bank Employees' Union, Madras.	17. 4. 1968
6.	The All India Bank Employees' Association, Delhi.	17. 4. 1968 and 18. 4. 1968
7.	The All India State Bank of India Staff Federation, Calcutta.	17. 4. 1968 and 18. 4. 1968
8.	The Indian Merchants' Chamber, Bombay.	19. 4. 1968

APPENDIX IV

(MINUTES OF THE SITTINGS OF THE SELECT COMMITTEE ON THE BANKING LAWS (AMENDMENT) BILL, 1967.

I

FIRST SITTING

The Committee sat on Monday, the 1st April, 1968 from 16.00 to 16.45 hours.

PRESENT

Shri G. S. Dhillon — Chairman

MEMBERS

2. Shri Kamalnayan Bajaj
3. Shri S. S. Kothari
4. Shri C. M. Kedaria
5. Shri Lalit Sen
6. Shri Indrajit Gupta
7. Shri Krishna Chandra Pant
8. Shri S. R. Rane
9. Shri M. Thirumala Rao
10. Shri Dwaipayan Sen
11. Shri K. N. Tewari
12. Shri Morarji R. Desai.

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Joint Secretary and Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.
2. Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.

SECRETARIAT

Shri M. C. Chawla — Deputy Secretary.

2. At the outset, the Chairman welcomed the Members of the Committee and apprised them of the magnitude of the task before the Select Committee.

3. After some discussion, the Committee decided to issue a Press Communique (Annexure I) inviting memoranda on the Bill from public bodies, organisations and associations by the 12th April, 1968.

4. Earlier, the Deputy Prime Minister and the Minister of Finance informed the Committee about the receipt of memoranda from 9 Associations and individuals (as per details in Annexure II). The Committee decided not to call for the individuals for evidence. It was decided that 40 copies each of the memoranda should be called for from the parties concerned and circulated to the Committee.

5. The Committee authorised the Chairman to select parties, after receipt of the written memoranda from them, for oral evidence and to fix the time and date in each case.

6. The Committee decided to sit from 14.30 hours to 17.00 hours daily with effect from the 15th April, 1968 to hear the oral evidence for 2-3 days and thereafter take up clause-by-clause consideration of the Bill.

The Committee then adjourned.

ANNEXURE - I

LOK SABHA SECRETARIAT

PRESS COMMUNIQUE

The Select Committee of Lok Sabha on the Banking Laws (Amendment) Bill, 1967 at their first sitting held to-day under the Chairmanship of Shri G. S. Dhillon, M. P., decided that public bodies, organisations and associations desirous of submitting memoranda on the Bill for the consideration of the Committee should send 40 copies of each memorandum so as to reach the Secretary, Lok Sabha Secretariat, Parliament House,

New Delhi on or before the 12th April, 1968. The memoranda which might be submitted to the Committee would form part of the records of the Committee and should be treated as strictly confidential and not circulated to anyone, as such an act would constitute a breach of privilege of the Committee.

Those who are desirous of giving oral evidence before the Committee, besides sending memorandum, are requested to intimate to this effect to the Lok Sabha Secretariat for consideration of the Committee.

The Banking Laws (Amendment) Bill, 1967, as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 23rd December, 1967.

The Committee will sit at New Delhi from the 15th to 17th April, 1968 to hear oral evidence.

New Delhi;
Dated the 1st April, 1968.

ANNEXURE - II

(Vide para 4 of the Minutes)

1. Indian Banks' Association, Devkaran Nanjee Buildings, 17, Horniman Circle, Fort, Bombay-1.
2. All India Bank Employees' Association, 710, Ballimaran, Chandni Chowk, Delhi-6.
3. Indian National Trade Union Congress, 17, Janpath, New Delhi-1.
4. The All India Bank Employees' Federation, 26/104, Birhana Road, Kanpur-1.
5. The Federation of Gujarat Mills & Industries, Federation Building, Sampatrao Colony, R.C. Dutt (Race Course) Road, Baroda-5.
6. President, The Institute of Chartered Accountants of India, Indraprastha Marg, New Delhi-1.
7. P.C. Hansotia & Co., Jehangir Wadia Building, 51 Mahatma Gandhi Road, Fort, Bombay-1.
8. The Madurai - Ramnad Chamber of Commerce, 90-92, East Avonimoola Street, Madurai-1.
9. Dr. N. B Parulekar, Editor-in-Chief, "Sakal", 595, Bhudwar, Poona-2.

II

SECOND SITTING

The Committee sat on Monday, the 15th April, 1968 from 14.30 to 16.05 hours.

PRESENT

Shri G. S. Dhillon — Chairman

MEMBERS

2. Shri Kamalnayan Bajaj
3. Shri S. S. Kothari.
4. Shri N. Dandeker.
5. Shri Samarendra Kundu.
6. Shri Indrajit Gupta.
7. Chaudhary Nitiraj Singh.
8. Shri Krishna Chandra Pant.
9. Shri S. R. Rane.
10. Shri Dwaipayan Sen.
11. Shri Jyotirmoy Bosu.
12. Chawdhury Sadhu Ram
13. Shri Morarji R. Desai.

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Joint Secretary and Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.
2. Shri R. K. Seshadri, Executive Director, Reserve Bank of India, Bombay.
3. Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.
4. Dr. V. A. Pai Panandiker, O. S. D., Ministry of Finance.

SECRETARIAT

Shri M. C. Chawla — Deputy Secretary.

2. At the outset, the Chairman drew the attention of the following representatives of the All India Bank Employees Federation, Kanpur to the provisions of Direction 58 of the Directions by the Speaker:

- | | | |
|----------------------|---|----------------------|
| 1. Shri V.N. Sekhri | - | General Secretary |
| 2. Shri G.K. Awasthi | - | Joint Secretary |
| 3. Shri M.R. Sud | - | Organising Secretary |
| 4. Shri T.C. Gupta | - | Assistant Secretary |

Before commencement of his evidence, Shri Sekhri informed the Committee that their Chairman, Shri N.K. Bhatt, M.P., could not come on account of some other engagement.

3. Earlier, the Committee noted that the following witnesses who had neither submitted any memorandum nor had sent any intimation whether or not they were appearing before the Committee did not present themselves:

Representatives of the United Bank of India Employees Association, Calcutta.

The Committee decided to drop them.

4. A verbatim record of the evidence was kept. The evidence lasted till 16.00 hours.

5. The Committee also decided to send for the following witnesses on the 17th April, 1968:

- (i) All India Bank Employees' Association, Delhi.
- (ii) All India State Bank of India Staff Federation, Calcutta.

6. The Committee then considered the request of the Indian Merchants' Chamber, Bombay and decided to hear their evidence on the 19th April at 14.30 hours.

The Committee then adjourned till 14.30 hours on Tuesday, the 16th April, 1968.

III

THIRD SITTING

The Committee sat on Tuesday, the 16th April, 1968 from 14.30 to 18.20 hours.

PRESENT

Shri G. S. Dhillon — Chairman.

MEMBERS

2. Shri Kamalnayan Bajaj.
3. Shri S. S. Kothari.
4. Shri N. Dandekar.
5. Shri C. T. Dhandapani.
6. Shri C. M. Kedaria.
7. Shri Samarendra Kundu.
8. Shri Indrajit Gupta.
9. Chaudhary Nitiraj Singh.
10. Shri Krishna Chandra Pant.
11. Shri S. R. Rane.
12. Shri M. Thirumala Rao.
13. Shri Dwaipayan Sen.
14. Shri Jyotirmoy Bosu.
15. Chawdhury Sadhu Ram.
16. Shri Morarji R. Desai.

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Joint Secretary and Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.
2. Shri R. K. Seshadri, Executive Director, Reserve Bank of India, Bombay.
3. Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.

4. Shri B. N. Mehta, Legal Adviser, Reserve Bank of India, Bombay.
5. Dr. V. A. Pai Panandiker, O. S. D., Ministry of Finance.

SECRETARIAT

Shri M. C. Chawla — Deputy Secretary.

2. At the outset, the Chairman apprised the Committee of the contents of the letter dated 16th April, 1968 from Shri N. Dandeker wherein he had pointed out that no mention had been made in the Minutes of yesterday's sitting wherein he had suggested the postponement of the evidence by the following witnesses by two or three days, which had been put down for today (16.4.1968), as earlier decided by the Committee:

- (i) Representatives of the Indian Banks' Association, Bombay;
- (ii) Chairman, State Bank of India;
- (iii) Governor, Reserve Bank of India.

The Chairman pointed out that it was after he had ascertained the sense of the Committee that the original programme was allowed to remain as it was and hence it had not been considered necessary to make a reference to this in the Minutes.

3. The Chairman then made the following announcement:

"A number of memoranda/representations/telegrams/notes on the Banking Laws (Amendment) Bill, 1967 have been received from various bodies/associations/individuals. Those memoranda of which sufficient number of copies were received have already been circulated to the Members of the Committee; but others of which only one or two copies each were received, have been kept with the Secretary of the Committee to form part of the records of the Committee.

If any member of the Committee so desires, he can, at his convenience, see these memoranda/representations, etc. in Room No. 136, Attic Storey, Parliament House during working hours or in the Committee Room, when the Committee sittings are on."

4. Before the following witnesses were asked to give their evidence,

the Chairman drew their attention to Direction 58 of the Directions by the Speaker:-

1. Indian Banks' Association, Bombay.

Spokesmen:—

- | | | |
|-----------------------------------|---|---------------------------------------|
| 1. Mr. Krishnaraj M.D. Thackersey | - | Chairman, Indian Banks' Association. |
| 2. Mr. V. C. Patel | - | Chairman, Central Bank of India Ltd. |
| 3. Mr. R. B. Shah | - | Chairman, United Commercial Bank Ltd. |
| 4. Mr. S. C. Trikha | - | Chairman, Punjab National Bank Ltd. |
| 5. Mr. F. K. F. Nariman | - | Chairman, Union Bank of India Ltd. |
| 6. Mr. S. G. Shah | - | Secretary, Indian Banks' Association. |
2. Shri V. T. Dehejia, Chairman, State Bank of India, Bombay.
3. Shri L. K. Jha, Governor, Reserve Bank of India, Bombay.

5. As the Committee could not conclude the hearing of evidence of the representatives of the Indian Banks' Association, Bombay, and the Chairman, State Bank of India, they decided to send for them again at 14.30 hours on Thursday, the 18th April, 1968 and 16.00 hours on Friday, the 19th April, 1968, respectively.

6. A verbatim record of the evidence was kept.

The Committee then adjourned till 14.30 hours on Wednesday, the 17th April, 1968.

IV

FOURTH SITTING

The Committee sat on Wednesday, the 17th April, 1968 from 14.30 to 16.55 hours.

PRESENT

Shri G. S. Dhillon—Chairman

MEMBERS

2. **Shri Kamalnayan Bajaj**
3. **Shri S. S. Kothari**
4. **Shri N. Dandeker**
5. **Shri C. T. Dhandapani**
6. **Shri C. M. Kedarla**
7. **Shri Samarendra Kundu**
8. **Shri Indrajit Gupta**
9. **Chaudhary Nitiraj Singh**
10. **Shri Krishna Chandra Pant**
11. **Shri S. R. Rane**
12. **Shri M. Thirumala Rao**
13. **Shri Dwaipayan Sen**
14. **Shri K. N. Tewari**
15. **Shri Jyotirmoy Bosu**
16. **Chawdhury Sadhu Ram**
17. **Shri Morarji R. Desai**

LEGISLATIVE COUNSEL

**Shri S. K. Maitra, Joint Secretary and Legislative Counsel,
Ministry of Law.**

REPRESENTATIVES OF THE MINISTRY

1. **Shri S. S. Shiralkar, Additional Secretary, Department of
Economic Affairs, Ministry of Finance.**
2. **Shri R. K. Seshadri, Executive Director, Reserve Bank of India,
Bombay.**
3. **Shri D. N. Ghosh, Deputy Secretary, Department of Economic
Affairs, Ministry of Finance.**

4. Dr. V. A. Pai Panandiker, O. S. D., Ministry of Finance.
5. Shri B. N. Mehta, Legal Adviser, Reserve Bank of India, Bombay.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. Before the following witnesses started giving their evidence, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:—

I. The All India Overseas Bank Employees' Union, Madras.

Spokesmen:

1. Shri C. R. Chandrasekharan—President
2. Shri P. Balagopala Menon—General Secretary
3. Shri D. Jayasuryan—Assistant General Secretary.

II. The All India Bank Employees' Association, Delhi.

Spokesmen:

1. Shri A. C. Kakar—President
2. Shri Prabhat Kar—General Secretary
3. Shri H. L. Parvana—Secretary.

III. The All India State Bank of India Staff Federation, Calcutta.

Spokesmen:

1. Shri S. N. Duber—General Secretary
2. Shri Amrit Lal Airi—Assistant General Secretary
3. Shri J. N. Kapur—Circle Welfare Secretary,

In view of the fact that the memoranda submitted by the Association and the Federation referred to at II and III above were identical, the Committee decided to hear the evidence of their representatives together.

As these representatives wanted more time to make their submission, the Committee decided to hear them again at 15.30 hours on Thursday, the 18th April, 1968.

3. A verbatim record of the evidence was kept.

The Committee then adjourned.

V

FIFTH SITTING

The Committee sat on Thursday, the 18th April, 1968 from 14.30 to 17.35 hours.

PRESENT

Shri G. S. Dhillon—Chairman.

MEMBERS

2. **Shri Kamalnayan Bajaj**
3. **Shri S. S. Kothari**
4. **Shri N. Dandeker**
5. **Shri C. T. Dhandapani**
6. **Shri C. M. Kedarla**
7. **Shrimati Sucheta Kripalani**
8. **Shri Indrajit Gupta**
9. **Chaudhary Nitiraj Singh**
10. **Shri Krishna Chandra Pant**
11. **Shri S. R. Rane**
12. **Shri M. Thirumala Rao**
13. **Shri Dwaipayan Sen**
14. **Shri K. N. Tewari**
15. **Shri Jyotirmoy Bosu**
16. **Chawdhury Sadhu Ram**
17. **Shri Morarji R. Desai.**

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Additional Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. **Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.**

2. Shri R. K. Seshadri, Executive Director, Reserve Bank of India, Bombay.
3. Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.
4. Dr. V. A. Pai Panandiker, O. S. D., Ministry of Finance.
5. Shri B. N. Mehta, Legal Adviser, Reserve Bank of India, Bombay.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. The Committee took up further examination of the following representatives of:—

I. The Indian Banks' Association, Bombay.

- (i) Shri F. K. F. Nariman—Chairman, Union Bank of India Ltd.
- (ii) Shri S. C. Trikha—Chairman, Punjab National Bank Ltd.
- (iii) Shri R. B. Shah—Chairman, United Commercial Bank Ltd.
- (iv) Shri S. G. Shah—Secretary, Indian Banks' Association.

II. The All India Bank Employees' Association, Delhi:

- (i) Shri A. C. Kakar—President
- (ii) Shri Prabhat Kar—General Secretary
- (iii) Shri H. L. Parvana—Secretary
- (iv) Shri P. L. Syal—Member, Central Committee

III. The All India State Bank of India Staff Federation, Calcutta:

- (i) Shri S. N. Duber—General Secretary
- (ii) Shri J. N. Kapur—Circle Welfare Secretary
- (iii) Shri Amrit Lal Airi—Assistant General Secretary.

3. A verbatim record of the evidence was kept.

The Committee then adjourned.

VI

SIXTH SITTING

The Committee sat on Friday, the 19th April, 1968 from 14.30 to 16.45 hours.

PRESENT

Shri G. S. Dhillon—Chairman.

MEMBERS

2. Shri Kamalnayan Bajaj
3. Shri S. S. Kothari
4. Shri N. Dandekar
5. Shri C. M. Kedaria
6. Shrimati Sucheta Kripalani
7. Shri Samarendra Kundu
8. Shri Indrajit Gupta
9. Chaudhary Nitiraj Singh
10. Shri Krishna Chandra Pant
11. Shri S. R. Rane
12. Shri M. Thirumala Rao
13. Shri Dwaipayan Sen
14. Shri K. N. Tewari
15. Shri Jyotirmoy Bosu
16. Chawdhury Sadhu Ram
17. Shri Morarji R. Desai.

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Joint Secretary and Legislative Counsel,
Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.
2. Shri R. K. Seshadri, Executive Director, Reserve Bank of India, Bombay.
3. Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.

4. Shri B. N. Mehta, Legal Adviser, Reserve Bank of India, Bombay.
5. Dr. V. A. Pai Panandiker, O. S. D., Ministry of Finance.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. At the outset, the Chairman drew the attention of the following representatives of the Indian Merchants' Chamber, Bombay to Direction 58 of the Directions by the Speaker:

1. Shri Pratap Bhogilal—President
2. Shri J. H. Doshi—Vice-President
3. Shri C. L. Gheevala—Secretary

3. The Committee then took up further examination of Shri V. T. Dehejia, Chairman, State Bank of India, Bombay at 15.57 hours. It lasted till 16.45 hours.

4. A verbatim record of the evidence was kept.

5. Earlier, the Committee took the following decisions:—

- (i) The evidence given before them should be printed and laid on the Table of the House subject to such portions as were in the nature of sallies, allegations, counter-allegations, insinuations, etc., being expunged therefrom.
- (ii) Copies of the memoranda received from various parties who gave evidence before the Committee should be placed in the Parliament Library for reference by members after the Report of the Committee had been presented to the House.
- (iii) The Committee should take up clause-by-clause consideration of the Bill on the 24th and 25th April, and if necessary, on the 26th April also.
- (iv) Amendments should be sent by the members to the Secretariat by the 23rd April, 1968, at the latest.
- (v) As it would not be possible to complete the work by the 25th

April, 1968 — according to the motion adopted by the House on the 26th March, 1968, the Committee were required to Report within one month, viz., the 25th April — an extension of time should be asked for for the presentation of the report upto the 6th May, 1968.

The Chairman was authorised to move the necessary motion in the House on Monday, the 22nd April, 1968 and also apprise the Speaker of this as envisaged in Direction 79(2). In the absence of the Chairman, Shri M. Thirumala Rao was authorised to move the motion.

The Committee then adjourned.

VII

SEVENTH SITTING

The Committee sat on Wednesday, the 24th April, 1968 from 14.30 to 17.30 hours.

PRESENT

Shri G. S. Dhillon—Chairman

MEMBERS

2. Shri Kamalnayan Bajaj
3. Shri S. S. Kothari
4. Shri N. Dandekar
5. Shri C. T. Dhandapani
6. Shri Madhu Limaye
7. Shri C. M. Kedaria
8. Shri Samarendra Kundu
9. Chaudhary Nitiraj Singh
10. Shri Hem Raj
11. Shri M. Thirumala Rao
12. Shri Dwaipayan Sen
13. Chawdhury Sadhu Ram
14. Shri Morarji R. Desai.

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Joint Secretary and Legislative Counsel,
Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.
2. Shri B. N. Adarkar, Deputy Governor, Reserve Bank of India.
3. Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.
4. Dr. V. A. Pai Panandiker, O. S. D. , Ministry of Finance.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. The Committee took up clause-by-clause consideration of the Bill.
3. Clause 2.—The following amendments were accepted:

(1) Page 2, for lines 7 to 13, substitute—

'(ca) "banking policy" means any policy which is specified from time to time by the Reserve Bank in the interest of the banking system or in the interest of monetary stability or sound economic growth, having due regard to the interests of the depositors, the volume of deposits and other resources of the bank and the need for equitable allocation and the efficient use of these deposits and resources';

(2) Page 2, after line 22, insert—

'(iii) to clause (h), the following proviso shall be added, namely:—

"Provided that the managing director shall exercise his powers subject to the superintendence, control and direction of the Board of directors".

(3) Page 2, line 23, for "(iii)", substitute "(iv)".

(4) Page 2, line 28, for "fifteen" substitute "twenty"

(5) Page 2, line 39, for "five" substitute "ten"

(6) Page 3, line 4, for "five" substitute "ten"

The clause, as amended, was adopted.

4. Clause 3.—The following amendments were accepted:

(1) Page 3, line 11, for "1967", substitute "1968".

(2) Page 3, line 30, for "the knowledge and experience" substitute "the special knowledge of, and practical experience".

(3) Page 5, line 1, - after "reconstitution" insert "duly"

(4) Page 5, line 4, - after "director" insert "co-opted,"

(5) Page 5, line 16, for "1967", substitute "1968".

(6) Page 5, after line 19, insert -

"Provided that the chairman shall exercise his powers subject to the superintendence, control and direction of the Board of directors."

(7) Page 5, line 20, for "Provided that", substitute "Provided further that".

(8) Page 5, line 35, for "1967", substitute "1968".

(9) Page 6, line 28, -

after "such person" insert "and to the banking company".

(10) Page 7, after line 12, insert -

"(9) Notwithstanding anything contained in this section, where a person appointed as chairman dies or resigns or is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circum-

stances not involving the vacation of his office, the banking company may, with the approval of the Reserve Bank, make suitable arrangements for carrying out the duties of chairman for a total period not exceeding four months."

The clause, as amended, was adopted.

5. With regard to the provision in sub-section (6) of the proposed section 10B of the Banking Regulation Act, 1949, empowering the Reserve Bank of India to remove an elected chairman of the Board of directors of a banking company, if in the opinion of the Reserve Bank of India, he is not a fit person to hold the office of chairman, the Committee decided that an appropriate mention in this regard may be made in the Report of the Committee so that there was no victimization of the Chairman in case he makes any criticism of the monetary and banking policies of the Reserve Bank of India or of the fiscal and economic policies of the Government.

The Committee then adjourned to meet again on Thursday, the 25th April, 1968 at 14.30 hours.

VIII

EIGHTH SITTING

The Committee sat on Thursday, the 25th April, 1968 from 14.30 to 18.30 hours.

PRESENT

Shri G. S. Dhillon—Chairman

MEMBERS

2. Shri Kamalnayan Bajaj
3. Shri S. S. Kothari
4. Shri N. Dandekar
5. Shri C. M. Kedaria
6. Shrimati Sucheta Kripalani
7. Shri Samarendra Kundu
8. Shri Indrajit Gupta
9. Chaudhary Nitiraj Singh
10. Shri Hem Raj

11. Shri M. Thirumala Rao
12. Shri Dwaipayan Sen
13. Shri Jyotirmoy Bosu
14. Chawdhury Sadhu Ram
15. Shri Morarji R. Desai

LEGISLATIVE COUNSEL

Shri S.K. Maltra, Joint Secretary and Legislative Counsel,
Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.
2. Shri B. N. Adarkar, Deputy Governor, Reserve Bank of India.
3. Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.
4. Dr. V. A. Pai Panandiker, O.S.D., Ministry of Finance.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary

2. The Committee resumed clause-by-clause consideration of the Bill.
3. Clause 3.—The Committee re-opened their earlier decision regarding insertion of the word "co-opted," after the word "director" in line 4 of page 5 (Vide para 4 of the Minutes, dated the 24th April, 1968). It was pointed out that sections 260 and 262 of the Companies Act, 1956 provide for the 'appointment' of directors. The word 'co-option' has not been used in that Act. In the circumstance, the use of the word 'co-opted' in the Bill may lead to difficulties in future. The Committee, therefore, decided, on reconsideration, to drop the amendment.

4. Clause 4.—The clause was adopted without amendment.
5. Clause 5.—The following amendment was accepted:

Pages 7 and 8, for lines 27 to 28 and 1 to 38, respectively,
substitute, -

Substitution of new section for section 20. "5. For section 20 of the principal Act, the following section shall be substituted, namely:—

Restrictions on loans and advances. '20. (1) Notwithstanding anything to the contrary contained in section 77 of the Companies Act, 1956 no banking company shall — 1 of 1956.

(a) grant any loans or advances on the security of its own shares, or

(b) enter into any commitment for granting any loan or advance to or on behalf of —

(i) any of its directors,

(ii) any firm in which any of its directors is interested as partner, manager, employee or guarantor, or

(iii) any company (not being a subsidiary of the banking company or a company registered under section 25 of the Companies Act, 1956, or a Government company), of which any of the directors of the banking company is a director, managing agent, manager, employee or guarantor or in which he holds substantial interest, or 1 of 1956.

(iv) any individual in respect of whom any of its directors is a partner or guarantor.

(2) Where any loan or advance granted by a banking company is such that a commitment for granting it could not have been made if clause (b) of sub-section (1) had been in force on the date on which the loan or advance was made, or is granted by a banking company after the commencement of section 5 of the Banking Laws (Amendment) Act, 1968, but in pursuance of a commitment entered into before such commencement, steps shall be taken to recover the amounts due to the banking company on account of the loan or advance, together with interest, if any, due thereon, within the period stipulated at the time of the grant of the loan or advance, or where no such period has been stipulated, before the expiry of one year from the commencement of the said section 5:

Provided that the Reserve Bank may, in any case, on an application in writing made to it by the banking company in this behalf, extend the period

for the recovery of the loan or advance until such date, not being a date beyond a period of three years from the commencement of the said section 5, and subject to such terms and conditions, as the Reserve Bank may deem fit.

Provided further that this sub-section shall not apply if and when the director concerned vacates the office of director of the banking company whether by death, retirement, resignation or otherwise.

(3) No loan or advance referred to in sub-section (2) or any part thereof shall be remitted without the previous approval of the Reserve Bank, and any remission without such approval shall be void and of no effect.

(4) Where any loan or advance referred to in sub-section (2), payable by any person, has not been repaid to the banking company within the period specified in that sub-section, then such person shall, if he is a director of such banking company on the date of the expiry of the said period, be deemed to have vacated his office as such on the said date.

Explanation.—In this section—

(a) 'loans or advances' shall not include any transaction which the Reserve Bank may, having regard to the nature of the transaction, the period within which, and the manner and circumstances in which, any amount due on account of the transaction is likely to be realised, the interest of the depositors, and other relevant considerations, specify by general or special order as not being a loan or advance for the purpose of this section;

(b) 'director' means a member of any board or committee in India constituted by a banking company for the purpose of advising it in regard to the management of its affairs.

(5) If any question arises whether any transaction is a loan or advance for the purposes of this section, it shall be referred to the Reserve Bank, whose decision thereon shall be final."

The clause, as substituted, was adopted.

6. Clauses 6 and 7.—The clauses were adopted without amendment.

7. Clause 8.—The following amendment was accepted:

Page 9, for lines 9 and 10, substitute—

"In section 30 of the principal Act, —

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

'The balance-sheet and profit and loss account prepared in accordance with section 29 shall be audited by a person duly qualified under any law for the time being in force to be an auditor of companies',

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—"

The clause, as amended, was adopted.

8. Clauses 9 to 12.—The clauses were adopted without amendment.
9. Clause 13.—The following amendment was accepted.

Page 10, — omit lines 34 and 35.

The clause, as amended, was adopted.

10. Clause 14.—The clause was adopted without amendment.
11. Clause 15.—The following amendments were accepted:

(1) Page 11, line 30, —

for "entering" substitute "lawfully entering or leaving".

(2) Page 11, for lines 33 to 39, substitute —

"(b) hold, within the office or place of business of any banking company, any demonstration which is violent or which prevents or is calculated to prevent the transaction of normal business by the banking company."

(3) Page 11, for lines 40 and 41, substitute —

"(c) act in any manner calculated to undermine the confidence of the depositors in the banking company."

(4) Page 12, - omit lines 5 to 8.

(5) Page 12, line 9, -

for "(4)", substitute "(3)".

(6) Page 12, for lines 17 and 18, substitute—

"(a) has on more than one occasion failed to comply with the directions given to it in writing under section 21 or section 35A in so far as such directions relate to banking policy, or"

(7) Page 15, for lines 25 to 28, substitute—

"(e) the manner of payment of the compensation payable in accordance with the provisions of this Part to the shareholders of the acquired bank or where the acquired bank is a banking company incorporated outside India, to the acquired bank, in full satisfaction of their or, as the case may be, its claims;"

(8) Page 16, line 18, after "bank", insert "or, where the acquired bank is a banking company incorporated outside India, the acquired bank".

(9) Page 16, lines 37 and 38, for "shareholder of the acquired bank, such shareholder", substitute "person to whom the compensation is payable, such person".

(10) Page 17, line 3, after "bank", insert "or where the acquired bank is a banking company incorporated outside India, from the acquired bank".

The clause, as amended, was adopted.

12. Clauses 16 to 21.—The clauses were adopted without amendment.

13. Clause 22.—The following amendments were accepted:

- (1) Page 27, line 20, after "appointed day", insert

"and where the acquired bank is a banking company incorporated outside India, includes the liabilities of the offices and branches in India of the acquired bank to its offices and branches outside India".

- (2) Page 27, line 27, after "acquired bank", insert

"to whom the compensation is payable".

The clause, as amended, was adopted.

14. Clause 23.—The clause was adopted without amendment.

15. Clause 24.—The following amendments were accepted:

- (1) Page 28, line 26, for "in section 17 of the principal Act - in the proviso to clause (3A)", substitute "In section 17 of the principal Act —

(1) in the proviso to clause (3A) - "

- (2) Page 29, after line 8, insert —

'(ii) in clause (12), for the words "gold coin and bullion" the words "gold or silver coins and gold or silver bullion" shall be substituted;

(iii) after clause (15A), the following shall be inserted, namely:—

"(15B) the providing of facilities for training in banking and for the promotion of research, where, in the opinion of the Bank, such provision may facilitate the exercise by the Bank of its powers and functions, or the discharge of its duties."

The clause, as amended, was adopted.

16. Clauses 25 to 28.—The clauses were adopted without amendment.

17. Clause 29.—The following amendment was accepted:

Page 30, for lines 39 and 40, substitute —

'(ii) for the words "in excess of six months but not exceeding ten years," the words "in excess of twelve months but not exceeding fifteen years" shall be substituted;'

The clause, as amended, was adopted.

18. Clause 30.—The following amendment was accepted:

Page 31, for lines 6 to 10, substitute —

'(b) in sub-section (3), —

(1) for sub-clause (ii) of clause (b) (excluding the proviso), the following sub-clause shall be substituted, namely:—

"(ii) save as otherwise provided in this Act, twelve months from the date aforesaid if the instrument or security is drawn or issued for any other purpose." ;

(2) in the proviso, for the words 'six months', the words "twelve months" shall be substituted. '

The clause, as amended, was adopted.

19. Clause 1.—The following amendment was accepted:—

Page 1, line 6 for "1967", substitute "1968".

The clause, as amended, was adopted.

20. Enacting Formula.—The following amendment was accepted:

Page 1, line 1, for "Eighteenth", substitute "Nineteenth"

The Enacting Formula, as amended, was adopted.

21. Title.—The title was adopted without amendment.

22. The Chairman then drew the attention of the members of the Committee to the provision of Direction 87 of the Directions by the Speaker regarding minutes of dissent.

23. The Legislative Counsel was authorised to correct patent errors and to carry out amendments of consequential nature in the Bill and to submit an attested copy thereof, as amended, by Monday, the 29th April, 1968.

24. The Committee then adjourned to meet again on Thursday, the 2nd May, 1968, at 13.00 hours to consider their draft report.

IX

NINTH SITTING

The Committee sat on Thursday, the 2nd May, 1968 from 13.00 to 13.45 hours.

PRESENT

Shri G. S. Dhillon—Chairman

MEMBERS

2. Shri Kamalnayan Bajaj
3. Shri N. Dandekar
4. Shri C. T. Dhandapam
5. Shrimati Sucheta Kripalani
6. Shri Samarendra Kundu
7. Shri Indrajit Gupta
8. Shri Shri Hem Raj
9. Shri M. Thirumala Rao
10. Shri Dwaipayan Sen
11. Shri Jyotirmoy Bosu
12. Chawdhury Sadhu Ram
13. Shri Morarji R. Desai

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Joint Secretary and Legislative Counsel,
Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. **Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance.**
2. **Shri D. N. Ghosh, Deputy Secretary, Department of Economic Affairs, Ministry of Finance.**

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. At the outset, the Committee considered and adopted the Bill, as amended.

3. The Chairman then made the following announcement:

"A petition relating to the Banking Laws (Amendment) Bill from Shri A. Sunder Rao of Hyderabad and others was presented to Lok Sabha by Shri Indrajit Gupta, M. P., who is also a Member of this Select Committee, today, the 2nd May, 1968. The petition stands referred to the Select Committee under Direction 82 of the Directions by the Speaker.

The petitioner's prayer is that the proposed section 36AD might be deleted from clause 15 of the Bill. A number of similar representations have also been received and have been indicated in para 5 of the Report. In view of the large number of signatories to the petition, I feel a specific mention about it might be made at the end of para 5 of the Report as indicated below:—

'Also, a petition from Shri A. Sunder Rao and others was presented to Lok Sabha by Shri Indrajit Gupta, M. P. on the 2nd May, 1968 which stands referred to the Select Committee under Direction 82 of the Directions by the Speaker. The Committee have carefully gone through the petition and find that the points raised therein have already been exhaustively brought before the Committee by the various Bank employees' associations through their numerous memoranda/representations and their oral evidence. The Committee have already modified the original provisions of the proposed section 36AD in the light of these representations (vide para 18(1) of this Report) and do not consider any further modification necessary' "

Earlier, copies of the petition were circulated to the members present at the sitting.

4. The Committee also approved the following drafting changes in the draft Report:

I. Para 13(iii)(a), in line 7 —

for "raised" substitute "extended so as to enable the Central Government to raise the amount".

II. Para 22 —

(i) In line 2, after "can" insert "normally".

(ii) In line 3, for "in excess of" substitute "upto".

The Committee, after some discussion, adopted the draft Report, subject to the above drafting amendments and the Minutes of Dissent, if any, to be given by the Members.

5. The Chairman announced that the Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 10.00 hours on Monday, the 6th May, 1968. The Members were requested to give four copies of their respective minutes, if possible.

6. The Committee then authorised the Chairman, and, in his absence, Sarvashri M. Thirumala Rao and Samarendra Kundu to present the Report and to lay the Evidence on the Table of the House in their behalf.

7. The Chairman thanked the Deputy Prime Minister and Finance Minister, Members of the Committee for their valuable co-operation and the Secretariat of the Committee and the Joint Secretary and Legislative Counsel, Ministry of Law, for the assistance rendered by them to the Committee, in considering and passing the Bill. The Deputy Prime Minister thanked the Chairman for his patience and guiding ably the deliberations of the Committee. The members associated themselves with the sentiments expressed by the Chairman and the Deputy Prime Minister.

The Committee then adjourned.
