

LOK SABHA

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

**EVIDENCE**



सत्यमेव जयते

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*May, 1968/Vaisakha, 1890 (Saka)*

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

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**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 COUNCIL**

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

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

(ii)

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.*
3. Shri R. K. Seshadri, *Executive Director, Reserve Bank of India.*
4. Dr. V. A. Pai Panandiker,
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.*

CORRIGENDA

TO

Evidence given before the Select Committee on the Banking Laws (Amendment) Bill, 1967.

- Page (i), line 3 from bottom, for 'LERISLATIVE COUNCIL' read 'LEGISLATIVE COUNSEL'
- Page (ii), S.No.4 add at the end 'O.S.D., Ministry of Finance.'
- Page 2, col.1, line 16 to 18, for 'to be published .....specifically' read 'to the witnesses that their evidence shall be treated as public and liable to be published unless they specifically'
- Page 25, Col.2, line 26, for 'are' read 'as'
- Page 27, col.2, line 33; delete 'Shri Jyotiroy Bosu'
- Page 30, col.2, line 23, for 'componds' read 'compounds'
- Page 34, col.1, line 9 from bottom for 'clause ' read 'clause 5'
- Page 38, col.1, line 20 from bottom for 'Desaid' read 'Desai'
- Page 39, col.2, line 13 from bottom for 'deirse' read 'desire'
- Page 40, col.1, line 11, for 'esffl' read 'res-'
- Page 46, col.2, line 37, for 'ad' read 'and'
- Page 50, col.1, line 10, for 'somegody' read 'somebody'
- Page 61, col.2, line 23, for 'oly' read 'only'
- Page 76, col.1, line 17 from bottom for 'postion' read 'position'
- Page 83, col.2, line 28, the word 'sector' may be transferred to line 20
- Page 88, col.1, line 5 from bottom for 'apo' read 'appo'
- Page 93, col.1, line 15 from bottom for 'Deseai' read 'Desai'
- Page 95, col.1, line 17, omit 'not'
- Page 98, col.1, line 2, for 'Indutrial' read 'Industrial'

.....2/-

- Page 98, Col.2, line 20 from bottom for 'an injunction restraining the defend-' read 'on notice boards of the defendants'
- Page 114, col.2, line 1 from bottom for 'idustry' read 'industry'
- Page 116, col.1, line 4, for 'indifinitely' read 'indefinitely'
- Page 117, col.2, line 20, for 'accessation' read 'cessation'
- Page 117, col.2, line 7 from bottom for 'tota' read 'total'
- Page 118, col.1, line 26, for 'laces' read 'places' for and 10
- Page 118, col.1, /lines 9/ from bottom read 'made by branches to agriculturists as well as to cooperatives depending on'
- Page 119, col.1, line 26, for 'whetehr' read 'whether'
- Page 119, col.2, line 24, for 'dvances' read 'advances'
- Page 120, col.2, line 1 from bottom for 'lendig' read 'lending'
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WITNESSES EXAMINED

Sl. No.	Name of Witness	Date of hearing	PAGE
1.	All India Bank Employees Federation, Kanpur. <i>Spokesmen :</i>	15.4.1968	2
	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.		
2.	Indian Banks Association, Bombay. <i>Spokesmen :</i>	16.4.1968	17
	1. Shri Krishnaraj M. D. Thackersey Chairman, Indian Banks Association.		
	2. Shri V. C. Patel, Chairman, Central Bank of India Ltd.		
	3. Shri R. B. Shah, Chairman, United Commercial Bank Ltd.		
	4. Shri S. C. Trikha, Chairman, Punjab National Bank Ltd.		
	5. Shri F. K. F. Nariman, Chairman, Union Bank of India Ltd.		
	6. Shri S. G. Shah, Secretary, Indian Banks Association.		
3.	Shri V. T. Dehejia, Chairman, State Bank of India, Bombay.	16.4.1968	31
4.	Shri L. K. Jha, Governor, Reserve Bank of India, Bombay.	16.4.1968	39
5.	The All India Overseas Bank Employees' Union, Madras. <i>Spokesmen :</i>	17.4.1968	52
	1. Shri C. R. Chandrasekharan, President.		
	2. Shri P. Balagopala Menon, General Secretary.		
	3. Shri D. Jayasuryan, Asstt. General Secretary.		
6.	The All India Bank Employees' Association, Delhi. <i>Spokesmen :</i>	17.4.1968	65
	1. Shri A. C. Kakar, President.		

Sl. No.	Name of Witness	Date of hearing	PAGE
	2. Shri Prbhat Kar, General Secretary.		
	3. Shri H. L. Parvana, Secretary.		
7.	All India State Bank of India Staff Federation, Calcutta.	17.4.1968	65
	<i>Spokesmen :</i>		
	1. Shri S. N. Duber, General Secretary,		
	2. Shri Amrit Lal Airi, Asstt. Genl. Secretary.		
	3. Shri J. N. Kapur, Circle Welfare Secretary.		
8.	Indian Banks Association, Bombay.	18.4.1968	75
	<i>Spokesmen :</i>		
	1. Shri F. K. F. Nariman, Chairman, Union Bank of India Ltd.		
	2. Shri S. C. Trikha, Chairman, Punjab National Bank Ltd.		
	3. Shri R. B. Shah, Chairman, United Commercial Bank Ltd.		
	4. Shri S.G. Shah, Secretary, Indian Banks Association.		
9.	The All India Banks Employees' Association, Delhi.	18.4.1968	86
	<i>Spokesmen :</i>		
	1. Shri A. C. Kakar, President.		
	2. Shri Prabhat Kar, General Secretary.		
	3. Shri H. L. Parvana, Secretary.		
	4. Shri P. L. Syal, Member, Central Committee.		
10.	The All India State Bank of India Staff Federation, Calcutta.	18.4.1968	86
	<i>Spokesmen :</i>		
	1. Shri S.N. Duber, General Secretary.		
	2. Shri J.N. Kapur, Circle Welfare Secy.		
	3. Shri Amrit Lal Airie, Asstt. Genl. Secretary.		
11.	The Indian Merchants' Chamber, Bombay.	19.4.1968	105
	<i>Spokesman :</i>		
	1. Shri Pratap Bhogilal, President.		
	2. Shri J. H. Doshi, Vice-President.		
	3. Shri C. L. Gheevala, Secretary.		
12.	Shri V. T. Dehejia, Chairman, State Bank of India, Bombay.	19.4.1968	116

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

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

*Monday, the 15th April, 1968 at 14.30 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.

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3. Shri D. N. Ghosh, *Deputy Secretary, Deptt. 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.*



## WITNESSES EXAMINED

All India Bank Employees' Federation, Kanpur.

Spokesmen:

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.

(The witnesses were called in and they took their seats)

**Mr. Chairman:** Kindly introduce.

**Shri Morarji R. Desai:** You are representing All India . . .

**Shri Sekhri:** I am representing All India Bank Employees' Federation with Central Office at Kanpur.

**Shri Morarji R. Desai:** Their Head-quarter is at Kanpur. They do not simply represent Kanpur.

**Mr. Chairman:** I read before you the Directive by the Speaker: When witnesses appear before the Committee, the Chairman shall make it clear to be published unless they specifically shall be treated as public and liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential, such evidence is liable to be made available to the Members of Parliament.

**Shri Morarji R. Desai:** That means that would not remain confidential.

**Shri Sekhri:** Our evidence may be treated as public and not confidential. Sir, we welcome the move of the Central Government as far as the social measures are concerned and we have said so in a unanimous resolution passed by the special session of our General Council—the highest body which assembled at Kanpur. At the same time, Sir, our submission to the Committee and the Government is, which we have already placed in our Memorandum submitted to the Hon'ble

Deputy Prime Minister and Finance Minister when we led our deputation, copies of which have already been sent to your honour as directed. Coming specifically to Section 36A(d) we have stated, Sir, that in para 4 of our Memorandum—while the All India Bank Employees Federation has always condemned the acts of indiscipline, hooliganism, intimidation, work to rule movement, gheraos, etc., reiterates to continue to work on peaceful, democratic lines and proceed on Constitutional methods in respect of disputes. Beginning with this, Sir, our humble submission to this Hon'ble Committee is that the provisions as contained in the new Section 36AD which is introduced in the Bill viz., no person shall obstruct any person from entering any office or place of business of a Banking Company or from carrying on any business there, then hold any demonstration including any slogan which is indecent. Sir, first of all this all relates to the maintenance of industrial peace and for which separate Act is already there—Industrial Disputes Act.

**Shri Morarji R. Desai:** It is inside the premises. Is it the right of any Trade Union to create rowdyism within the office? When did you get that?

**Shri Sekhri:** We straightway condemn that. We are opposed to inside demonstration.

**Shri Morarji R. Desai:** There is nothing else.

**Shri Sekhri:** Holding of any demonstration which is indecent, which amounts to commissioning of any offence within the premises or any

building or place of business in which bank is situated—upto 10 metres, take the case of Bombay or Delhi, even verandahs and doors are covered up.

**Shri Morarji R. Desai:** Verandahs have to be covered up. Verandah is not outside. How is it the right of any person to create rowdyism? Show me where that right belongs to union.

**Shri Sekhri:** Sir, there are provisions in Criminal Procedure Code to check such activities.

**Shri Morarji R. Desai:** I do not think there is any provision like that. Unless there is specific provision, it is not going to help that way. I do not know whether it is the right which is provided. Is it any right of any workman or any official to create rowdyism inside the office in which he is working?

**Shri Sekhri:** We condemn this.

**Shri Morarji R. Desai:** That is all right.

**Shri Sekhri:** Our peaceful demonstration may be obstructed even at the gate of the Institution.

**Shri Morarji R. Desai:** That is a matter which can be considered if it is outside the premises.

**Shri Sekhri:** Sir, the word 'indecent' is a very vague term. Who is going to decide? Here powers are given to the Reserve Bank, who is an employer.

**Shri Morarji R. Desai:** Reserve Bank has to prescribe. I think there can be an amendment of this that it should be every bank which should do it and not the Reserve Bank. Why should it be given to the Reserve Bank? That can be considered.

**Shri Kamalnayan Bajaj:** Do you suggest that the word 'indecent' should be dropped?

**Shri Sekhri:** My submission is this: I can understand Parliament enacting

a Bill to stop such illegal activities within the precincts of the banks as 'gherao' and all that. Unfortunately a section of employees have done it. But I think if a tripartite meeting is convened and some court is deputed to go into such cases, they will go away and solution can be found.

**Shri Morarji R. Desai:** There cannot be a court for illegal acts. This is an illegal thing and that is why it is provided. Nobody wants to take away the legitimate rights of the trade unions. I will be the last person to do that.

**Shri Sekhri:** There is another clause saying: "...act in any manner calculated to undermine the creditworthiness....." If for example in a particular bank some of the Directors go to the extent of advancing or doing something which is not in the interest of the bank or Community etc.

**Shri Morarji R. Desai:** It is not the business of the workers in that bank to do that. If they do that, they are not loyal servants of the bank.

**Shri Jyotirmoy Bosu:** Loyal to unlawful things? They are loyal to lawful things.

**Shri Morarji R. Desai:** How is it unlawful? You have to prove that. Before a man is condemned, you have to prove that he deserves condemnation. Otherwise, how can you take away the reputation of an institution?

**Shri Indrajit Gupta:** I think we should first heat the witness, instead of cross-examining him?

**Shri Morarji R. Desai:** I think we are entitled to cross-examine him.

**Shri Sekhri:** My submission is that there is no need for a separate enactment of this type. This is to regulate the service conditions of the bank employees on the lines of the Act in respect of working journalists. This will only curb the genuine, peaceful activities of those who have been continuing their activities under 'odd

times. This situation is due to the latitude given by certain bankers, maybe in view of competition, and Parliament has thought to include these provisions which we honestly feel will take away the genuine rights of the trade unions.

**Shri Morarji R. Desai:** How? Which is the legitimate right which is taken away by this legislation?

**Shri Sekhri:** Right to demonstrate.

**Shri Morarji R. Desai:** Where is the right of the trade union to demonstrate inside the premises? I want to know that.

**Shri Sekhri:** I have already stated that our organisation is not in favour of inside demonstration.

**Shri Morarji R. Desai:** That is all right.

**Shri Sekhri:** This will stop demonstrations even outside the premises.

**Shri Morarji R. Desai:** That may be considered by the Committee.

**Shri S. S. Kothari:** Do you agree with ten metre conditions?

**Shri Sekhri:** No, Sir. My agreeing has no meaning because whatever may be the clause my submission is that this should be in the form of an amendment of the I.D. Act. Subject to this submission, I agree for demonstrations inside Banks.

**Shri Kamalnayan Bajaj:** Your organisation may be pledged to peaceful and legitimate manner of agitation. When a law is made, it is not to cover all the classes of people. All the 100 or 50 per cent of the people are not thieves. Thieves may be only one per cent. But even to cover that one per cent, laws have to be made. Even if your association is peaceful, there may be one Union which may create troubles and you have also admitted that they have created troubles. It is

to regulate such bad elements this is made. They may indulge in intimidation and this will affect not only the management of the bank but also the clients who come and go. They also will be harassed if they are not allowed to go in or come out of the bank. Banks have to cater to their needs. Social control is not for management alone. Management includes employees, staff and workers. They together should create an atmosphere in which alone banking business will prove to be a service to the society.

**Shri Sekhri:** Who has been responsible for all that? There is the Shastri Award and several other settlements and agreements. Have the banks taken recourse to these agreements? If they have not, even after this enactment is passed, how can you guarantee that there will be no complaints?

**Shri Morarji R. Desai:** When there is a definite enactment, they can be prosecuted under it.

**Shri Sekhri:** Can the employees go to the court and prosecute a manager of a bank who sides with such activities?

**Shri Morarji R. Desai:** If anybody sides, he is an abettor.

**Shri Sekhri:** There are provisions in the I.D. Act. They have not been enforced.

**Mr. Chairman:** You are not opposed to this.

**Shri Sekhri:** But it should not be in this form.

Then there is this clause saying "... act in any manner calculated to undermine the credit-worthiness of any banking company...." This is such a vague term that any employer who does not like genuine trade union activity in his office can misuse it against workers.

**Shri Morarji R. Desai:** How? I do not quite follow.

**Shri Sekhri:** For instance, you can say that any resolution, any letter or any demonstration is against credit-worthiness.

**Shri Morarji R. Desai:** How? How can you prove that unless it really affects?

**Shri Sekhri:** This in fact is snatching away the right of showing resentment to certain actions and policies of the management because the strikes, even after due notice is given, resolutions or demonstrations will lead to various interpretations and Your Honour won't be there at that time.

**Shri Morarji R. Desai:** They will be interpreted by the court and not by anybody.

**Shri Sekhri:** There are various interpretations right from the lowest court and the trade unions will be instruments of litigation from the smallest court to the highest court.

**Shri Morarji R. Desai:** Why? Trade Union is not going to be prosecuted. Only its members will be prosecuted. If the organisation supports illegal activities.

**Shri Sekhri:** If they support legal activities?

**Shri Morarji R. Desai:** Then nobody will be punished.

**Shri Sekhri:** That might be Parliament's pious view. We have to see the implementation part of it.

**Shri Morarji R. Desai:** Show me any instance where there has been punishment which is against law or unjust in that sense. I would like to have one instance of that kind. Then you will be justified in drawing this conclusion.

**Shri Indrajit Gupta:** In the memorandum, paragraphs 6 and 7(1), you have said that the provisions of Clause 36A (d) go counter to the terms of the tripartite agreement of 19.10.1966. In para 7(1) you have quoted at great

length. These items which you have listed in paragraph 7(1) have been acts of misconduct under the existing standing orders of the banks. Are these uniform in all banks?

**Shri Sekhri:** Yes, except in the State Bank and the Reserve Bank.

**Shri Indrajit Gupta:** According to what you have quoted, almost all possible offences that one can imagine are covered here.

**Shri Morarji R. Desai:** That is only by agreement. That does not become an offence.

**Shri Indrajit Gupta:** What happens to a bank employee or employees if there is gross misconduct?

**Shri Sekhri:** They are liable to be prosecuted under a certain section of the I.D. Act. The bank can punish them amounting to dismissal. And the Court may levy a fine or even imprison them.

**Shri Indrajit Gupta:** Then, what is the need for 36AD?

**Shri Sekhri:** That is why I say these are not necessary.

**Shri Morarji R. Desai:** He says that these are not necessary.

**Shri Indrajit Gupta:** You mean that there is distinction between something being done inside and outside the premises. And this act of misconduct etc. in the standing orders covers many things which can happen inside the premises too.

**Shri Morarji R. Desai:** He is opposing it.

**Shri Indrajit Gupta:** Why is he opposing it?

**Shri Morarji R. Desai:** He says that these are provided for already in another Act.

**Shri Indrajit Gupta:** Some suspicion has arisen. That is why you want something of that kind on top of it.

**Shri Sekhri:** If I may draw your kind attention to this, holding of peaceful demonstration or peaceful agitations is a legitimate weapon of a democratic trade union movement. This has been guaranteed under the Constitution and in various enactments & so I request the deletion of this section present legislation and awards covers among other, acts of indiscipline and many other gross misconduct. We have quoted from (a) to (1) for which the punishment provided is dismissal. Under the I.D. Act, anybody who contravenes certain sections is punishable with imprisonment or fine or both. Then we say that there are many acts which can be termed as 'misconduct'. Then, refer on to other sections in chapter VI of I.D. Act dealing with offences. They are all covered under the Indian Penal Code. I have explained at length various offences in my memorandum.

**Shri Indrajit Gupta:** That means these are more exhaustive.

**Shri Sekhri:** That is why I say that all these acts of misconduct and offences etc. have been already covered in the Indian Penal Code. & I. D. Act

**Shri Morarji R. Desai:** Then, why are you objecting to this? If there be one more section provided for, why are you objecting?

**Shri Sekhri:** No, Sir. There is a difference in any rule-making powers between the agencies. & their misuse.

**Shri Morarji R. Desai:** Here that relates to a particular offence.

**Shri Kamalnayan Bajaj:** You are arguing only for the employees. But here, it is said 'any person'. He may be an employee or he may not be an employee. The restrictions are not on the employees but on any person—not only the employee of the bank or association but on anybody. There are restrictions imposed or penalty imposed. Whatever you have quoted may be applicable to the employees or

the bank or to those who are governed by the association. Before the banks, anybody who commits nuisance of the nature which is envisaged has to be stopped—whether here the employee of the bank is also included is a different thing.

**Shri Sekhri:** That also is covered under the provisions of the I.D. Act. Under that Act, penalties are also provided for such offences.

**Shri Kamalnayan Bajaj:** Then, why are you afraid of?

**Shri Sekhri:** Any person who has committed a nuisance is covered by the penalties provided for in the Act. Those are provisions for the penalties against the workers as also against the employers.

**Shri Morarji R. Desai:** But, he is against this clause.

**Shri Sekhri:** But, there is no provision if an employer commits a breach of in settlement of the awards.

**Mr. Chairman:** Anyway we have heard you. And we can consider your views.

**Shri Samarendra Kundu:** Mr. Sekhri, you would kindly see 36AD and also your memorandum in which you have stated that you want these sections to be withdrawn for various reasons. I would like to have your views on this. In para I of your memorandum this is what you say:—

“(a) No person shall obstruct any person from entering any office or place of business of a banking company or from carrying on any business there.”

Suppose obstruction in the form of a satyagraha is there. What do you say to this? If obstruction is in the form of a satyagraha, that is with a view to furthering the legitimate demands of the workers. You resort to a certain satyagraha. Such an obstruction is not defined. Of course, there are general laws in the country.

Those who obstruct or detain any person will be taken care of and certain punishments are provided for. Here, a specific reference has been made. Do you feel that this can be made use of widely against the workers on flimsy grounds? Also when there is a question of slowing down of the work, that is also considered as one of the legitimate weapons of the workers, this provision can be made use of widely?

**Shri Morarji R. Desai:** Here I do not agree with you. Slowing down is not a legitimate weapon. And all over the world, they are punished. But, if this cannot be proved, then nothing can be done.

**Shri Samarendra Kundu:** I would like to have your opinion on this. Are you think that this cannot be widely used against the workers if they resort to satyagraha?

**Shri Sekhri:** I have already said so. I will not agree that go-slow tactics will be one of the legitimate weapons of the trade union movement.

**Shri Samarendra Kundu:** What about the other clause?

**Shri Morarji R. Desai:** He is opposed to this section.

**Shri Sekhri:** I am opposed to this section. Satyagraha or peaceful demonstration may be curbed.

**Shri Samarendra Kundu:** Please look to clause (b) of 36AD:

“(a) hold any demonstration (including shouting any slogan) which is indecent or which amounts to the commission, or incitement to the commission, of any offence, within the precincts of, or inside, any building.....”

Shri Sekhri, what is indecent has not been defined. And on any grounds, a complaint can be filed by the Reserve Bank.

**Mr. Chairman:** It is a hypothetical case which you have put in.

**Shri Morarji R. Desai:** It is a matter for the Court to decide as to what is indecent.

**Shri Samarendra Kundu:** In the initial stage, if a worker has behaved in such an indecent way, a complaint can be filed.

**Shri Morarji R. Desai:** He is objecting to that.

**Shri Samarendra Kundu:** He has not said so.

**Shri Morarji R. Desai:** He has said earlier that the word 'indecent' will involve anybody on anything.

**Shri Sekhri:** I have specifically said so.

**Shri Samarendra Kundu:** This could be used against peaceful satyagraha also.

**Shri Sekhri:** This can be exploited by certain quarters against legitimate trade union activities also.

**Mr. Chairman:** Who is to judge what is decent and what is indecent? The Court will decide that.

**Shri Samarendra Kundu:** This is a very important question. As Mr. Morarji Desai and Mr. Chairman say, the Court will decide that and so you need not worry. But what I am putting to you is, the Court also will be guided by certain facts and circumstances. When it has not been categorically defined, the first initial filing of prosecution can be done wildly on the ground that the man behaved indecently—he shouted loudly and that can also be an indecent act when it is not defined. In such circumstances, after filing of the complaint in the court, the litigation might go on for years. Would you conclude from this that in a way some sort of a garb to curb the legitimate activities of trade union workers and in an indirect way this clause has been introduced.

**Shri Sekhri:** I have already stated in my submissions that it will curb the legitimate trade union activities. These three clauses are covered in the light of my submissions already made before I pointed out the various offences either under the standing orders or under different enactments. I feel that they are bound to be mis-used.

**Shri Samarendra Kundu:** I will also draw your attention to Clause 3.

**Shri Morarji R. Desai:** He is objecting to that. Why do you want him to repeat it?

**Shri Samarendra Kundu:** I am sorry. It is clause 2. What do you think about the punishment which has been suggested here? Do you think it very much as compared to the degree of the offences? In a legislation for the kind of offence mentioned there should be a corresponding qualifying punishment. If it is not there then that legislation is a bad legislation. My personal opinion is this. When the legislation says that shouting of slogans is an offence, then the punishment should be corresponding to that, and not maximum punishment for this offence.

**Shri Morarji R. Desai:** Which Judge has given the maximum punishment?

**Shri Samarendra Kundu:** At that time you may not be there.

**Shri Morarji R. Desai:** I was also a judge. I had never done that. On the contrary even the minimum is not given.

**Shri Samarendra Kundu:** You might have been liberal then. Don't you, Mr. Sikri, think that the punishment is very high and excessive for the offence which has been mentioned in sub-clause (b)?

**Shri Sekhri:** I have already stated that these are already covered by various enactments. It will be very difficult unless specific instances are

made—instances which are minor and which are major, one way or the other.

**Shri Samarendra Kundu:** Should I understand you to mean that the punishment suggested is excessive as compared to the nature of offences?

**Shri Sekhri:** Yes.

**Shri Samarendra Kundu:** In the beginning you said that you are generally happy with this social control.

**Shri Sekhri:** We welcome, I said.

**Shri Samarendra Kundu:** You welcome and you are happy. Should I take it that you are happy because this Bill according to you speaks of complete nationalisation of the banks or you are happy because it has not just touched the question of complete nationalisation of the banks, but just touched the fringe, the first step towards the end?

**Shri Sekhri:** To my mind and to my organisation the present slogan of nationalisation is a political slogan. In view of the experience which we have gained from the public sector undertakings and with the existing machinery and environment it will be against the interests of the country as well as the banking industry to nationalise it. This (social control Bill) is a step forward—to control the banking institutions—for better economic development and to have a socialistic pattern of society in whatever manner it is possible to achieve. This is a step in the right direction—by suggesting measures for having effective control so that the banking institutions can give economic help to those sections of our economy like agriculture, cooperative sector etc. where such advances are not forthcoming from any other quarter, as needed.

**Shri N. Dandekar:** Last year there was awful lot of trouble in the various branches of Punjab National Bank

and year group of Unions scrupulously avoided participating in those things. I presume you did not participate because you objected, for instance, to obstructing any person from entering any office or place of business of a banking company or from carrying on any business there. You thought that this was wrong.

**Shri Sekhri:** That is correct.

**Shri N. Dandeker:** You did not like to participate in those things because you objected to holding any demonstration (including shouting any slogan) which is indecent or which amounts to the commission or incitement to the commission of any offence as mentioned in sub-clause (b).

**Shri Sekhri:** Yes. My unions throughout the country have been objecting to certain things in a very peaceful manner and way, as shown to us by Mahatma Gandhi.

**Shri N. Dandeker:** You did not participate in these demonstrations because you thought that they were wrong: i.e. obstructing any person from entering any office or place of business of a banking company or from carrying on any business there or holding any demonstration (including shouting any slogan) which is indecent or which amounts to the commission, or incitement to the commission of any offence within the precincts of or inside any building in which the office or place of business of any banking company is situated. What I want to ask you is, when your unions scrupulously refrained from participating in acts which you considered were offensive, why do you object to the law stating that these are offences and what is wrong in the law stating them as such?

**Shri Jyotirmoy Bosu:** Did you follow the question?

**Shri Sekhri:** I have got 23 years experience in this; 23 years of trade unionist career at my back. We submit that many actions are part of

genuine, constructive and health, trade union movement. But at the same time we honestly and urgently feel that in view of the past experience of certain banking encouragements and certain officers of the Reserve Bank and Govt. who have not cared to implement certain provisions which led the Government of India today to bring such sections (36AD) in a Bill which is meant for social control, of banks. So we are strongly of the opinion that this will be used against those who have so far been working on Constitutional lines.

**Shri N. Dandeker:** I don't understand the precise usage to which you object.

**Shri Sekhri:** Well, precisely, there is a competition between two banks. There is one bank which is financing a particular organisation—giving money, giving typewriter, giving everything—so that it may come up against another bank which is number one or number two. There is a section of banks who are financing some sections. They are against these social control measures. They are financing certain elements whom they want to come up. If you look up, you will find so many people not doing any work and getting salaries for doing the work of a political party.

**Shri Morarji R. Desai:** Does it not follow from this that there is the necessity of a provision?

**Shri Sekhri:** Respectfully, Sir, no; because even during the last few years, even when the provisions were there, but these were not applied.

**Shri Morarji R. Desai:** It is not in the Banking Act.

**Shri Sekhri:** They were under the I.D. Act, they were in the Desai Tribunal, Shastri Tribunal, Sen Tribunal and Bipartite Settlement.

**Shri Morarji R. Desai:** I can very well understand that no Trade union can ever support this measure.



**Shri N. Dandeker:** I want to have your comments on the procedure suggested sub-clause (3)—“No court shall take cognizance of any offence punishable under sub-section (2) except on a complaint in writing made to it by the Reserve Bank or by any person authorised by it in this behalf.”

**Shri Sekhri:** The Reserve Bank is an employer. And the Reserve Bank officials cannot keep their house in order. If you look there are instances in the Reserve Bank which were never checked. So any employer can misuse the provisions against us.

**Shri N. Dandeker:** What would you suggest as an alternative?

**Shri Sekhri:** It is for the Government.

**Shri Morarji R. Desai:** Make it a cognizable offence?—Is that what you would suggest?

**Shri Sekhri:** That can be talked over, in a Bipartite or Tripartite meeting.

**Shri Samarendra Kundu:** Six months cannot be made a cognizable offence.

**Shri Sekhri:** There may be a separate law for labour relations.

**Shri Morarji R. Desai:** There is a provision for legitimate labour purposes. There is a safeguard for labour activities.

**Shri Indrajit Gupta:** I am just looking up your memorandum. Does your organisation hold that these provisions of 36AD are violative of the rights guaranteed in the Constitution? This is what you have written in para 6 of your letter.

**Shri Sekhri:** Not in the context in which you have put the question. What I mean is peaceful agitations, peaceful demonstrations and peaceful satyagraha.

**Shri Indrajit Gupta:** You have suggested that because of that you want this clause to be abolished?

**Shri Sekhri:** Yes.

**Shri Morarji R. Desai:** He wants it to be provided elsewhere.

**Shri Indrajit Gupta:** In other places—I do not like to quote the exact wording—you have said that the provisions which already exist under the Standing orders or in the I.D. Act have not been effectively implemented or enforced by the management, and by the Government, because they have been afraid of being pressurized or intimidated by some people.

**Shri Sekhri:** Yes. Some of them, not everybody.

**Shri Indrajit Gupta:** If that is so, do you think that a management which is so weak and so cowardly and panicky that it cannot enforce its own standing orders, can do that?

**Shri Morarji R. Desai:** That is a fact.

**Shri Sekhri:** You have put it in a different way. I said that the attempt of the bankers has so far been to go on increasing profits, never minding if there is an agitation and even if they have to pay a few lakhs by way of fringe benefit, etc. They are not very serious to implement all such things. So that will be the answer.

**Shri Indrajit Gupta:** Is it a fact that in big cities—not in all cities—like Calcutta or Bombay and so on, many of these banks are situated in a place where a large number of other commercial firms and so on are also situated—in the same building?

**Shri Sekhri:** Yes.

**Shri Indrajit Gupta:** The entrance for the building may be common?

**Shri Sekhri:** Yes. In most cases.

**Shri Indrajit Gupta:** What happens when the employees of some other firm or company which is situated in the same building, hold demonstrations for ventilating some of their grievances? Then, do you think that 36-AD can be applied?

**Shri Sekhri:** Yes. It is bound to be misused.

**Shri S. S. Kothari:** We have noted your objection to the sections; that they should be dropped, and so on. Can you suggest any amendments to these sub-sections (1), (2), (3) and (4)? There are so many words used, like "indecent," "credit-worthiness", "within ten metres from any entrance to or exit", etc. etc. Can you suggest any amendments to these clauses? You can send something.

**Shri Sekhri:** we did not consider and were hopeful that the Govt/Select Committee would drop Section 36AD. I will surely send something, if so required.

**Shri S. S. Kothari:** You just want them to be dropped?

**Shri Sekhri:** Yes. In all the Acts—even in the I.P.C.—different offences have different punishments. If you look into the memorandum, even in the Bank Award, as modified, there are certain instances which are gross, which are minor, and all that.

**Shri S. S. Kothari:** You have not imagined this aspect of the matter?

**Shri Kamalnayan Bajaj:** If the word 'indecent' is dropped, is your problem solved?

**Shri Sekhri:** If demonstrations within the premises are checked, I think; it is a step forward. Giving powers to employers—the Reserve Bank—will mean giving powers to one side only. So, if at all any power is to be vested it should be vested with the Government or an independent committee having representation from both the employers and the workers.

**Shri Kamalnayan Bajaj:** You know there are hundreds and hundreds of branches of many banks and the Reserve Bank's branches are very few. In a remote place where the Reserve Bank is not there if something of the nature happens and if the Reserve Bank alone is to take steps then the incident may go by default. Moreover, if an individual person comes to a bank and if he is abused and so on, the fundamental right of that individual to take action—whether it is man or woman—whether we should prohibit or limit his right or whether we can do that that he should be in a position to take action against the other group of people or the individual who abuses or restrict his/her free movement from going in or coming out of the bank's premises. If this is enlarged—instead of banks taking any action—if it is made a cognisable offence, will it satisfy you.

**Shri Sekhri:** The banks have already applied; in the Syndicate Bank, in the Indian Overseas Bank, etc. The bank had applied the existing provisions. Not only that they checked the demonstrations within the premises but also got injunctions. Demonstrations were checked and existing provisions were applied and results were there.

**Shri Kamalnayan Bajaj:** In the case of Punjab National Bank—in small branches—where the officers are one or two but the workers are many they have intimidated the officers. Sometimes they have gheraoed them. Not only that, even without having worked for the overtime and so on with compulsion they have taken the overtime signature from the Manager and so on. These things have happened in Punjab National Bank, in some of their branches. It may happen in other banks also. So to say that banks alone should be able to take action is not sufficient. It may be necessary some time that police—if they find that law is being broken and

it is necessary to take action—should be in a position to take action. Do you think so?

**Shri Sekhri:** Sir, my straightway answer will be that in those cases where bogus overtime is asked for or somebody is gheraoed punishment is already provided. Now gherao, on which the Government of India has taken the legal opinion, is not a weapon of trade union movement although a particular party may not agree to it, that is a different affair. But the country as a whole has said so that gherao is not a trade union weapon at all. It is not a peaceful weapon. So that can be taken care of by the existing enactments and as far as other things like overtime etc. are concerned in some cases, suspensions have been there and even in some cases the workers have been dismissed. So applying any other remedy than existing when other remedies are, I think, will only create industrial disharmony and if the law is there, the law is for everybody and showed not before one party.

**Shri Jyotirmoy Bosu:** Mr. Sekhri, I shall ask you a few questions and I request you to be very brief. Give me your impressions or reading about the word 'bank'. Whether it means a building; whether it means the controlling interests holding 1% shares; whether it involves the share-holders with 10% shares; whether it includes the workers, depositors who have dumped their money getting the return at the mercy of the people in control of the banks. How do you define it?

**Shri Sekhri:** In that larger context I will define that the bank has the interest of everybody, the depositors, share-holders, workers, the Government and the community.

**Shri Jyotirmoy Bosu:** Does Government come in the picture of private banks?

**Shri Sekhri:** Yes, because Government has to implement its policies and Five Year Plans.

**Shri Jyotirmoy Bosu:** You are not giving the workers a higher position in your list.

**Shri Sekhri:** I have said that the worker should be a partner.

**Shri Jyotirmoy Bosu:** When you talk about bank and its premises you include the workers also. They are not outsiders.

**Shri Sekhri:** They are the part and parcel of the institution.

**Shri Jyotirmoy Bosu:** How would you differentiate between peaceful obstructions, satyagrah and picketing from such satyagrah and picketing as was devised and brought by late Shri Mahatma Gandhi.

**Shri Sekhri:** I will not use the word 'obstruction'. By Satyagrah we mean 'voicing a voice and a legitimate voice'.

**Shri Jyotirmoy Bosu:** Let us call spade a spade. Satyagrah and picketing to my mind and to the minds of many others who would like to call spade a spade was a peaceful obstruction. Do you agree?

**Shri Sekhri:** I do not qualify the use of the word 'obstruction'.

**Shri Jyotirmoy Bosu:** Shri Sekhri, would you agree with me. Let us be frank and fearless. I am not talking as a politician nor I am asking as a politician. Would you not say peaceful obstruction is the same as satyagraha and picketing. Take your mind to the pages of Newspaper of thirties—Mr. Desai burning Manchester.

**Shri Sekhri:** Even if Mr. Desai would or would not have done that, I would say that Satyagraha is not obstruction.

**Shri Morarji B. Desai:** Mahatma Gandhi has described this in his own words when he was asked about picketing, etc. He said this must be prevented at all costs.

**Shri Jyotirmoy Bosu:** Mr. Sekhri, you are an intelligent man, knowledgeable man. You have a fair and open mind. You have read that teachers or professors of this country, without being divided, have raised a voice against entry of policemen to educational institutions. What is your re-action?

**Shri Morarji R. Desai:** It has nothing to do with the Bank. I am objecting.

**Mr. Chairman:** Mr. Basu, your questions should be to the point.

**Shri Jyotirmoy Bosu:** A Bank employee, according to me, is part and parcel of Bank Association. You are trying to treat him as a foreigner. You are trying to give him a groove which is undesirable. What are the sentiments of others should be known to us? I am within my right. Give me the chance to help this Committee as best as I can.

**Shri Morarji R. Desai:** I object.

**Shri Kamalnayan Bajaj:** I raise a point of order. When we are examining a witness, what the other members of the Committee talk, should not be discussed in the presence of the witness.

**Shri Jyotirmoy Bosu:** Is it in the terms of reference? I feel, in my opinion, this will help the proceedings of the Committee.

I am going to do this with very open mind. Have we certain intentions in our mind that we are going to allow this and not others?

**Mr. Chairman:** I think it is not relevant.

**Shri Jyotirmoy Bosu:** To my mind it is permissible to one set of workers and not to another set. Let it come on record that way.

**Mr. Chairman:** Do not stress it too much.

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**Shri Jyotirmoy Bosu:** You are handling one set of employees. I am trying to ask whether they have the same passion in their mind.

Next question: Mr. Sekhri, have you read the French Bank Nationalisation Rules of 1945?

**Shri Sekhri:** I have gone through it but at the moment I am not very conversant.

**Shri Jyotirmoy Bosu:** Do you feel that this Bank has tried to take only a part which is convenient to them?

**Shri Morarji R. Desai:** I have not seen this.

**Shri Jyotirmoy Bosu:** Next question: Do you approve of the idea that in each and every set of Board of Directors, there should be at least two representatives from the employees?

**Shri Sekhri:** Yes. I will not say one, two or four but our Federation has already passed a Resolution regarding representation in the Management.

**Shri Jyotirmoy Bosu:** In the Board of Directors—my question is clear.

**Shri Sekhri:** At all levels.

**Shri Jyotirmoy Bosu:** Now I come to Sub Section (c) 'act in the manner calculated to undermine the creditworthiness of any Banking Company'. Let us be frank about it. Would you not think that more of this has been done by persons who had been in the Directorial posts or upstairs as we have seen in the case of former Chairman—Shri Shanti Prasad Jain.

**Shri Sekhri:** I will submit, Sir, that all the reports on this point go to show that it was the Board of Directors who had been responsible.

**Shri Jyotirmoy Bosu:** Board of Directors have been more responsible

for this. Next question: What are the weapons in your opinion a worker in this country has to get speedy justice without spending any money against his employers if he feels that he had been given injustice.

**Shri Sekhri:** Are we talking of Bank Industry?

**Shri Jyotirmoy Bosu:** Each and every work in this country. Banking is certainly included in that.

**Shri Sekhri:** After the various decisions of the Indian Labour Conference and the Standing Labour Committees, in any organised industries, forums have been created where disputes are settled either under bipartite or tripartite machinery or, if any, where employers in a particular industry have not so far agreed to arbitration. There is adjudication. In many cases the delay has been there and the Trade Union movement has been asking all concerned that the delay should be minimised and arbitration may be forced at all levels. Coming to the Banking industry, right from 1964 August, we—my organisation as well as others—experimented for two years and negotiated. We are engaged to arrive at a successful settlement for 3 years which was the first in the entire industry in India and which is still operative. It was signed in October 1966 and after that major questions are being negotiated. It may be, the employers may not agree on various issues. But, by and large, the question of bonus, promotion policy and other questions are being talked to, and agreements and being arrived also in the Banking industry. The situation needs improvement. Arbitration or Trade Union actions is the alternative, when there are no agreements in disputes

**Mr. Chairman:** You can ask him about particular clauses.

**Shri Jyotirmoy Bosu:** Do you know in how many cases the employers

deliberately absented themselves from bipartite and tripartite conferences and in how many cases they did not implement the various awards?

**Mr. Chairman:** This is also not on the Bill as such. I have allowed you to put a number of questions which have no relevance. You can certainly ask any question on the Bill.

**Shri Jyotirmoy Bosu:** I expected the Chairman to be a little kind to me.

**Shri Morarji R. Desai:** There are other Members also.

**Shri Jyotirmoy Bosu:** These are serious matters.

**Shri Morarji R. Desai:** Who says they are not?

**Shri Jyotirmoy Bosu:** Do you feel or do you not feel that this Bill is going to interfere with the trade union rights? You can be quite frank and fearless.

**Shri Sekhri:** I have already replied that it is so and refer to what I have said in paragraph 6, subject to para 4 and others.

**Shri Jyotirmoy Bosu:** You have said that it does interfere.

**Shri Samarendra Kundu:** Don't you think that the provision of 36(d) will go against the Constitutional provision which guarantees the right of assembly and formation of union? 'Strike' which is a legitimate weapon may be interpreted as 'obstruction' and may militate against fundamental rights to form assembly or form union. What is your view on this?

**Shri Morarji R. Desai:** How is he qualified to give an opinion on the Constitutional provision?

**Shri Samarendra Kundu:** He can give his view.

**Shri Morarji B. Desai:** How? It is something which we have to consider among ourselves. He is not a lawyer. Are you a lawyer?

**Shri Sekhri:** No.

**Shri Samarendra Kundu:** He may not have a degree in law. But he would have consulted some lawyers before coming here. It is in that

sense that I have put the question. I have no more questions.

**Mr. Chairman:** Thank you very much.

**Shri Sekhri:** Thank you.

*(The witnesses then withdrew)*

*(The Committee then adjourned)*

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**MINUTES OF EVIDENCE GIVEN BEFORE THE SELECT COMMITTEE ON  
THE BANKING LAWS (AMENDMENT) BILL, 1967**

*Tuesday, the 16th April, 1968 at 14.30 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. 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, Deptt. 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.*

## WITNESSES EXAMINED

## I. India 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. T. K. F. Nariman—*Chairman Union Bank of India Ltd.*
  6. Mr. S. G. Shah—*Secretary, Indian Banks' Association.*
- II. Shri V. T. Dehejia, *Chairman, State Bank of India, Bombay.*
- III. Shri L. K. Jha, *Governor, Reserve Bank of India, Bombay.*

## I. 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.*

(The witnesses were called in and they took their seats)

Mr. Chairman: Before we start our proceedings, I would like to read before you the relevant rule for the benefit of the witnesses. Direction No. 58 of the Speaker says:—

“Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential, such evidence is liable to be made available to the Members of Parliament.”

Shri Morarji E. Desai: Do you want anything to be treated as confidential?

Shri Krishnaraj N. D. Thackersey: Mr. Chairman and gentlemen, on behalf of the Indian Banks' Association and on my own behalf, I wish to express our sincere thanks for the opportunity which this Committee has given us for explaining our views on the Banking law Bill. In fact, as we have already shown in both our memoranda, the banks have voluntarily implemented many of the main provisions of the Bill. Further, the banks have also shown by their ready and willing action that they are aware of a responsive mind to their social obligations and the needs of the weaker and vulnerable sections of the community. They have promptly taken up the challenge of financing agriculture and



have taken various measures to enlarge the scope of assistance to small-scale industries and exports.

Our submissions are, therefore, concerned mainly with the language and the drafting of the Bill whether they are likely to cause hardships in genuine cases or practical difficulties in the working of the banks and in the fulfilment of the objectives of the Bill.

Mr. Chairman, after sending our memorandum, we have made a small note and a summary of the recommendations. We have also deleted some parts of our memorandum and now this has been placed before the Committee. If you do not mind, we can begin from that memorandum.

Mr. Chairman: If that suits you, it is all right.

Shri Morarji E. Desai: They have given their case.

Shri Nariman: In the memorandum that we have submitted we have made certain suggestions and this abridged note deals with each item which has been mentioned in the memorandum. We have after due deliberation decided that the definition of small-scale industrial concern does not need any change, nor do we think that there is any change required in the definition of substantial interest. We have made certain suggestions in the original memorandum, but now we are withdrawing the proposed amendments.

Then there is this item about which we would like to make certain submissions. The Chairman of a Bank who is a wholtime executive is precluded from having any other interest. We humbly submit that there are various institutions like the IFC, IDBI, Unit Trust, LIC and also the proposed Agricultural Refinance Corporation and similar other organisations where the directorships are in public interest and are held in furtherance of public policy. We think that both from

the point of view of these organisations as well as from the banks' point of view the present arrangement may continue.

Then there is the point in relation to substantial interest of the Bank's Chairman. There must be a distinction made as far as the Chairman and other Directors are concerned, because the other Directors may be technocrats or professionals. Here, the Chairman or his family members may hold a certain percentage of shares in a small scale industrial concern. This should not be added to or regarded as his own interest. We request that specially the interests of his spouse or his minor son in a small scale industry may not be considered as his contribution.

Shri Morarji E. Desai: Is not the interest of the minor son the interest of the one who manages it? Who looks after the interests of the minor son—the father—and therefore it is his interest.

Shri Nariman: The major son of the Chairman might have started a small-scale unit and the chairman's spouse and his minor son may have some interest in that unit. This should not be considered as Chairman's interest. We are making the suggestion that the first four lines of the proposed amendment may be omitted.

Shri S. S. Kothari: Where is this point in your explanatory memorandum?

Shri Nariman: On page 2—item 6. I am sorry; this is in the note. Page 20 in the Explanatory Memorandum.

Shri N. Dandekar: The explanatory memorandum is of 45 pages, and it is dated today.

Shri Jyotirmoy Bose: This has been given today and we are expected to read it, digest it and come prepared for today's meeting.

**Shri Nariman:** We apologise that there has been some delay on our part.

**Shri Jyotirmoy Bosu:** Mr. Chairman, somebody seems to be intent in sabotaging the whole thing. This is very unusual.

**Shri Samarendra Kundu:** Mr. Chairman, you will realise that this is a very important matter. Things should not be hustled in such a fashion. Sometime should be given for us to study the memoranda circulated to us. The witnesses have departed so much from their original memorandum we want some time to study it.

**Shri Morarji R. Desai:** That means you have studied the original memorandum. Mr. Nariman, you could confine also to the original memorandum.

**Shri Jyotirmoy Bosu:** With the very limited resources I have in my upstairs, I am not able to digest everything at a time. We must have some time to go through the memorandum etc.

**Shri M. Thirumala Rao:** I think the witnesses can make a reference to the original memorandum.

**Shri Jyotirmoy Bosu:** Mr. Thirumala Rao, your job is a little easier than ours. Your point of view will be expressed by a group of people. We are the lone fighters, two, three of us.

**Shri Morarji R. Desai:** Are we here to fight or to consider the issues involved?

**Shri Jyotirmoy Bosu:** I am a very peaceful man.

**Shri Morarji R. Desai:** We are aware of that.

**Mr. Chairman:** Let us proceed now.

**Shri Morarji R. Desai:** What particular point do you want to emphasize?

**Shri Nariman:** Section 10-B, i.e. about the appointment of the Chairman as a whole-time executive. When the Chairman or a Director is elected, in some cases the Chairman and the Managing Director may be one and the same person. It is, therefore, necessary that this sub-section shall not apply in such cases where both the offices are jointly held by the same person.

**Shri Morarji R. Desai:** There is nothing of substance about it. It is only a question of drafting.

**Shri Jyotirmoy Bosu:** Mr. Chairman, are you allowing members to put questions now? Yesterday I was forbidden to do so.

**Shri Morarji R. Desai:** I have not put any questions.

**Shri Samarendra Kundu:** I would suggest that it is better that they finish their evidence, and on the basis of their evidence the members may make small notes and then put questions and cross-questions.

**Shri Morarji R. Desai:** I think it is better that questions are put afterwards; otherwise it will create a kind of confusion.

**Mr. Chairman:** Your case is fully stated in your memorandum; and if you have nothing else to say then I will ask the members to ask questions.

**Shri Samarendra Kundu:** It will not be proper to suggest like that.

**Mr. Chairman:** I have asked them a simple question that if their memorandum states their case fully they need not repeat it, and let the members ask questions.

**Shri Samarendra Kundu:** Let them explain something, which they would like.

**Shri Morarji R. Desai:** It would be better if you mention every time the clause.

**Shri Nariman:** Clause 5, section 20 (b). It is our suggestion that the prohibition against giving loans, advances or guarantees to directors should not apply where facilities are ordinary, normal and genuine and where the interest of bank directors in such concerns is not substantial and where banks have applied usual credit appraisal standards; in other words, where directors have only a nominal interest in the borrowing concerns, the facilities should not be denied to them. In order to give effect to the above suggestion it would be sufficient if the word 'director' occurring second time in sub-section 2(1) (b) (iii) in clause 5 of the Bill is deleted.

**Shri Morarji R. Desai:** You will be more quick in your presentation.

**Shri Nariman:** There are a couple of clarifications which we want to seek. The definition of the word "employee" which is occurring in section 10A(2) does not include persons who are paid fees or retainers by business or industrial houses.

The requirement for the resignation of the managing director on the appointment of a chairman under section 10B (3) should not be necessitated upon where both the offices are held by the same person.

**Shri Morarji R. Desai:** That you have made already.

**Shri Nariman:** That is our case. We would now be prepared to answer any questions.

**An hon. Member:** What about 36AD?

**Shri Nariman:** We have already stated our case. We have no further comments to make.

**Mr. Chairman:** Mr. Dandekar.

**Shri N. Dandekar:** I would like to come last, because I had the least time for study.

**Shri Indrajit Gupta:** It would first like to ask with regard to the new

provision that is sought to be made, viz. about the change that is being made for the first time in the Banking Regulation Act stipulating that the Chairman should be a whole-time executive. As I have understood from your memorandum and from your remarks just now, you are suggesting that in the case of such concerns like the LIC or the NIPC and so on, the position should be different, that exemption should be made in the case of these concerns. Don't you think that that would be defeating the very purpose of ensuring that the Chairmen are whole-time executives?

**Shri Nariman:** Well, Sir, the position is that even the present chief executives are appointed, and the present chairman is to be the chief executive. So from that point of view, I do not think there is going to be any difference in the way he is going to attend to his duties. Certain organisations, financial organisations, have an important bearing on the economy of the country and the commercial banks also have a lot in common with these financial institutions. If the Managing Directors are debarred from performing a useful function, it would only be depriving some of them of the expertise enjoyed by the commercial banks.

**Shri Indrajit Gupta:** But they can contribute expertise and knowledge without necessarily being directors of that organisation.

**Shri Nariman:** Usually as Directors they are more closely in touch with the development and working of those organisations.

**Shri Indrajit Gupta:** In any case you do not think this prejudices his role as a wholetime executive.

**Shri Nariman:** I do not think so.

**Shri Indrajit Gupta:** About section 36 AD—so far as I am able to make out from the several memoranda—is it not a fact that the type of activity or offence which is visualised

as being worthy of being penalised under this section are already covered very elaborately under the existing orders of the bank—that is, standing orders which are incorporated in the bipartite agreement between your association and the bankmen association—and why do you feel it necessary to have some additional powers like this?

**Shri Nariman:** Provisions of that Award cover only individual acts of indiscipline and would not be available to the management to remedy, a concerted action on the part of a large number of employees. In fact, the standing orders in banking industry do not provide for any remedy against mass action of employees. The clause suggested would, I feel, remove that lacuna.

**Shri Indrajit Gupta:** Would it still not be necessary to file complaints in the name of individual employees even though the action may be mass action?

**Shri Nariman:** Even under the bipartite settlement and various awards there are a number of provisions to take action. But the difficulty with the bank management has been that even when we try to take action in individual cases it results in mass disturbance which makes it impossible for us even to exercise the rights which we have been granted under these awards.

**Shri Indrajit Gupta:** How will this save it?

**Shri Nariman:** It will have a lot of salutary effect because then it becomes a cognisable offence.

**Shri Indrajit Gupta:** Do you think this provision will bring about peaceful relations or conditions in the industry? Under the standing orders the maximum penalty that could be given to an employee guilty of misconduct is that he loses his job. You want that in addition to his losing his job he should be put in the jail also.

**Shri Nariman:** We do not want to put anybody in the jail. We want that they should be prevented from doing what they are doing about.

**Shri Indrajit Gupta:** Do you think this present clause will do your purpose?

**Shri Nariman:** Yes.

**Shri Indrajit Gupta:** Is it not a fact that in some of the banks where the managements take to negotiate or discuss matters with the union which is representing the majority of the employees, there this kind of trouble does not take place generally. If Mr. Nariman is here he can tell me his experience of his own bank in Bombay.

**Shri Nariman:** I cannot speak of my bank. If I may be permitted to say of the industry as a whole, we had entered into bipartite settlement for the first time in the history of any industry on an all-India basis. After two years of negotiations we arrived at a settlement. We have paid them handsomely during the settlement and after the settlement. All that we ask for is a promise that we will have peace in the industry. Only if we have peace in the industry we can concentrate on the top on various things which are confronting us and which we have to face under the changed conditions. At the moment in most of the banks—this being an all-India problem—it is the chief executive whose time more or less is taken up by these labour problems. I, for one, would be the last person to see any employee being put behind the bars. But after doing everything, after persuading the banks to sit across the table, I do feel, the banking industry has not got what it bargained for. On the one side they have paid and have carried out their obligations and on the otherside, I do not think, there has been much that we can see as an achievement from the banker's point of view.

**Shri Indrajit Gupta:** Mr. Nariman, many other employers also complain about this problem. Do you think a special legal provision should be made only in the case of banks to deal with this question because that is what it amounts to.

**Shri Nariman:** If it can be extended to other industries it will be welcome. My feeling is that banking has a special part to play. It is a credit institution; a financial institution; it is the one on which the whole economy moves round.

**Shri Indrajit Gupta:** This clause does not relate to employees as such. This refers to any person who may be indulging in these activities. Is it not a fact—I myself have been witness to it—that in a bank sometimes the customers, say when your banking hours are from 10 to 2 p.m. and there are some customers waiting inside for some transactions which are not completed by 2 p.m., the clients of the bank started shouting and creating a scene inside the bank. They said: Since we have entered here before 2 o'clock, we should be dealt with. Then they insisted on going to the Manager's office. In such a case if you complain against them you do not mind this provision being applied to them?

**Mr. Chairman:** This is a question of opinion.

**Shri Indrajit Gupta:** This whole ream of papers contains only opinions.

**Mr. Chairman:** You may ask for 101 opinions. But kindly put a question which is directly relevant.

**Shri Indrajit Gupta:** This is relevant because any person can be guilty of causing disturbance. Do you visualise a situation in which the clients can also come within the mischief of this Bill?

**Shri Nariman:** I do not think we have come across such a case where

the customers have created such a disturbance.

**Shri Indrajit Gupta:** If that happens, not only customers, but anybody can be put in the jail.

**Shri Morarji R. Desai:** If he creates rowdyism there, not otherwise.

**Shri Indrajit Gupta:** Questioning credit-worthiness will also be interpreted as rowdyism.

**Shri Nariman:** The emphasis is on indecent behaviour.

**Shri Indrajit Gupta:** Do you know any case where any bank employee has lost his job for having lodged complaint against certain doings of the management though later when a Government—appointed commission went into them they found that those allegations were quite correct? But he never got his job again.

**Shri Nariman:** I know of a case. But I do not know how it has relevance to this.

**Shri Indrajit Gupta:** If it comes to the *bona fide* knowledge of a bank employee that the management is indulging in certain actions or activities which are detrimental to the bank or the public, he is not in a position to ventilate that or bring it to anybody's notice. He cannot do it because he will be accused of damaging the credit-worthiness of the bank. One prominent leader of bank employees lost his job though his allegations were proved to the hilt by the Vivian Bose Commission. But he lost his job because he ventilated those things. Will not this provision cover such things?

**Shri Nariman:** I think it will cover everything.

**Shri Kamalnayan Bajaj:** The Bill provides for policy making in Chapter II which says that the banking policy means any policy which is specified from time to time by the

Reserve Bank, etc. If you recall, the Reserve Bank had issued a directive that 80 per cent of the advances ought to be given to either industry or for import and export and 20 per cent should be restricted to the trade and this was done specially at the time of the busy season and trade suffered a great handicap at that time and that disturbed the economy of agriculturists because the traders were not able to buy the cultivators' stuff as much as they would have liked to. Simultaneously the banks' funds remained unemployed. Under such circumstances, do you feel that the banking industry should have a right to appeal to the Finance Ministry over and above the directive of the Reserve Bank?

**Shri Nariman:** The banking industry should only look to one master and that is the Reserve Bank.

**Shri Kamalnayan Bajaj:** If this one Master, namely the Reserve Bank, which administers the policy initiated by themselves are unable to see the reasoning because of some mistake, should be there not be a provision for appeal to the Finance Ministry in the interests of the country? I will give you another example. There was a directive by the Reserve Bank that on a particular day without giving notice to the clients the banks should freeze the limit to whatever it was at the banks. In many cases the hardships were such that the clients were not able to fulfil their commitments in the market. To safeguard against such harassment to the clients, should there not be some provision for appeal to the Finance Ministry?

**Shri Nariman:** It is for the people who suffer from hardship to appeal or to bring their case before them. But my opinion is that if there is to be discipline in banking industry it must be under one master. There may be some mistake or they may not carry out something both in the spirit and letter. But the aggrieved party has a right to bring this matter before the highest authorities. It is my

view—it is so in most of the countries—that we should be answerable or look for guidance only from Reserve Bank particularly now when we are having social control.

**Shri Kamalnayan Bajaj:** By and large you are right. In some cases there may be very harsh cases—may be knowingly and unknowingly—where they may take too technical a view or legalistic view even against the assurance given by the Finance Minister in the Parliament....

**Shri Morarji R. Desai:** Is it not a matter for us to discuss?

**Shri Kamalnayan Bajaj:** I was only trying to get experience.

**Mr. Chairman:** He has already replied to your question.

**Shri Kamalnayan Bajaj:** A Bill has been brought forward for social control with the objective that certain sectors should get encouragement. In the case of small-scale industry the limit was 7½ lakhs—which later became 15 lakhs. Though it has started as small-scale industry it can become a large industry. In that case would it be possible to help it because it started as a small-scale industry or do you think that the classification should be changed? If the classification is to be changed, then the banking industry suffers because they are not in a position to say that they have encouraged small-scale industry. If I remember correctly, even the Finance Minister while addressing the members of the Indian Bank's Association gave example of Soni of Japan how he grew from small-scale industry to a big one....

**Shri Morarji R. Desai:** How does all this arise?

**Mr. Chairman:** Kindly confine yourself to the clauses of the Bill.

**Shri Kamalnayan Bajaj:** There is a clause where restriction is made on the small-scale industries with Rs. 7½ lakhs as the highest limit. The power is given to the Reserve Bank that that limit can go up to Rs. 15 lakhs and so on. But, to-day, if a bank starts giving assistance to small-scale industries, say upto Rs. 7½ lakhs, in course of time, it may become Rs. 20 or 25 lakhs.

**Shri Morarji R. Desai:** But, how does this make a difference?

**Shri Kamalnayan Bajaj:** Because, they will be classified as small-scale industries. I think this would be a good point to know.

**Shri Morarji R. Desai:** Then others also will be there. That does not make any difference at all in this.

**Shri Kamalnayan Bajaj:** The difference is only this that you fix a ratio for the small-scale industries and so on. At any time it may go up.

**Shri Morarji R. Desai:** That will apply at that time, when this is given to the small-scale industry, how does this arise? I think there is some confusion in your mind.

**Shri Patel:** In a small-scale industry, when we start it, that does not require any financing.

**Shri Morarji R. Desai:** It has no relation with advancing of money.

**Shri Kamalnayan Bajaj:** All right, In Part II, there is a provision about taking over of the bank if it (fails to) comply with persistently the directive of the Reserve Bank. Do you feel that before the taking over of the individual banks by the Reserve Bank even after giving a hearing to them and even if the bank concerned is not satisfied, it should have right of appeal to the Finance Ministry? And whether you feel that such a thing should be done without taking the permission of Parliament.

**Shri Morarji R. Desai:** Parliament will be sanctioning this Act. Then it will happen and not otherwise.

**Shri Kamalnayan Bajaj:** That is true. But the power is given to the Reserve Bank. As it is, they will be in a position to discriminate.

**Shri Morarji R. Desai:** It cannot be given to the executive authority. To Parliament, there can be an appeal.

**Shri Kamalnayan Bajaj:** I am just trying to get their opinion about that.

**Shri Morarji R. Desai:** That is the need of getting the opinion from them. It is your opinion which is recorded.

**Shri Kamalnayan Bajaj:** But, we, as Members of the Select Committee; should have a right to know and then to come to our judgment in the light of their experience.

**Shri Morarji R. Desai:** If you are to come to judgment by that, certainly you can go on. I have no objection.

**Shri Kamalnayan Bajaj:** You have also mentioned that where there is an expertise knowledge which is involved, a director of the bank very often should also be a director of another company. Sometimes before he becomes a director of a banking company already the relation of a client and the bank is established. He comes as a director of the company much later with a very keen interest. In those circumstances, whether the expertise is available to the bank or not, the director concerned if he is not substantially interested, do you think he should be barred?

**Shri Nariman:** I have already expressed our view on this.

**Shri Patel:** As regards taking over of the banks, there is already a provision.

**Shri Morarji R. Desai:** He wants to go to Parliament. And he wants that a provision is to be made in the Constitution itself.

**Shri Kamalnayan Bajaj:** In a clause there is a phrase starting with 'where an employee or any person, if they create a disturbance within the building etc., etc.' There the word used is 'indecent'. Do you feel that the word 'indecent' should be continued or deleted?

**Shri Patel:** We have made a representation that it should not apply to the demonstration.

**Shri Morarji E. Desai:** They have suggested another wording.

**Shri Kamalnayan Bajaj:** In the list of the expertise knowledge for the directors, there is a mention about his qualification in agriculture, auditing, labour, economics and so on. Do you think that in the expertises, management and administration too should be included?

**Shri Nariman:** Banking finances are also included.

**Shri Kamalnayan Bajaj:** That may not necessarily be an experience in management and administration. They have special knowledge of finance, auditing of accounts and things of that nature. There may also be people in other fields. Management has come to stay. And without that, you cannot expand considerably. That is why I ask you whether in that list, knowledge in management and administration should also be included?

**Shri Nariman:** I don't think it will serve a useful purpose. The Chief Executive or Chairman is the one who looks after the management. This is number one. There are a large number of officers who have got to be trained in the management. I do not think that any individual sitting in the Board can contribute very much in this respect.

**Shri Jyotirmoy Bosu:** I want to ask brief questions. There may be a dozen questions or more. My first question is: Are you purely a body of employers in the private sector banking industries?

**Shri Nariman:** Foreign companies as well as subsidiaries of the State Bank of India are also members of our Association.

**Shri Jyotirmoy Bosu:** Do you feel whether the present banking laws regulations are sufficient for banking operations or not?

**Shri Nariman:** You mean the present ones. Well, I think that change is contemplated in the Bill itself.

**Shri Jyotirmoy Bosu:** I am asking your opinion as to whether the existing laws/regulations are sufficient for the banking operations?

**Shri Nariman:** Yes, Sir, But, for the new changes, I say 'no'.

**Shri Jyotirmoy Bosu:** How do you define the peaceful obstruction? How do you differentiate between satyagraha and picketing? Do you think that if you prohibit the peaceful obstruction of certain persons which result in hampering of work, that will amount to denying the fundamental rights are enshrined in the Constitution and also the rights of the . . .

**Shri Morarji E. Desai:** Is there any thing which can be termed 'peaceful obstruction'?

**Shri Jyotirmoy Bosu:** Yes, Sir.

**Shri Morarji E. Desai:** Peaceful demonstration is a term which is something new to me. I have to learn the language from you!

**Shri Jyotirmoy Bosu:** Now what you are doing is a peaceful obstruction to me.

**Shri Morarji E. Desai:** I am not obstructing at all. I am only helping you to ask further questions.

**Shri Jyotirmoy Bosu:** May I repeat my question? How do you define the word 'peaceful' obstruction? Would you differentiate as between a peaceful obstruction and the satyagraha and picketing?



Suppose a man sits down near your bank's counter with folded hands and says, "we are in distress; Mr. Client, be kind to us."

**Shri Nariman:** That will come under the standing order.

**Shri Jyotirmoy Bosu:** They are contemplating to make it an offence which will send the poor fellow behind the bars.

**Shri Nariman:** I don't think that is contemplated. We are not taking away any of the rights which are already there in the trade union movement. If you don't permit people to work, whether it is peaceful or otherwise, it amounts to coercion. Whenever there is any demonstration, one thing leads to the other at the heat of the moment. Though Satyagraha is different, it does not last very long. This is the general experience. You may have a case where there is complete peaceful obstruction. But that is rare.

**Shri Jyotirmoy Bosu:** You are only narrating your apprehensions. I am asking you how you would differentiate between peaceful obstruction and satyagraha and picketing?

**Shri Morarji R. Desai:** I am afraid we are exceeding the purpose of examination of witnesses. We are not here to take their interpretation of things. We want their opinion on these clauses.

**Mr. Chairman:** Mr. Basu, instead of asking his interpretation on these delicate questions, you may ask a brief question about this point.

**Shri Patel:** So far we have not come across peaceful obstruction.

**Shri Jyotirmoy Bosu:** I am unable to have uninterrupted opinion from the witnesses.

**Mr. Chairman:** Please try to be brief.

**Shri Jyotirmoy Bosu:** Coming to sub-clause (c) of Section 36 (AD)—act in any manner calculated to undermine the creditworthiness of any banking company, how many cases you have come across in which the Bank Directors and the managerial executives acted in this manner and what did you precisely do when you detected such cases?

**Shri Nariman:** This proviso was not there at that time, when these things might have occurred. But I don't have personal knowledge of such cases.

**Shri Jyotirmoy Bosu:** You have not heard of the ex-Chairman of the Punjab National Bank who had committed some offences.

**Shri Kamalnayan Bajaj:** Who was that, may I know?

**Shri Jyotirmoy Bosu:** The Chairman of the Punjab National Bank who was involved in a case which amounted to violation of foreign exchange regulations.

**Shri Morarji R. Desai:** He was acquitted by the Supreme Court. Therefore there was no offence. That is what decides ultimately.

**Shri Indrajit Gupta:** In the case of employees even after he is acquitted by the Court, action can still be taken against him under the standing order.

**Shri Kamalnayan Bajaj:** He was acquitted by the Court.

**Shri Jyotirmoy Bosu:** From the date of commissioning of this offence and the date of acquittal what did the bank authorities do?

**Shri Morarji R. Desai:** They could not do anything.

**Shri Jyotirmoy Bosu:** Mr. Chairman, the Kings can do no wrong in this country.

**Shri Morarji R. Desai:** As long as there is a King he can do no wrong.

**Shri Jyotirmoy Bosu:** Do you know of any other Banking Regulation Act of any country where provisions controlling the trade union rights of employees have been incorporated?

**Shri Nariman:** I have not studied all the Banking Regulations Acts.

**Shri Jyotirmoy Bosu:** You are the spokesman of the premier Banking association in this country. You must be aware of this.

**Shri Patel:** I don't know in which country it has been found necessary to introduce this type of legislation. We are concerned with laws in this country.

**Shri Jyotirmoy Bosu:** Do you know or do you not know whether there is such a provision in any of the Banking Regulations Act in the world anywhere? You say yes or no.

**Shri Patel:** No.

**Shri Jyotirmoy Bosu:** Do you think that it will be fair and proper to have certain number of employees' representative on the Board of Directors? You have talked about the changing conditions. You talked about the progress and development. Under these circumstances is this necessary or not?

**Shri Nariman:** I don't think the time is ripe for that, because the general attitude has to change. I don't think it will be desirable to do this now.

**Shri Jyotirmoy Bosu:** Nor did I expect you to agree.

**Shri Nariman:** I started my career as an apprentice, 35 years ago, and even now I am an employee. I can talk about this.

**Shri Indarjit Gupta:** That is why you don't have any trouble in your Bank.

**Shri Jyotirmoy Bosu:** You said in the beginning that you would not give your personal experience.

**Shri Nariman:** I am sorry.

**Shri Jyotirmoy Bosu:** Would you approve of the idea that there might be a Member of Parliament on the Board of Directors?

**Shri Nariman:** I am afraid I am not in a position to express any opinion on this.

**Shri Jyotirmoy Bosu:** Would you approve of the idea that the Government must have a nominee on the Board of Directors—Mr. Desai may not dislike this one.

**Shri Morarji R. Desai:** I don't dislike this.

**Shri Nariman:** The Reserve Bank has the right to appoint or nominate Directors. I think it will be only to the credit of the Bank if they behave in the manner in which they are expected and this proviso is not attracted.

**Shri Morarji R. Desai:** Even now it is in the existing Act. The provision is there already.

**Shri Jyotirmoy Bosu:** The point is whether they would like and welcome this step.

**Shri Nariman:** We will not prefer to have nominated members.

**Shri Jyotirmoy Bosu:** They want to fiddle with others' money.

**Shri Jyotirmoy Bosu:** Don't you agree that in all the banks the standing orders should be the same?

**Shri Nariman:** They are no different standing orders. They are all the same.

**Shri Jyotirmoy Bosu:** Mr. Desai has stated in his statement that "It has been clearly admitted that the resources of the banking system are not being equitably distributed in conformity with the developmental requirements and the private sectors are not

receiving their due share and that particular clients or groups of clients are only being favoured in the matter of distribution and growth."

**Shri Nariman:** Probably, we have to change the set-up in which we are working today.....

**Shri Jyotirmoy Bosu:** What I want to know is that according to you what Mr. Desai has stated is true and correct?

**Shri Morarji R. Desai:** According to him, it is so.

**Shri Jyotirmoy Bosu:** Next. "The banks have been functioning as very convenient links solely for the benefit of big monopolists who have closely kept their rigid control and influence in all respects."

**Shri Morarji R. Desai:** This is your statement.

**Shri Nariman:** The answer to this is the same which I have given to Mr. Desai's contention.

**Shri Jyotirmoy Bosu:** The term 'Social control' has to be clearly defined. Change of a few provisions of the existing law and introduction of a few new items and rules will not and cannot alter the basic structure of the present banking system. Would you agree with this statement?

**Shri Nariman:** I do not know whether I will be competent to give a reply to that question. But whatever is required and expected of the banking system in this country in the changed circumstances we will certainly carry out.

**Shri Jyotirmoy Bosu:** Do you agree that the chief executive of a bank must be someone from outside?

**Shri Nariman:** No, Sir.

**Shri N. Dandekar:** I want to make two or three preliminary comments so that you may follow my questions.

As far as I can see, the main provisions of this Bill can be grouped in four groups: first, provisions concerning the definition of banking policy and its implementation; secondly, provisions concerned with bank management—Chairman, Directors, auditors, employees; thirdly, those concerned with banking loans; and fourthly, an important provision, about nationalisation of banks in certain circumstances.

Now, I want to deal, to begin with, with the first group. I invite your attention to the definition of "Banking policy" on page 2 of the Bill. To the merits of the definition I will come later on but I invite your attention to it. I see that the present section 21 of the Banking Regulation Act is also concerned with the powers of the Reserve Bank in regard to banking in certain directions. Section 21 reads: "Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest or in the interests of depositors so to do, it may determine the policy in relation to advances to be followed by banking companies generally or by any banking company in particular, and when the policy has been so determined, all banking companies or the banking company concerned, as the case may be, shall be bound to follow the policy as so determined." Then sub-section (2) of section 21 says: "Without prejudice to the generality of the power vested in the Reserve Bank under sub-section (1), the Reserve Bank may give directions....". Then follow a number of things which the Reserve Bank can direct banking companies to do.

Now, the question is: Have you anything in mind as regards what precisely additional to this, the Reserve Bank can do under the new definition of Banking Policy which it cannot do already under section 21?

**Shri Nariman:** I think the powers vested in the Reserve Bank are wider.

**Shri N. Dandekar:** But what else do you envisage by this definition of Banking Policy under the proposed

insertion of the phrase 'banking policy' in sub-section (1) of section 21, which the Reserve Bank could do which it cannot do now?

**Shri Nariman:** I think, Sir, the reference is to the duties of the Reserve Bank rather than to its powers.

**Shri N. Dandekar:** I am asking a specific question. I may draw your attention to another aspect of it. Section 35A of the present Banking Regulation Act says: "Whether the Reserve Bank is satisfied that—(a) in the public interest; or (b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company....." What exactly can now be done which, under this existing provision cannot be done? Is there anything else which necessitates the insertion of "banking policy" here; if so, what is that? What is absent here, which should be provided for? There is another existing provision section, section 36 (1)(a) .—

"The Reserve Bank may—(a) caution or prohibit banking companies generally or any banking company in particular against entering into any particular transaction or class of transactions, and generally give advice to any banking company."

Now, the point I am trying to make is this: whether this definition of "banking policy" is redundant or does it mean something?

**Shri Nariman:** I do not think we have concerned ourselves with anything extra. Our study is from the point of view of how it is going to affect banks in their day to day working or whether it is going to cause some hardships.

**Shri N. Dandekar:** That is a frank answer. As far as you are concern-

ed this new banking policy does neither add nor does it detract anything.

**Shri Nariman:** I am not in a position to say anything.

**Shri N. Dandekar:** There is another provision concerning banking policy. I would refer to clause 15 of the Bill and the proposed insertion of a new section 36AE. The point really is this. Ordinarily, if anything is to be nationalised it cannot be done by an executive order, neither by the opinion of any particular officer nor the particular Ministry nor any particular Deptt. But here under this new section 36AE it is possible, upon the report of the Reserve Bank, for the Central Govt. by an executive order to nationalise banks wholesale one after the other. Now the question that I want to ask is this: How do you contemplate the nationalisation of anything,—in this case banks,—by executive orders.

**Shri Nariman:** This is a matter which we have not discussed. So, I cannot speak on behalf of the Indian Banks Association. But I feel this interpretation is correct. An executive order should not ordinarily take over institutions—whether banking or any other industry.

**Shri N. Dandekar:** Let me take you further. In this connection a decision of the Central Govt. on policy would mean a decision of the Cabinet. A decision of Cabinet on policy matter means a political decision. Political decision for nationalising by executive order is one aspect; and the other aspect is the anything well-established procedure that if you want to nationalise anything, you must do so by a specific enactment in Parliament.

**Shri Morarji R. Desai:** This is a specific enactment.

**Shri N. Dandekar:** This is an enabling power. This is an Act which gives the executive the power to nationalise.

Now, I go over to the second group of matters concerning management, the chairman, directors, various other elements in the managerial structure. First of all take the new section 36AD concerning punishment for certain activities in relation to banking companies. Here, I merely want to seek clarification of the answers you gave earlier. I take it that your point is this that where organised activities of the kind here referred to are concerned the banks are helpless in the matter of taking action under standing orders and that if organised activities regarding the actions referred to in this new section are not to be allowed, then there must be a deterrent of this kind which makes it a criminal offence?

**Shri Nariman:** What we want is peace in the industry to enable it to make its contribution to the various purposes which have been laid down by the Bill. In what manner it is achieved it is for the Parliament and people like you to decide.

**Shri N. Dandekar:** Will Mr. Trikha please give a brief account of the kind of things that went on in his Bank for nearly three months, so that the Members of the Select Committee may get a vivid picture of the same.

**Shri Trikha:** The agitation started sometime in August 1967 on a very minor point. Certain promotions were made from the posts of clerks, assistants, etc. to officers. By these promotions some of the members of the Union were promoted as officers. Thus, the membership of the Union was depleted to that extent. Out of 12,000 employees of the bank 500 were promoted as officers. The Union staged demonstrations. They went from office to office inside the bank premises, raised slogans, they went

from table to table, they did not permit the officers to work, they did not permit the customers to come in or go out, did not allow the cashier to make payments. They, in a sense, paralysed the whole business of the bank. They also went on hunger strike before the bank premises. All this went on for three months until we had to approach the police and the law and order authorities to maintain order. It is against this type of activity that we need some provision. It is not only a question of indecency. Even if the demonstration is not indecent it can cause obstruction. Nobody should be permitted to stage demonstrations in front of the bank premises. The Bill talks of 10 meters. This should be at least 100 yards from the boundary of the premises of the bank. Some of the banks have their own compounds. If these people are permitted to come inside the boundary and raise slogans and abuse the officers and other members of the staff, that disrupts the business of the bank. That brings the bank into disrepute. The business of the bank suffers. Not only that, the public may not like to come to that bank and may divert their business to other banks.

**Shri Kamalnayan Bajaj:** One small clarification. You just said that you promoted some of the employees. Was it compulsory or voluntary?

**Shri Trikha:** This was quite voluntary. We gave them offers saying that those who had put in a certain number of years of service and who wanted to become officers could accept the offers. This was not compulsory. About 500 opted to become officers. Yet the Union will not permit them to become officers.

**Shri Kamalnayan Bajaj:** Is it a fact that on the one hand the unions were insisting that you should not enrol officers from outside and on the other when you offered promotion to some of the employees they objected to it on the ground that their number will be depleted? It is strange.

**Shri N. Dandekar:** I said earlier I would come back to the definition of 'banking policy'. The definition of the term is like this:

"banking policy means any policy which is specified from time to time by the Reserve Bank in the interests of the depositors or of the banking system or in the interests of monetary stability or sound economic growth, having regard to the volume of deposits.."

I wonder whether you interpret it as I do that if any of the other considerations were to be operative, banking policy could well be against the interests of the depositors as well because 'or' is used in the definition.

**Shri Trikha:** I agree that it should be 'subject to the interest of the depositors'. It should also be subject to the interests of the depositors.

**Shri N. Dandekar:** Now I come to the provision relating to management.

**Mr. Chairman:** How much time will you take?

**Shri N. Dandekar:** I said yesterday that I would take more time.

**Mr. Chairman:** My difficulty is that we have given definite time to the witnesses.

**Shri N. Dandekar:** I do not mind if you call them again.

**Shri Samarendra Kundu:** You will realise that very pertinent questions are being put.

**Mr. Chairman:** I realise that. You will also realise that the State Banks and Reserve Bank people are waiting outside.

**Shri N Dandekar:** I have a great many questions to ask on bank

management and loans. Let them come on the 18th.

**Shri Samarendra Kundu:** We will request you to give us enough time.

**Shri Trikha:** Some of us can come on the 18th. Some of these gentlemen come from Bombay and Calcutta. I only am from Delhi.

**Shri N. Dandekar:** I hope Mr. Nariman will be able to come. All of you, if possible, or at least as many of you as can come.

**Mr. Chairman:** You will please come on the 18th at 14.30 hours.

*(The witnesses then withdrew).*

**II. Shri V. T. Dehejia, Chairman,  
State Bank of India, Bombay**

*(The witness was called in and he took his seat).*

**Mr. Chairman:** I am glad to welcome you. We have a practice under which I have to read out Direction 58 from the Directions of the Speaker:

"Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and it is liable to be published, unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament."

Would you first like to state your case?

**Shri V. T. Dehejia:** If you permit me, I shall state my case quickly. And if there are any points, I can clarify them.

**Mr. Chairman:** But be brief.

**Shri V. T. Dehejia:** I have only a few points to make. Clause 29 of the Bill amends Sec. 33 of the State Bank of India Act. The amendment of Sub-clause (XIXb) of the parent Act, that is, the State Bank of India Act, says that the period of six months may be changed to 12 months. This is all right. The maximum period permissible under the parent Act is ten years. I may mention that some of the industries which would require a large capital and whose repaying capacity starts later, ten year period is not sufficient for repaying the medium-term credit. I would therefore suggest that the maximum period may be taken from ten to fifteen years. The original phrase says 'in excess of six months but less than ten years'. The phrase may be 'in excess of twelve months but less than 15 years in section 33'. An amendment is made to sub-clause (ii) of clause (b) of sub-section 3 of section 34. But, a consequential change in the proviso to that sub-clause has not been included. It seems to me that that change is also necessary because the proviso also has the same phrase, that is, 'where the instrument is for less than six months'. These are the two minor points which are in relation to the State Bank of India Act.

I will now deal with the general points which have been made concerning the Banking as a whole in the Bill. Under Section 5 of the Banking Regulations Act, there are definitions and some new definitions are being inserted. One is about the substantial interest. So far as I can make out, this definition is mainly an applicable to industries where the interest is of Rs. 5 lakhs or 5 per cent whichever is less. In respect of most of the industries, this is all right. But, in respect of marginal by small industries, this 5 per cent becomes a very low limit. Rs. 7.5 lakhs is laid down as a minimum limit for small industries or Rs. 15 lakhs as the maximum limit permissible by notification. But five

per cent of it will be too small. Whether it would be possible to consider for a higher limit for a substantial interest in respect of small industries is one point.

**Shri Morarji B. Desai:** How much should that be?

**Shri V. T. Dehejia:** In respect of a small industry 5 per cent comes to only Rs. 37,500. In respect of Rs. 80 lakhs, that comes to Rs. 40,000 which is a small amount.

**Shri Morarji B. Desai:** The amount will not be the same.

**Shri V. T. Dehejia:** But, the proportion is same. The question is to what extent, the interest may be substantially more. Rs. 50,000 will not be such as to influence the person's views on lending. So, I want to know whether it would be possible to have some exemption in favour of medium industries. Whether the limit can be beyond the limit prescribed in the definition is my point. It can be done by saying 'whichever is less but upto Rs. 1 lakh.'

**Shri N. Dandekar:** Suppose, in this definition 'substantial interest' instead of 'whichever is less' it was said 'whichever is more' would that be all right?

**Shri V. T. Dehejia:** I thought of the phrase 'whichever is more' at one stage. But, some industries employ a much larger capital. There are three different limits.

**Shri Morarji B. Desai:** Could the maximum be Rs. 1 lakh?

**Shri V. T. Dehejia:** I want that sort of thing so that at least the medium group will not be affected by the limits. The whole purpose behind this Bill, so far as I can make out is to sever the ties between banking companies and industrial houses. When we talk of industrial houses, we do not think in terms of numerous industries which are based on small

and medium scale. Rather they are big industrial houses employing a capital of Rs. 10 lakhs, 15 lakhs or 20 lakhs.

**Shri N. Dandeker:** Would it help in regard to 'marginal cases' if it is said 'if the net investment in plant and machinery that is to say, the gross value less money borrowed for the purpose by that industry'? The plant and machinery may be worth Rs. 10 lakhs while the borrowed money may be Rs. 5 lakhs. So, the net investment may be Rs. 5 lakhs. Keeping this limit as it is, would it not be all right if we inserted the word 'net' before the words 'investment in plant and machinery, etc.'?

**Shri V. T. Dehejia:** The question is from whom has the man has borrowed? If it is borrowed from an institution, it is in a different category.

**Shri N. Dandeker:** Suppose we say 'from a banking company'.

**Shri V. T. Dehejia:** If it is from a financial institution, then the interest of the individual person might be in a different category.

**Shri N. Dandeker:** Let me put it this way. Qualifying the words 'net investment' if the words 'if the party has borrowed from a banking company or a financial institution' are added, would it be all right?

**Shri V. T. Dehejia:** I have suggested a way out. We can put down some small limit which may be taken as the basis which will not disqualify a person.

I shall pass on to 10 A which has been introduced by Clause 3 of the Bill. It lays down that not less than 51 per cent of the total number of members of the Board will have special knowledge of various things. I think it is quite a fairly exhaustive list which has been drawn. The list

can also be expanded by the Reserve Bank. But it has occurred to me on going through the clause that the people who have actuarial knowledge will be useful to banks. I was thinking whether it could possibly be added to the list straightway. A case is made out to the Reserve Bank that the actuaries and engineers would be useful to a number of technological industries. Since specialised knowledge of engineering and actuarial science would be useful for these industries, I feel that these may be added to the list.

**Shri Kamalnayan Bajaj:** Do you envisage that the knowledge of administration and management would be also advisable?

**Shri V. T. Dehejia:** It is difficult to define these terms. But a specialised knowledge can be easily judged.

**Shri K. C. Pant:** But will not the actuarial subject come under Finance.

**Shri V. T. Dehejia:** I thought so too as first. We have however put down accountancy separately. Finance is a larger umbrella which would cover different aspects of finance. If we put down accountancy, I wonder why actuarial subject too could not be put down on the same line as has been done here.

**Shri M. Thirumala Rao:** I would like you to enlighten us as to whether cooperation, economics, finance and banking are all allied subjects? Or are they separate subjects? Is there any specialisation done among the directors? I want to have your opinion on this. From practical experience in life whether these categories of experts could come in there. I do not know how the banking industry will develop.

**Shri V. T. Dehejia:** Banking has a lot to do with the cooperative movement and cooperative movement has a lot to do with financing.



**Shri M. Thirumala Rao:** Co-operation is different; finance is different. How these contributory things have a bearing on this?

**Mr. Chairman:** Let him finish first. I will allow questions later on.

**Shri V. T. Dehejia:** Now I will come to sub-clause (2) (b). The whole purpose of this Bill is tied up with what is to be done here. Here one would like to know whether the intention behind the legislation is to rule out the small trade or business completely. A lawyer may also have a small business. The cooperative man may have a small business. Here, suitable amendment of the definition of 'substantial interest' or deletion of trade and commerce from this clause would be of great help.

After that I come to Clause 4—Section 16—Line 25. This section debar certain persons from being directors of a Bank. Under Section 20 it has been provided that when certain loans are not repaid the person concerned will cease to be a Director. It seems that it is necessary to provide under Section 16 also that such a person will not be eligible to become a Director. For a person may cease to be a Director under one section for a day and immediately on the next day he may be co-opted if there is no bar to it. That will defeat the purpose of the Section itself. It seems necessary to provide that so long as the borrower company has any loan to be repaid to a bank, the Director of that company cannot become the Director of the Bank. This can be amended suitably.

Then, under clause about restrictions on loans and advances, the draft as it stands would debar money being given by the State Bank of India to its subsidiaries or money being given by its subsidiary banks to the State Bank, because there is no exemption given for this purpose. It will be desirable to provide for

this sort business. There is only one point. Some Directors of a Bank may also be Directors of Government companies. There is no tie as such because the Director of a Government company is really interested in proper running of the concern and has no personal interest. It may be desirable to exempt Government companies and public sector undertakings from this. Then, it does happen that the Director has some money in a Fixed Deposit and he may want an overdraft for a temporary short period. Though it is technically a loan, it is not really a loan; it is only short-term accommodation. This should be exempted. In the same way, advances against Government securities should also be exempted. A person who wants an overdraft against his Government securities provides the fullest security. With this exemption the Government securities also will become a little more popular. Two exemptions are desirable—fixed deposits and Government securities. Both these exemptions could be given effect to without in any way affecting the spirit. I also wonder whether an exemption should not be made in favour of a small-scale industrial concern. I quite realise that the Director who has substantial interest in a small-scale unit can borrow from other banks. But it is not easy for a small man to change his bank. The State Bank has 18000 small-scale units on its books. We have nursed them over years. We know their handicaps; we also know what they will achieve. It might be difficult for them to go to other banks for the purpose of borrowing. I think it is necessary to see that the small industries are not seriously affected. If you will notice, in Section 10A(2)(b) we have referred to employee, manager or managing agent, but we do not refer to a Director there, even though the Director does not have substantial interest. I wonder whether a Director without substantial interest or having only a nominal interest could not be exempted in section 20 also.

Now about Section 36(AD) which is proposed to be introduced on which the Bank employees in the country went on a token strike on 28th February, I am of the view that a provision on these lines is essential. But the clause as it stands requires some changes. Sub-clause (a) says "obstructs any person from entering any office or place of business of a banking company or from carrying on any business there.....". There is an obvious lacuna. There is no provision about leaving the place. There should be provision on this—no person shall obstruct any person from leaving... Then, it is perhaps proper to mention as follows here: "... from carrying on any legitimate business". If it is not mentioned specifically it might be used against the management on frivolous grounds. In (b) it is said "hold any demonstration which is indecent within the precincts of inside...". We may say here, "... any demonstration inside and not restrict demonstrations inside only when they are indecent. Then the word 'indecent' is a very indefinite term. The employees will say that there can be decent demonstration inside the premises, which is not proper. This should be properly amended. Demonstrations inside the bank should not be allowed, particularly demonstrations which are likely to disturb the working.

**Shri Jyotirmoy Basu:** Demonstrations, decent or indecent?

**Shri Morarji R. Desai:** Demonstration itself he objects to.

**Shri V. T. Dehejia:** At the moment, I am talking of demonstrations *per se* within the precincts, any demonstration or any rowdy demonstration or demonstration affecting the work.

**Shri Jyotirmoy Basu:** Supposing I have to wait for half-an-hour for encashing a cheque—I have done this many times. If I withdraw my account and tell the manager, 'you have been using my money and made profit out

of it; you do not deserve it; so close my account'. Will that be a decent demonstration or an indecent demonstration?

**Shri Morarji R. Desai:** It will not even be a demonstration.

**Shri V. T. Dehejia:** Even that would not be a demonstration if you only shout.

**Shri Jyotirmoy Basu:** I have done it a number of times.

**Shri V. T. Dehejia:** That cannot be a demonstration. But when any client becomes very hard on them, the Bank would be glad to get rid of him.

**Shri Morarji R. Desai:** Withdrawing an account does not mean demonstration.

**Shri V. T. Dehejia:** About punishment, there are numerous instances given in the Penal Code where trifling acts do not amount to an offence. Take, for example, embezzlement. The punishment may extend to six months or with fine or both. The punishment will depend on the circumstances in which the offence is committed.

**Shri Indrajit Gupta:** In addition to dismissal.

**Shri Morarji R. Desai:** If a man embezzles money, then he will be dismissed and prosecuted also.

**Shri Indrajit Gupta:** How you put this embezzlement on par with that?

**Shri Morarji Desai:** It is worse than that.

**Shri V. T. Dehejia:** I would suggest that these offences may be tried by a First-class magistrate only; so it would not be lightly done.

Secondly, the complaint may be by any person. It need not be by the Reserve Bank. The complaint may be by any party who has been obstructed from doing his business or anybody else. These are my two suggestions.

Whether the demonstration is outside the law and order will take care of it.

**Shri Kamalnayan Bajaj:** What about the distance?

**Shri V. T. Dehejia:** Well, I may say that within 10 metres of my place there is the Bank of Baroda. Or, within 12 metres there is the Bank of Allahabad. Now, a variety of things can happen in the area. I personally think that we have to depend on the place. The question is that it should not be a reasonable obstruction.

**Shri Kamalnayan Bajaj:** The Election Commission generally provides 100 metres from the polling stations on the polling day.

**Shri V. T. Dehejia:** I think I have finished my major remarks. Now, I would like to make two small points.

In clause 6, on page 9, section 21 is being amended by inserting the words "or banking policy" after the words "In the interests of depositors". When we take the banking policy, we also take the interests of the depositors as included in the banking policy. So, in my opinion, that is not necessary.

Similarly, when we come to banking policy, in the last two lines it says: "...for equitable allocation or efficient use of...." So far as I think, what is really meant is what the phrase "economic growth" has already provided for. So, here equitable allocation probably is the implication of balanced economic growth, i.e., agriculture, industry, and planned production etc. So, the use of these two would not be better.

I have finished.

**Shri Indrajit Gupta:** What is the number of employees of the State Bank of India?

**Shri V. T. Dehejia:** 48,000 as on 31st December.

**Shri Indrajit Gupta:** What percentage does that constitute of the total bank employees in the country?

**Shri V. T. Dehejia:** Of roundabout 2 to 2½ lakhs or so..

**Shri Indrajit Gupta:** State Bank is the largest single employer?

**Shri V. T. Dehejia:** Yes, beyond a shadow of doubt.

**Shri Indrajit Gupta:** Then, in your relations with the trade unions, have you ever had such a type of experience that leads to support that section 36AD is necessary?

**Shri V. T. Dehejia:** I think so. I will give an illustration. In July 1965 we were holding a celebration on the occasion of the first decade of State Bank and just before that the Bombay Union thought they would have demonstrations. They were shouting slogans and I was sitting in my room. Then they started coming up the stairs. They entered the office. I came out and told them that they would not proceed further to this limit. They will not come inside the office. So at that time with the help of other officers I was able to prevent their entry. I had talks with their representatives. They said they had a right of demonstration inside the office. One of them told that in 1964 they had gone round shouting slogans when the Board was meeting.

**Shri Indrajit Gupta:** What was their reaction when you explained that they had no right?

**Shri V. T. Dehejia:** They accepted that they would not demonstrate within the premises. It was because of the good relations between me and the Union.

**Shri Indrajit Gupta:** Is it your opinion that the standing orders are inadequate to deal with the stray incidents like this?

**Shri V. T. Dehejia:** My predecessor could not deal with them. That shows the present provisions are not sufficient. Further there are a number of unions, some recognised and some not. Some are unions only in name. These unions often behave in an irresponsible manner.

**Shri S. S. Kothari:** Mr. Dehejia in accordance with this clause regarding definition of banking policy it is stated that "The Reserve Bank may give directions to you in accordance with equitable allocation of resources...", i.e., the Reserve Bank may direct a specified percentage of loans to be given to a particular sector, say, small scale industries and if you do not find customers with the adequate security—with your better judgement as a banker—how would you comply with the Reserve Bank's request.

**Shri V. T. Dehejia:** I have known the Reserve Bank at least for the last three years and I can say the Reserve Bank considers all these questions when giving a directive. They will give a directive when there is a reasonable hope of its being achieved.

**Shri S. S. Kothari:** What difficulties have you experienced in the past with regard to loans being given to agriculture sector?

**Shri V. T. Dehejia:** We have given Rs. 183 crores to cooperative-cum-rural sector primarily for agriculture.

**Shri S. S. Kothari:** Would you be in favour of Government guaranteeing loans given by you to certain sectors?

**Shri V. T. Dehejia:** There is already a guarantee in respect of small scale industries.

**Shri S. S. Kothari:** You have suggested both Co-operators and Accountants.

**Shri V. T. Dehejia:** No, somebody may have accountants and some may have co-operators.

**Shri S. S. Kothari:** Would you agree to the deletion of the word imprisonment or penalty of imprisonment for employees.

**Shri V. T. Dehejia:** Actually it is a question of the existence of a deterrent punishment. It may be that nobody may have to go to jail but if there is some deterrent like this it will be good.

**Shri N. Dandekar:** Mr. Dehejia I was interested in what you said about clause 5 of the Bill inserting a new section 20 concerning the grant of loans or rather prohibition of loans to certain categories in which certain interests exist. There will be three types of prohibited loans; namely loans to

- (i) any of its directors, or
- (ii) any firm or company in which any of its directors is interested as a Director, Managing Agent, partner, manager, employee or guarantor, or
- (iii) to any concern in which Directors have a substantial interest.

Now these are cumulative prohibitions in regard to granting of loans. I suggest the grant of a loan to a concern in which a director has interest only as a director should not really be the criteria but the extent of his interest should be the criteria.

**Shri V. T. Dehejia:** If one is a no director with nominal interest that need not disqualify.

**Shri N. Dandekar:** In other words a borrowing company of which the director of a bank is also a director need not be disqualified from borrowing merely because it has a director of a bank as its director.

**Shri V. T. Dehejia:** Unless he has substantial interest.

**Shri Morarji R. Desai:** May I know if any Director is not interested in a company, why is he a Director there?

**Shri N. Dandekar:** I happen to be in a number of companies.

**Shri Morarji R. Desai:** Are you not interested in them?

**Shri N. Dandekar:** Trifling. This is what I wanted to know from him.

**Shri V. T. Dehejia:** A Solicitors' firm nominee represents merely the legal part. With any substantial financial interest. It has only a nominal holding. They supply the legal knowledge. That is all.

**Shri N. Dandekar:** Merely because a man is a director of a company—should this disqualify it for a loan?

**Shri V. T. Dehejia:** The term 'substantial interest' will have to cover this thing. Where the clause however falls short is this: The borrowing may be by a subsidiary of a company in which he is a director. The bank may give a loan to that subsidiary that will benefit the parent company also and a director with substantial interest is obviously interested. Here we have not said 'company or its subsidiary'.

**Shri Morarji R. Desai:** That lacuna is noted.

**Shri V. T. Dehejia:** Commercial companies also have subsidiaries. The director of a company may borrow for its subsidiary which gets a loan from the bank in which he is a director.

**Shri N. Dandekar:** What I wanted to say first of all was that merely being a director of the bank and director the borrowing company should not be a disqualification. My second point is this: Some companies already have banking facilities from a bank in which there is a common director. For instance, take the case of the State Bank. A number of companies of which a director of the State Bank is also a director have

banking facilities with that bank. Now would you say that an exception should be made where the borrowing record of the borrower is such that it is perfectly good? A number of companies....

**Shri V. T. Dehejia:** There are quite a few loans by banks to companies which are undesirable. If that has to be cut out, some provision has to be found.

**Shri N. Dandekar:** Supposing we say in sub-clause (2) relating to the continuity of existing loan "where the Reserve Bank so requires"?

**Shri V. T. Dehejia:** I wonder whether it will be a practical solution.

**Shri N. Dandekar:** Why? Every inspection report of the Reserve Bank specifies the interests.....

**Shri V. T. Dehejia:** I am afraid it is not so. The Governor of the Reserve Bank is coming after me. He will explain this. From what I know about them, they do not have either the means or the inside knowledge of these things.

**Shri N. Dandekar:** I have seen their inspection reports commenting on these.

**Shri V. T. Dehejia:** I have known of cases where what was turned down by the management of the bank being sanctioned by the Board later. I do not want to go into individual details. Reserve Bank has not been able to prevent it.

**Shri N. Dandekar:** Suppose we make a provision on the lines on which I suggested?

**Shri V. T. Dehejia:** I do not think it will be practical. Let there be an independent examination by another body.

**Shri N. Dandekar:** Under sub-clause (2) I want to suggest that the loans

that ought to be moved out should be loans which are of doubtful character.

**Shri V. T. Dehejia:** It will be difficult to prove one way or the other. In that case you will also be throwing doubt on particular director. That is why the general provision is there.

**Shri N. Dandekar:** Because of a few bad cases, you want the whole lot to be treated like that.

**Shri V. T. Dehejia:** Here I differ. It is not as if they are very few.

**Shri N. Dandekar:** State Bank have the largest number of companies in which directors are common directors. In terms of percentage it is an avalanche.

**Shri V. T. Dehejia:** I have got the percentage.

**Shri N. Dandekar:** Would you say that a majority of those loans are bad loans?

**Shri V. T. Dehejia:** State Bank has a particular by high standard in giving loans. The same does not apply to other banks.

**Shri N. Dandekar:** The standards will differ. I take it that State Bank loans are all good loans....

**Mr. Chairman:** Please conclude now.

**Shri N. Dandekar:** Without finishing the questions?

**Mr. Chairman:** The Reserve Bank Governor is coming at 5 P.M.

**Shri N. Dandekar:** Mr. Dehejia may be requested to come on the 18th.

**Mr. Chairman:** We cannot go on asking every witness to come again. I can only request you to be brief.

**Shri N. Dandekar:** I am brief. But I have to cover all the points.

**Shri Morarji R. Desai:** He can come on the 18th.

**Shri V. T. Dehejia:** On the 17th and 18th I will be busy. On the 19th I can come.

**Mr. Chairman:** On 19th by about 4 P.M.?

**Shri V. T. Dehejia:** Any time 2.30 or 3.30 whichever suits you.

**Mr. Chairman:** Thank you.

*(The witness then withdrew)*

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### III. Shri L. K. Jha, Governor Reserve Bank of India

*(The witness was called in and he took his seat).*

**Shri Morarji R. Desai:** He will have to be asked questions straight-way.

**Shri N. Dandekar:** I have only a few questions.

**Mr. Chairman:** Before that let me read out Speaker's Direction No. 58 to the witness.

"Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and it is liable to be published, unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament."

I hope your evidence is not confidential.

**Shri L. K. Jha:** No, Sir. I have no special points to make,

**Mr. Chairman:** Have you no comments to make to the present Amendment Bill?

**Shri S. S. Kothari:** No, no. He is the author of the amendments. I have one or two points to ask from him. One is this. Before social control came into existence there were industrial houses who were supposed to be big ones who were spending money very lavishly. Now the whole responsibility has been put on the Governor of the Reserve Bank. You, as the Governor of the Reserve Bank have taken upon yourself the responsibility with regard to safeguarding the interests of depositors. What further steps are you going to take to tighten up to see that the depositors' money is not frittered away by some of the banks. I want to know whether you are leaving everything practically at the hands of the industrial houses.

**Shri L. K. Jha:** It is a fact that in the earlier development of our banking industry, link with the industrial houses has been an important criterion. But, as the industry has matured and developed, a very large number of them now stand on their own feet and on their own ability and integrity. Smaller banks are in a somewhat different position. I think the Deputy Prime Minister had said in his statement in Parliament that initially for the smaller banks, the existing arrangements will not be interfered with, lest there should be a lack of public confidence in the management and stability. Certainly, on the Reserve Bank you are conferring some additional powers which mean additional responsibilities and we will have to be more vigilant now than before. I do feel that in the case of a large number of banks, it may be said that the Chief Executives have a stature and that they should be able to discharge their additional responsibilities.

**Shri S. S. Kothari:** The Reserve Bank shall have to appoint a number of auditors in branches also. You may

have to appoint about 2,000 to 5,000 auditors or more. I do not know the number. There is a proviso exempting sanction for branch auditors. Otherwise, you have taken upon yourself a responsibility which you may not be able to manage.

**Shri L. K. Jha:** You are giving that responsibility to the Reserve Bank. But I would say that the previous approval may be a little difficult to administer. Even the approval may not be in writing. But the banks do consult the Reserve Bank informally. We come to know whether the auditors are working properly in the branches only when we inspect. In the case of banks normally we would have confidence in the auditors and go along. It is only rarely that we would have an occasion to say that a change of auditor is desirable.

**Shri S. S. Kothari:** Even for a change your sanction is taken. But, with regard to the auditors working in the branches in places like Belgaum etc. how would you ensure that they are working satisfactorily. I want an opinion on this.

**Mr. Chairman:** He has already answered. The answer will be the same for this too.

**Shri S. S. Kothari:** With regard to the branch auditors, sanction is taken for their change.

**Shri L. K. Jha:** It may well happen that a particular branch may have got a bad report. Now, in that case, attention will have to be focussed on that branch. Sometimes we do get complaints that in such and such a branch, an irregularity has been committed. For that, even the top management has been blamed. I think, for this, a working solution will have to be found.

**Shri S. S. Kothari:** If some amendment is made, do you feel that will cover your ideas?

**Shri L. K. Jha:** I think so.

**Shri Samarendra Kundu:** From your experience, we would like to know why the Reserve Bank is not able to cope up with the problem of regulating and conducting of flow of credit into economy by the commercial banks in spite of some sort of a legislation or enactment made by Parliament? Is it because that it could not be implemented because the proportion is huge? Or is it because you wanted to implement it but it could not be carried on by you? Is it because you did not or could not implement it as it should have been implemented as per the Act?

**Shri L. K. Jha:** I think the Reserve Bank has always had a wide range of powers. Now, the purpose for which the powers are exercised are partly derived from the Statute itself and partly by the judgment which the Bank exercises on the state of the economy as it develops from time to time and partly also by an over all assessment of the economic situation and of the national policy, which is made not within the Reserve Bank but outside.

Now, in the initial stages, the bank was primarily concerned to ensure the safety of the depositor's money. Most of the directives and control measures dealt with it. And that was the guiding principle. Then came a stage when there was the accent on industrial development. This accent was not within the bank but in the country. So, the bank began to take steps to encourage the larger allocation of credits to industries with the result that a sizeable step up took place—from one-third of the trade going to industry, it became two-third in a matter of about seven or eight years. Then there was a concern about the price rise due to speculative forces and a series of selective control measures were introduced.

Similarly, when an inflationary situation came, there were measures to deal with them. Now, what is being sought to be done by this Bill, to my mind, is to add a new dimen-

sion to the Reserve Bank's activities to clothe it not only with the responsibilities and powers but also to indicate some broad points on which Parliament would like special attention to be given. That is why, while there was only a phrase called 'public interest' in the Act, now a new phrase called 'banking policy' is being defined. So this is a fresh mandate and fresh charter which is being given to the Reserve Bank and I hope that it will carry it out satisfactorily.

**Shri Samarendra Kundu:** My point was specific. Let me make it elaborate. There has been an allegation that there is some sort of lacuna in the law itself and also in the implementation of it a certain section of industry got large loans while others were deprived of that benefit. Can you tell us the reasons for this—is there any lacuna in the law or is it not being implemented properly? How do you think that this Bill solve this problem?

**Shri L. K. Jha:** The first point is that the bulk of the powers of the Reserve Bank at present are in a sense of negative nature, of restricting certain things from being done. Now, in regard to the criticism that some industries or industrialists have got too much, there are two points to be considered. To what extent is this due to the pattern of industrial ownership being what it is? A steel plant needs much more credit than a factory producing hairpins. Now if the ownership of steel plants or of other big factories which have a particular demand for credit follows a particular pattern bank credit also must follow that pattern and this is not something which the Reserve Bank could or would interfere with. In regard to the question that certain groups have influenced greatly the Banks or have got greater credit facilities from the banks, there are now restrictions firstly on clean advances being given to the groups which have got directors or other



interests; all loans sanctioned to such people come to the Reserve Bank for prior scrutiny before they are cleared. Now it is a matter of judgment whether it is enough or not. The aim of this Bill, as I see it, is to ensure that at the level where decisions are initially taken, where day to day working is conducted there is impartiality. Then there is the system of having the Chief Executive and Chairman who has no bias except professional competence in his own field and the industrialists cease to be in a majority position. So we are trying now to see that it is not merely interference or intervention by the Reserve Bank that the objectives are taken care of but that at the very level where the basic primary decisions are made there is impartiality and greater social awareness.

**Shri Indrajit Gupta:** What are the new powers which you think that this Bill is investing on the Reserve Bank, powers which are not already there in the existing Act? What are the things that the Reserve Bank will be able to do after this bill is passed?

**Shri L. K. Jha:** As I stated a little while ago, it is interjecting something in the structure of management of the banks so that it is not merely by the Reserve Bank interfering that a policy is pursued, but we ensure that at the policy making level itself we get the same kind of a set up that would lead in the right direction. That will generate greater confidence in them. Secondly in terms of what the Reserve Bank can do, certain things are being forbidden by law. Total prohibition is being brought on certain types of loan operations. I doubt whether it would have been legally tenable for the Reserve Bank acting under its statute as it has been doing so far, to bring about such a blank restriction. We could have said that we were not satisfied, it was a bad thing etc. We could not have brought about a blank restriction of the nature that some sections here—for example, Section 20, are now

bringing. In this sense it is much wider in scope. What this bill intends to do is, while the ownership remains as it was, private management becomes professional and truly becomes social in the sense not only the Reserve Bank's directions are there but some other statutory limits are also coming.

**Shri Indrajit Gupta:** Do you think that the responsibilities which the Reserve Bank has been called upon to discharge, particularly with reference to Section 36AD are within its competence?

**Shri L. K. Jha:** On that I would say quite clearly, I don't think the Reserve Bank should come into the operation of 36AD.

**Shri Indrajit Gupta:** You want the Banks to do it themselves.

**Shri L. K. Jha:** It is not the banks either. When the law says that certain things cannot be done, then anybody who is aggrieved should have a right of access to the court of law. It may happen that one trade union finds that it is frustrated or prevented from doing what it wants to do by another trade union, it should have redress, just as the individual who wants to go to the Bank and whose right of access is being denied should have redress. When something is done against the provisions of law, it is punishable under the law. Anybody can go to a Court and say: here the law has been broken or his rights have been impugned.

**Shri Indrajit Gupta:** Would you like that section to be amended this way?

**Shri L. K. Jha:** Any aggrieved party can be a complainant.

**Chaudhary Nitiraj Singh:** I would like to know the percentage of total banking assets invested in agriculture.

**Shri L. K. Jha:** At present it is around 3 per cent.

**Chaudhary Nitiraj Singh:** For the industry?

**Shri L. K. Jha:** It would be about 70 per cent.

**Shri S. S. Kothari:** What is the projected percentage for agriculture and the small scale industry?

**Shri L. K. Jha:** So far it was the firm policy to keep the agricultural scheme for the cooperatives alone. The pumping of credit to agriculture went through the cooperatives for which the Reserve Bank made the money available through the State and apex cooperative societies. Now that the agriculture is entering into a new phase and new demands are coming up, the question of bank finance coming into the field has also been taken up. We are currently discussing in the National Credit Council what should be the role of the banks so as to see that on the one hand the growth of cooperative movement is not impinged upon and on the other not to create any scarcity in industry which is also after all important. What the final figure would be, I would like to project at the moment.

**Shri Kamalnayan Bajaj:** Sometimes the Reserve Bank gives directives which are in the interests of the general economy, but in actual life it may be found to be very difficult. Do you have any experience where the bankers or the clients of bankers have been harassed or put into very serious difficulties because of these directives to the banking industry?

**Shri L. K. Jha:** Well, if a directive is given by the Reserve Bank, to do that banks are otherwise not prepared to do, inevitably there is some element of hardship, even harassment. But in the larger interests of the economy, it may be necessary it is also clearly desirable that in such cases every attempt should be made to alleviate the hardship.

**Shri Kamalnayan Bajaj:** Of course, the industry first goes to the Reserve Bank and ask you; if they are not able to convince them, don't you think it might be a better idea that they should go to the Finance Ministry to plead what are the genuine difficulties?

**Shri L. K. Jha:** It is very difficult for me to express a view on this problem. But my own feeling is that the banks themselves would not be happy with such an arrangement as a satisfactory arrangement, because in every country, including India, banks live under supervision of the Central Bank and there is enough communication between the Government and the Reserve Bank for the Reserve Bank not to pursue policies which run contrary to national policies. So a provision of appeal would only add a degree of legalism that would hamper. Personally I do not think it is necessary or desirable.

**Shri Kamalnayan Bajaj:** They are terrified of you. One of the directives of the Reserve Bank is that on a particular day you freeze all the accounts of the trading concern and industries. That creates difficulties for the clients. The clients sometimes could not fulfil their commitments in the market . . . .

**Shri Morarji R. Desai:** There should be no discussion here. You should ask for information which is relevant to the Bill.

**Mr. Chairman:** You can ask for some information.

**Shri Morarji R. Desai:** If you go on discussing like this, there will be no end to it.

**Shri Kamalnayan Bajaj:** In the Bill, practically almost all the powers have been given to the Reserve Bank, in Chapter II.

**Shri Morarji R. Desai:** No, No. It is the National Credit Council. There all interests are represented.

Nobody can appeal to them; but anybody can write to them. He can always approach the Reserve Bank Governor or the Finance Ministry.

**Shri Kamalnayan Bajaj:** That is not done formally, but informally.

**Shri Morarji R. Desai:** Informal things are better than formal.

**Shri Kamalnayan Bajaj:** The price of raw-material has gone up . . .

**Shri Morarji R. Desai:** Is this a question to be put for this Bill? Such questions cannot be asked here. You can utilise this opportunity to press the Governor to give moral support to anything.

**Shri M. Thirumala Rao:** The Reserve Bank also acts for the protection to the depositors. A large number of practices still exist in several banks. The Reserve Bank has to protect the interests of the depositors. You know the history of how the Life Insurance was nationalised when thousands of life insurance premiums worth crores of rupees were being played with by our industrialists in those days. Today you see the bank deposits and capitals of the banks, i.e., thousands of crores of rupees of the money is being managed by intermediaries. Is there any consideration to give some representation to the depositors also on the Directorate of these banks? You have put a large number of qualifications for being Directors. There are so many people who do not qualify under any of these categories.

**Shri Morarji R. Desai:** That is a matter for us to consider.

**Shri L. K. Jha:** On your first point I would say that purely as a question of fact the bank deposits today are very much more secure than they had been at any time in the past. Apart from the other things, viz., the stability and soundness of the bank system as a whole there is the deposit insurance

scheme which protects 90 per cent of the deposits. So nobody is unmindful of the depositors' interests and as I said in the past the prime interest of the Reserve Bank was depositors' safety. Now, because we feel that the depositors' money is safe we are thinking in terms of going ahead in new directions where we can have purposeful guidance of the credit and not be entirely security minded.

**Shri N. Dandekar:** I want to confine myself to the question of policy only. I must confess you gave an extremely lucid explanation of how it is sought by this Bill to get the policy implemented at the operative level, at the director level and the policy-making level. In the first place I want to take it at the director level. Don't you think that we are jumping too suddenly from a Board of Directors—in most cases undoubtedly composed of industrialists—to a Board of Directors on which the majority of the people will be non-industrialists?

**Shri L. K. Jha:** I feel there are no real risks in this. I would say that especially when applied to the larger banks. I do not see any real risk in those cases. If you analyse the working of a big bank, so many of the decisions have got to be decentralised and not taken by the Board itself. There is enough expertise, enough capacity at the Branch Manager's level, at the Secretary's level to deal with the vast majority of cases.

**Shri N. Dandekar:** Would you say 40 per cent would be inadequate and that it must be majority?

**Shri L. K. Jha:** I would not say must be majority. If the people are responsible and responsive they should, when functioning on a Board, forget that they are industrialists, economists or mathematicians. I mean when you are on a Board then you are functioning as a member of a team. It is a question of background. Now, if we do not interject enough people with a background of other sectors then

there is a tendency for a traditional bank board to feel that lending to industry is safe and in everything else is not safe. If there are people who can speak with conviction that lending to agriculture is not only socially desirable but economically safe also, then it will be good.

**Shri N. Dandekar:** My question is, whether is it of the essence of the matter that with one go it should be raised to a majority?

**Shri L. K. Jha:** I see no risk in going full steam ahead as the Bill proposes.

**Shri Merarji R. Desai:** May I explain because I am the author of this particular clause? There is no sanctity in 60 per cent or 40 per cent, not that anything would miscarry. But there has been a psychological feeling grown in a large majority of people that because they are there in the majority this thing is being done. I am not convinced that this has happened in all banks but I do find that it has happened in some places. You have to fight the psychological thing if this thing is to work correctly. Therefore, I thought it is better if they are not 51 per cent; they are 49 per cent and the others are 51 per cent.

**Shri N. Dandekar:** Again, at the decision making level, there is the question of loan to concerns in which directors are interested. There are three categories of interests: (i) loans to directors themselves. That is clear, that is the case of banks giving loans to directors themselves. It should not be allowed. Then there is a category of concerns in which directors are substantially interested. That also is all right. But is it necessary that loans to companies in which the bank director is a director should be stopped regardless of the fact that the loan is not to director himself, regardless of the fact that the loan is not to a company in which the director is sub-

stantially interested? Should the mere fact that the director is also a director of a borrowing company disqualify that company for loans? If he has substantial interests in the company, then it is a different matter.

**Shri L. K. Jha:** It is clearly a matter where two opinions are very much possible. I would not be dogmatic on either side. If we look at the director concerned from the angle that his judgment is likely to be influenced by the fact that he stands to benefit by a loan to another company, then substantial interests become very relevant. If we take the view that the director is not going to be influenced by that fact, but still unfortunately he is associated with that company and therefore there will be some bias in his mind, then substantial interests do not matter. It is as finely balanced as that. Certainly, even if a man has nothing to gain financially, he still may have a prejudice in his mind by virtue of his association with the company. "I know this company because I sit in the Board of Directors". That kind of feeling may be there. It is a possible view.

**Shri N. Dandekar:** Now I come to the next point of the same kind. Sub-clause (2) proposes that where such loans had already been given, they have to repay the loans within a specified period. Suppose we introduced this qualification that it is not necessary that all of them should pay back, but the Reserve Bank might undertake a scrutiny in this matter? What would you say? I will give you a concrete case. I will put it in terms of A and B. Suppose A is a director of a bank. He is also a director in company B in which he has no substantial interests. That company has had banking facilities in the bank in which A is a director. According to the provisions of this section, these loans must be repaid within a specified time; not only that, but no more loans should be given to company B. I suggest that it will cause the least

upheaval if the qualification was inserted 'if the Reserve Bank so required'.

**Shri L. K. Jha:** For the Reserve Bank to deal with all accounts of this nature and to exercise judgment individually would be a difficult task administratively. What to my mind is a reasonable interpretation or possible view is to give the Reserve Bank powers in regard to the time limit. It cannot do without a time limit.

**Shri N. Dandekar:** If the loan is good and if the concern has to move to another bank . . .

**Shri Morarji R. Desai:** May I suggest a remedy? The loan need not be returned when the director ceases to be a director. He can go to another bank..

**Shri N. Dandekar:** Directors have taken on some responsibilities to the depositors once to the shareholders who have elected them. One grows into certain obligations. One cannot lightly throw up his directorship. He is there because of his intimate knowledge of trade and economy. It does seem to me pointless except where it is a bad loan that the loan should be moved from bank A to bank B. It does not seem to make any sense.

**Shri Morarji R. Desai:** It is your suggestion that the loan already given should not have to be returned, but no new loan should be given. That we can consider. Any amount of discussion between you two won't solve that problem.

**Shri N. Dandekar:** Now about Reserve Bank's views regarding guarantees by banks.

**Shri L. K. Jha:** Here one feels a little uneasy. In one of the clauses guarantees have been referred to. I feel that perhaps a reference to guarantees in this clause is not desirable. Guarantees are given by our banks usually to outsiders against credit.

Till now a guarantee by an Indian bank has been regarded as completely sound. The party abroad has today to do research to find out whether any of the directorial relationship is going to affect guarantee. He will then say: "I won't take the Indian bank guarantee, but I will take the guarantee of the Reserve Bank or the Government of India. That will mean more burden financially and administratively both to the Government and to the Reserve Bank which I do not think is desirable. In this clause inclusion of guarantees worries me. If you leave out guarantees, and deal with loans and advances it will be better. Even in regard to loans and advances, I do not think we can treat all loans as necessarily bad. There are some types of loans. For instance a man has a fixed deposit account in the bank. When he operates on that account, he is borrowing. It is a loan.

**Shri N. Dandekar:** I will now come to the policy making level of the Reserve Bank. You are no doubt familiar with this section. Sec. 7(1) of the Reserve Bank Act says that the Central Government may from time to time give such directions to the Reserve Bank as it may, after consultation with the Governor of the Bank consider necessary in the public interest. Then there are several sections in the Banking Regulation Act, for instance, sections 21, 35A and 36. Then there are other minor sections. When the Reserve Bank has got these considerable directive powers as to general policy, in regard to everything that is now sought to be included under the definition of 'banking policy', am I misreading it if I say that the new definition of "banking policy" does not go really beyond what is already permissible to the Reserve Bank by way of directive issue power under sections 21, 35-A, 36 and some other sections of the Regulation Act? As far as I can make out, all these matters are already there by virtue of the power which the Reserve Bank has in the public interest or in the interests of the depositors. Now it is

proposed to insert 'in the interests of banking policy' in all those sections. I am not very clear, in spite of your very good explanation, what is now going to be added by way of directive capacity of the Reserve Bank which it does not have now.

**Shri L. K. Jha:** I would answer it this way. I would myself be quite prepared to argue that the word 'public interest' does embrace all this. But it is open to any judiciary to take a different view because the public interest is one of the common law concepts which really rests on definition given by the judiciary rather than by law. Now, it is quite possible for a High court or Supreme Court to say that this interest is no doubt desirable, but, there is something more important in the view of the learned judges to say that it is not in the public interest. And there have been cases where public interest rulings have been given like this.

**Shri N. Dandekar:** Is it in relation to Reserve Bank?

**Shri L. K. Jha:** I am talking generally. Public interests are always in a matter of doubt. The Reserve Bank has in fact been keeping this criterion in view. So far this has not been challenged. If this measure were to be challenged with a sheet anchor in the shape of the definition as is provided here, it would be quite defensible, otherwise I do not feel certain. The court might strike down the action which we consider to be in public interest. The public interest should be re-defined.

**Shri N. Dandekar:** May I put this question?

**Mr. Chairman:** Mr. Dandekar, now you must conclude.

**Shri N. Dandekar:** These are policy questions which are most interesting to hear. And the Governor is explaining very nicely. The Finance Minister was good enough to give him the trouble to come here. I am inte-

rested in knowing this and I hope that the Select Committee too is interested in knowing the exposition of policy.

**Mr. Chairman:** We are also very much interested. After all, we have to see Mr. Jha the time also.

**Shri N. Dandekar:** This is much more important than the clock. Mr. Jha, I follow what you say. But on reading the Banking Bill, I find the following:

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

I want to know whether, if the Reserve Bank in its judgment came to the conclusion that rapid inflation was in conformity with,—shall we say, under the Fourth Five Year Plan,—and that the banking policy that we have must endeavour to do that, whether would it be against the depositors? Obviously these are against the interests of the depositors.

**Shri L. K. Jha:** This is against the interest of the depositors. The Reserve Bank would not do that.

**Shri N. Dandekar:** Would it be entitled to do that?

**Shri L. K. Jha:** It is a matter of legal opinion. I am not a legal expert.

**Shri N. Dandekar:** Would you have that this should be governed by the interest of depositors?

**Shri L. K. Jha:** I would say that these are grounds. On this or any of the grounds, the Reserve Bank can act. But, if it was contrary to one's

own basic objects, then it will be against depositors' interests.

**Shr N. Dandeker:** Would you have any objection if the phrase is worded like this viz. "subject to the interests of the depositors?"

**Shri Morarji R. Desai:** That would lead to litigation. It is for the High Court to say that.

**Shri N. Dandeker:** That is really the crux of the matter. You use a phrase and I would like to know whether the Governor of the Reserve Bank would accept the phrase 'subject to the interests of the depositors'. You say probably it will not arise. I say it would then be definitely good if the phrase is put like this viz., 'subject to the interest of the depositors'.

**Shri L. K. Jha:** I do not say that it will not arise. I only say that it would be wrong for the Reserve Bank to issue a directive if it means permitting one of the objectives which is detrimental to the other.

**Shri N. Dandeker:** What prohibits this?

**Shri Morarji R. Desai:** The depositors will disappear.

**Shri N. Dandeker:** That is a different matter. They may disappear.

**Shri L. K. Jha:** My point is that I do not regard any of these as good.

**Shri N. Dandeker:** If you leave out the phrase 'subject to the interest of the depositors' and keep the definition as it is, will it be all right? After all, it is an enabling provision. The Reserve Bank can honestly say that for the purpose of sound economic growth such and such a thing must be done; if we ask 'contrary to the interests of the depositors' you say it is unlikely. May I then suggest you can have no objection to the phrase 'subject to the interest of the depositors'?

**Shri Indrajit Gupta:** Mr. Chairman, you have to send for the Attorney General too for this.

**Shri L. K. Jha:** What would be the implication of the changes—I would not like to express an opinion on this. But, in substance, the depositors' interests should not be jeopardised.

**Shri N. Dandeker:** I thought so. I was going to say this. But, you have said so.

**Mr. Chairman:** Is there anybody who would like to ask questions?

**Shri Jyotirmoy Bosu:** Mr. Jha, you represent the Reserve Bank. I look at you as the king-pin of Indian Banking industries controlled by Mr. Desai and his Ministry. Mr. Desai has said in a statement 'it has been clearly admitted that the resources of the banking system are not being equitably and purposefully distributed in conformity with the developmental requirements and the private sectors are not receiving their due share and that their clients or groups of clients are only being favoured in the matter of distribution of credits.' To this I add further that the Reserve Bank is not properly functioning. As per the law it is not implementing speedily and timely the glorious provisions of the Reserve Bank Act and the Banking Companies Act with regard to persistent violations and irregularities committed by commercial banks. With immunity it is no good in saying that these lapses are part of Reserve Bank's administrative difficulties. There are numerous instances of lapses that are taking place in the recent past and also in the past. I shall cite instances of Palai Central Bank, Lakshmi Bank and a number of irregularities committed in the Punjab National Bank, Indo Commercial Bank and many others. I would like to hear your impressions to my utterance.

**Shri L. K. Jha:** I am not very clear of what the question is.

**Shri Jyotirmoy Bosu:** It is not a question. I say that you represent the Reserve Bank and you are under the direct control of the glorious Finance Ministry. You have failed to deliver the goods to the common people in the country. Under the circumstances, would I be justified in expressing my suspicion about the working of the Reserve Bank?

**Shri Morarji R. Desai:** May I intervene for a minute? I must correct you Mr. Basu. You have quoted me twice that I have made a statement stating that 'It has been admitted'. These are your own words. You are misquoting me. Please see the text of my statement. It begins with 'there have been persistent complaints that this has happened'. This is what I have said.

**Shri Jyotirmoy Bosu:** May I proceed Mr. Chairman?

**Mr. Chairman:** I have been patiently hearing whatever you have been saying. I have also been waiting to tell you to ask questions relevant to the subject matter under discussion.

**Shri Jyotirmoy Bosu:** I am trying to ascertain from the Governor of the Reserve Bank of India as to what the Reserve Bank has done with regard to the commercial banks which are plundering the common man. Mr. Jha, which particular provision of this proposed Bill will actually bring about the severance between the big business and the commercial banks so that the benefits of banking and other credit institutions would reach the common man?

**Shri L. K. Jha:** I think both the sections, one which deals with the composition of the Board and the other limiting loans to the people on the Board when they have got common interest, will help to achieve the objective in view.

**Shri Jyotirmoy Bosu:** How would you differentiate between peaceful obstruction, satyagraha and picketing?

**Shri L. K. Jha:** I am sorry that in the job I am doing I don't have to differentiate between the three.

**Shri Jyotirmoy Bosu:** In the Act you have tried to penalise the people who would...

**Shri Morarji R. Desai:** Not he; I have done that. The legislation belongs to the Government, not to the Reserve Bank.

**Shri Jyotirmoy Bosu:** I am wanting to know his reactions to that. I have been having the benefit of people putting me on the right track all the time. With limited resources in my upstairs, I often get confused because of this.

**Mr. Chairman:** Since yesterday I have been requesting you to put questions relevant to the issue.

**Shri Jyotirmoy Bosu:** Mr. Jha, would you support the idea that there should be representatives of Employees' Unions on the Board of Directors of a Bank?

**Shri L. K. Jha:** I would not rule that out.

**Shri Jyotirmoy Bosu:** There is no provision in the Bill. Would you suggest such a provision in the Bill for better working of the institutions and for better relationship between the management and the workers?

**Shri L. K. Jha:** As I stated earlier, when a Board meets there are no constituencies except the loyalty to the Board. But I would say that an awareness of the labour problems and also a background in that is certainly one of the possible interests that could make a useful contribution in the general discussion.

**Mr. Chairman:** No more questions.

**Shri Jyotirmoy Bosu:** In spite of the existing standing orders, why do you think that the Government have brought this Bill?



Shri L. K. Jha: You are referring to 36 AD. If you look at that section, it deals with a number of situations. One is doing discredit to or undermining a bank's credit. This is a matter which does get covered under the employer-employee relationship. But this clause affects anybody who discredits a bank's creditworthiness. I know of a case where somebody was not a worker but a high-paid man in a major bank who left the bank and then carried on propaganda of a nature which did result in a run on the bank. Now that is being made criminal. I think it has nothing to do with the standing rules governing the

employer-employee relationship. I would look at that section as not being primarily a matter of labour-management relationship in a bank but a matter which enables a bank to function efficiently and discharge its responsibilities fully. It enables a bank to honour certain pledges without delay under the Negotiable Instruments Act.

Mr. Chairman: Thank you very much, Mr. Jha.

*(The witness then withdrew)*

*(The Committee then adjourned)*

**MINUTES OF EVIDENCE GIVEN BEFORE THE SELECT COMMITTEE ON  
THE BANKING LAWS (AMENDMENT) BILL, 1967.**

*Wednesday, the 17th April, 1968 at 14.30 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 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 K. N. Tewari
15. Shri Jyotirmoy Bosu
16. Chawdhury Sadhu Ram
17. Shri Morarji R. Desai.

**LEGISLATIVE COUNCIL**

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

**REPRESENTATIVES OF THE MINISTRY**

1. Shri S. S. Shiralkar, *Additional Secretary, Deptt. 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, Deptt. 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.*

## WITNESSES EXAMINED

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—*Asstt. 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. B. Parvana—*Secretary.*

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

1. Shri S. N. Dubber—*General Secretary.*
2. Shri Amrit Lal Airi—*Asstt. General Secretary.*
3. Shri J. N. Kapur—*Circle Welfare Secretary.*

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

1. Shri C. R. Chandrasekharan.
2. Shri P. Balagopala Menon
3. Shri D. Jayasuryan.

*(The witnesses were called in and they took their seats)*

**Mr. Chairman:** Kindly introduce your colleagues.

**Shri Menon:** I am P. Balagopala Menon, General Secretary of the All-India Overseas Bank Employees Union.

**Shri Chandrasekharan:** I am C. R. Chandrasekharan, President of the All India Overseas Bank Employees Union.

**Shri Jayasuryan:** I am D. Jayasuryan, Joint Secretary of the All India Overseas Bank Employees Union.

**Mr. Chairman:** Thank you very much. You are welcome. Before we start, I read, out to you Directive 58 issued by the Speaker: "Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published, unless they specifically desire that all or any part of the evidence tendered by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evi-

dence is liable to be made available to the members of Parliament."

I hope you don't want any portion of it to be treated as confidential.

**Shri Menon:** No, Sir.

**Mr. Chairman:** Will you explain your case before I allow members to raise questions?

**Shri Chandrasekharan:** We have got something more to tell in addition to what is said in the memorandum.

**Shri Menon:** Respected Chairman and Hon. Members of the Committee, you have before you the Banking Laws (Amendment) Bill not unconnected with matters with which we as employees working in a bank, feel, are affected. Our union is a well-known organisation, unaffiliated to any All-India Association with any political bias or anything. As such, we have been confining our activities to only matters relating to employees.

The objectives of the Social control Bill which is before you, as far as our knowledge goes, is quite laudable, and we feel that we are not competent to place before you our views whether this could be achieved by the Bill before your scrutiny. But one or two aspects we would like to place before you for your consideration. One is that there has been a statement that banks themselves have come forward to voluntarily implement some of the provisions of this Bill. We doubt whether the Parliament is quite aware of the fact that this voluntary implementation by the banks is sincere or not. For instance, the appointment of Chairman. Already most of the banks have had their General Managers designated as Chairmen. We are not sure whether that is the purpose and the object of the framers of this Bill that they wanted the Chairman to be a person appointed with the approval of the R.B.I. because....

**Shri S. S. Kothari:** What is your suggestion?

**Shri Menon:** I would suggest that people not connected with that banking company should be appointed and the Reserve Bank should be the whole person to decide about the Chairman.

Now, I come to clause 3 inserting a new section 10(a) wherein the Board of Directors are re-constituted and certain sectors are given priority so that their interests are covered, for instance, small scale industries, agriculture, etc. As a trade union worker I wish, Sir, that consistent with the policies of this Government of a socialistic goal that we have chosen for ourselves, labour should be given a role here and the employees should be represented in the board of directors. I would request the hon. Chairman and the members of the Select Committee to consider this aspect that in the board of directors while giving representation to various interests, the interests of the employees should also be represented and a representative of the employees of the banking companies should be given a place in the board of directors. That is also concerned with the Industrial Policy Resolution the Government had passed as early as 1956 wherein it was said in a socialist democracy labour is a partner in the common task of development.

Now, I would come to something which very much agitates us, that is, section 36 AD. We believe that this section should not find a place in this Bill because it hampers our trade union rights. It takes away things that we achieved after so much of labour. The right of demonstration is a fundamental right and I wish this hon. Committee would see that my right should not be affected in this manner. If I do a mistake, if I indulge in indecent demonstration there is ample provision under the bank's own service conditions to

take action against me. I am governed as a employee of this bank by a bipartite settlement arrived at between the employers and the employees. This settlement has provision for disciplinary action being taken on various mis-conducts—major and minor mis-conducts. By depriving me of what I have achieved by way of collective bargaining and now having recourse to a court of law and plead for justice, I wish you would in all your wisdom see that such a thing is not done. I will not be able to function as a trade union member if this section is passed. My elementary right is curtailed. I have achieved these rights after a long struggle. I have not endangered the security of these banks. These banks are prospering. Section 36AA Part 2(a) in the Banking Companies Regulation Act the provision is already there that the R.B.I. has got powers to send out any employee of the bank. Supposing, now R.B.I. send me out and supposing this section is also passed the Union will have no power to do anything to see that I am re-instated. This, I am afraid, will take us back to the last century.

**Shri Morarji R. Desai:** The Reserve Bank has not done it so long.

**Shri Menon:** We wish that they do not also. But as long as this particular clause 36 AD is there—when there is provision already that you can take action against me—why this provision is also sought to be made. Sir, for your information no banker has during the last bipartite settlement wanted increase in these provisions. What I would request is this ....

**Shri Morarji R. Desai:** We are not looking at it from the point of the bank or the employees. Government's considered opinion is there. The bank view may be different. Your view may be different. You need not repeat the same points.

**Mr. Chairman:** You may go to other points.

**Shri Menon:** The national commission of labour has in its study group made a request that this 36A (d) may be withdrawn pending the submission of their report. I believe that they are the competent authority to decide that. I wish that this provision is removed at the earliest time. This amounts to an interference in the bipartite settlement. I find that under this bill if the banking company does not follow the provisions of this bill and contravenes it the only punishment that you meet out is to take over the assets of that banking company.

**Shri Morarji R. Desai:** Is it small provision?

**Shri Menon:** It is small.

**Shri Morarji R. Desai:** Any person will be there. Not only you. 36AD applies to any person.

**Shri Menon:** I wish in that provision there is penal provision that other directors will be sent to jail for doing that.

**Shri Morarji R. Desai:** 36AD will be there. You can do it.

**Shri Menon:** Shri Chandrasekharan will say something.

**Shri Chandrasekharan:** Any legislation brought forward in respect of labour used to be discussed in the Indian labour conference or the Standing labour committee, whatever the case may be. That has not been done as we understand it in respect of 36A(d). It is incorporated in Money Bill. That is one more point in our favour.

**Shri Menon:** My submission is limited to these 3 things: one is representation for labour before the Board of directors. I am just summing up.

**Mr. Chairman:** What is the new point?

**Shri Menon:** About section 54A the Reserve Bank is given powers to depute its employees to any other concern. As a sister organisation of the banks I think the Reserve Bank should not be given such arbitrary powers. We wish that the Select Committee will consider it.

**Shri M. Thirumala Rao:** This does not apply to banking employees as such. There are so many abetting and aiding in mofussil places. Maybe some political or other interests are there. These employees may gherao the local officers. The provision is intended for such people who may not be directly connected with it.

**Shri Menon:** In that connection the laws of the country will take its course.

**Shri M. Thirumala Rao:** This does not affect anybody particularly. It affects an individual. If you do something as member of the union that is a different matter and you are well protected by the labour laws. Here is a question, not of a group of persons belonging to any association or anything, but some come and create disturbance. What objection can you have, as long as your rights as member of trade union are not touched? Any citizen or non-citizen who wants to create trouble will come under the mischief of the provision.

**Mr. Chairman:** What is your question?

**Shri M. Thirumala Rao:** How his rights are affected?

**Shri Menon:** If this section has started with the words 'No person other than members of the trade union' I would not have any grievance before you.

**Mr. Chairman:** The question was about an individual or group of individuals.

**Shri Menon:** That includes me. Loss of the country should be taken into account.

**Shri Indrajit Gupta:** How many years have you been a bank employee?

**Shri Menon:** 13 years.

**Shri Indrajit Gupta:** Is it in the same bank?

**Shri Menon:** Yes.

**Shri Indrajit Gupta:** During these 13 years can you tell the Committee if there have been any occasions and if so on how many occasions the management of your bank complained about the type of incident which you visualise here for instance, obstruction of people entering or indecent demonstration?

**Shri Menon:** We have never had such occasions.

**Shri Indrajit Gupta:** Has your management ever taken action against the employees under the standing orders?

**Shri Menon:** That they have done for doing certain things.

**Shri Indrajit Gupta:** Are people dismissed under the standing orders?

**Shri Menon:** They are dismissed.

**Shri Indrajit Gupta:** You said a little while ago that you want some representative of employees on the Board of Directors. In case it is provided for, how do you propose to have it done?

**Shri Menon:** He could be a nominee of ours or he could be the employees' choice. Ours is a recognised union and we do not have any rival union in our bank.

**Shri Indrajit Gupta:** Do you think that this fact of existence of only one union with which the management deals has contributed to the industrial peace?

**Shri Menon:** Yes.

**Shri Jyotirmoy Bosu:** During your 13 years of experience with your present employers, tell me in how many cases action was taken within your knowledge under the provisions of the standing orders (a) against the Directors; (b) against senior executives and (c) against non-executive staff?

**Shri Menon:** None in the case of directors and executives. Against the non-executive staff some actions have been taken under the standing orders.

**Shri Jyotirmoy Bosu:** Sub-clause (c) of 36AD says:

"act in any manner calculated to undermine the creditworthiness of any banking company."

This comes mainly from the people of the directorial cadre and not from the subordinate staff. Do you agree?

**Shri Menon:** I do agree.

**Shri Jyotirmoy Bosu:** You may be aware of the fact that the Finance Ministry invite information on economic offences committed in this country and perhaps they are willing to pay rewards for such information. Do you in that context enjoy the freedom, as a bank employee, to report to Government about activities which are against the interests of the country, bank and depositors?

**Shri Menon:** I have never had an occasion.

**Mr. Chairman:** How is it relevant for this discussion?

**Shri Morarji R. Desai:** When you say Government is giving rewards

for this kind of information, it is not correct.

**Shri Jyotirmoy Bosu:** For information on economic offences?

**Shri Morarji R. Desai:** That has no relevance for banking industry. We have not yet extended it to them.

**Shri Jyotirmoy Bosu:** That will be extended.

**Shri Morarji R. Desai:** They relate to concealment of income tax, wealth tax and smuggling.

**Shri Jyotirmoy Bosu:** If a bank director makes a false transfer?

**Shri Morarji R. Desai:** We will welcome all such information. We have not said that rewards will be given.

**Shri Jyotirmoy Bosu:** If a gentleman comes and makes such a report, you will say that it will reflect on the creditworthiness of the bank.

**Mr. Chairman:** I am sorry. This question is not relevant.

**Shri Jyotirmoy Bosu:** It is very relevant. Do you have that freedom today?

**Shri Menon:** I have had the freedom hitherto.

**Shri Samarendra Kundu:** Mr. Menon, would you kindly say from your memory how many of the employees of your union have lost their jobs or been punished for certain misconduct after the standing order has been accepted?

**Shri Menon:** Before the bipartite settlement came, there was the Desai Award. It contained some provisions regarding disciplinary matters. Under that to my mind about three employees were dismissed from service. The new settlement is of 1966. Even last year under this standing order one employee was discharged from service.

**Shri Samarendra Kundu:** You have been working in the bank for 13 years. Could you remember any person other than the bank employee being prosecuted by the bank for creating some trouble inside the bank?

**Shri Menon:** I remember one drunken person came and created some trouble and we called the police and handed him over to them.

**Shri Samarendra Kundu:** When was it?

**Shri Menon:** Three or four years ago. That is my personal experience.

**Shri Samarendra Kundu:** That is the only incident?

**Shri Menon:** That is the only incident I remember. There we called in the Police.

**Shri Samarendra Kundu:** Please look at clause 36AD. Do you think that sub-clauses (a) and (b) can also create a fear in the clientele of the bank that this will result in the decline of the business of the bank?

**Shri Menon:** I am afraid it is almost like that—particularly section (c). For instance, if a client goes to the bank which I am serving and he is not satisfied with my services, he complains that this bank is useless. I am not interested in serving them. The other depositors come to know of it. Thus, the creditworthiness of the bank is definitely going to be affected.

**Shri Samarendra Kundu:** Do you think that there had been many occasions about this sort of thing?

**Shri Menon:** There had never been any occasion.

**Shri Samarendra Kundu:** Don't you think that from this, one irresistible conclusion that could be drawn is this viz., that any person will only mean the workers?

**Shri Menon:** It is largely so.

**Shri Samarendra Kundu:** Now, another thing is this. This provision does not qualify. If it is a recent demonstration or not the prosecution has to be launched by the executive authorities. And don't you think that this provision gives a lot of powers on the authority to freely use the clause to beat against any active trade union worker who would be fighting for a just cause?

**Shri Menon:** That is my main grievance. The hon. Chairman might have seen the recent reported statement made by the Minister of State in the Ministry of Finance, Shri K. C. Pant that the Select Committee might consider some other amendments to this Bill. Not only the demonstration but also obstructing an entry into or going out also might be removed. Also the word 'indecent' should be removed from the demonstration. This has aggravated our people. About Sec. 36 AD there is a word appearing 'indecent demonstration'. The hon. Minister made a statement that the Select Committee might consider for removal of this word. Hitherto they were only prohibiting the indecent demonstration. Now it is very clear that all types of demonstrations are sought to be prohibited.

**Shri Samarendra Kundu:** In the same breadth, this section prohibits to hold any demonstration. What is demonstration? If a man has put on a badge and goes on emphasising the point before the management, that would be construed as a demonstration. The workers would also be punished.

**Shri Menon:** As long as there is no definition, anything can happen to us.

**Shri Samarendra Kundu:** Have you seen clause (2) of the same sub-clause 2 of 36AD which speaks about punishment? The punishment which has been given here is for a maximum period of six months' imprisonment which is much



higher in proportion to the offence which has been committed. Don't you think that the punishment under 36 AB & C is very severe?

**Shri Menon:** I feel it is very severe.

**Shri Morarji R. Desai:** He has already stated it.

**Shri Samarendra Kundu:** Have you studied the trade union aspects of the Bill?

**Shri Menon:** I have explained that as a trade unionist all activities relate to the interests of our members. We have not exercised our mind on the wider aspects of the bill.

**Shri N. Dandekar:** I take it that it is clear to you that this section in turn is applicable to anybody regardless of whether he is an employee or anybody. You said that for several years when you have been in the employ of the bank, this sort of thing has never happened *viz.*, the persons having been obstructed from entering the office of the bank or having entered being prevented from carrying on any business.

**Shri Menon:** If it has happened, the service rules are sufficient to deal with that. Naturally, our management has not suffered from any difficulties because of lack of any particular law in the country.

**Shri N. Dandekar:** I am asking you a very simple question. You are in a particular bank for 13 years and during that time, have persons been prevented from entering the bank?

**Shri Menon:** No, Sir.

**Shri N. Dandekar:** Have persons been prevented from doing any business in the bank during that time?

**Shri Menon:** No, Sir.

**Shri N. Dandekar:** Occasions may arise not in your bank but in some banks or the other where people may obstruct some one from entering the bank or from doing anything in the

bank. What do you say to this? Is something to be done?

**Shri Menon:** I say nobody has been obstructed. I also said that we have indulged in a peaceful picketing in the bank. And peaceful picketing, according to us, is not an obstruction and this is our fundamental right.

**Shri N. Dandekar:** I am not talking of peaceful demonstrations but I am talking of preventing any one from entering the bank.

**Shri Menon:** We have not physically prevented anybody from entering the bank.

**Shri N. Dandekar:** I am only using the word obstruction. This is what you are feeling. From your experience, in your bank, has anybody been prevented? It is a very positive thing when you say that nobody has been obstructed from entering your bank. Suppose if somebody has obstructed anyone from entering the bank and doing any business there. Surely you would agree that something should be done about that.

**Shri Menon:** Something can be done. The I.P.C. is there. There is a provision which covers theft, committing of public nuisance etc.

**Shri N. Dandekar:** Public nuisance is not the same thing.

**Shri Menon:** Theft, wrongful restraint and all sorts of things are there.

**Shri N. Dandekar:** But, obstructing anybody from entry is not there.

**Shri Menon:** It is a wrongful restraint. If a person is prevented from entering the premises, it is a wrongful restraint.

**Shri N. Dandekar:** Gherao is a wrongful restraint.

**Shri Menon:** If anyone is obstructing anybody, for a wrongful restraint, he can be prosecuted.

**Shri N. Dandekar:** I don't think in your experience in your bank offences such as committing a public nuisance or preventing anybody from entering the bank have happened.

**Shri Menon:** No, Sir.

**Shri N. Dandekar:** Suppose it happens in a bank.

**Shri Menon:** I.P.C. is there. The police may be informed about the person who obstructs someone from entering the bank.

**Shri N. Dandekar:** But Public nuisance should be stopped.

**Shri Menon:** It has already been stopped.

**Shri N. Dandekar:** Your point is that action should be taken but not necessarily under this section.

**Shri Menon:** It is completely unnecessary.

**Shri N. Dandekar:** You are not saying that if any one is obstructing anyone from entering the bank, action should not be taken. Suppose some body obstructs someone from entering the bank or prevents anybody from doing business in the bank. Should not action be taken? What you are saying is not that action should not be taken.

**Shri N. Dandekar:** Now let us take sub-section (b) which says:

'hold any demonstration which is indecent'.

It need not necessarily be indecent.

'or which amounts to the commission, or incitement of the commission, of any offence, within the precincts....'

Now, with regard to holding demonstrations inside the precincts of the bank, surely if that happens, you will agree that action should be taken.

Whether under this proposed law or any other law, you agree that action should be taken?

**Shri Menon:** If such a contingency arises, the Service Rules have ample provision. Our point is that this provision need not be here in this Bill because you have already got necessary powers.

**Shri N. Dandekar:** I will come to that later. Let us come to agreement if we can. If demonstrations or things-like incitement to commission of any offence take place within the premises of the bank, action should be taken. You agree?

**Shri Menon:** I agree.

**Shri N. Dandekar:** What you are saying is that action not in the form that is given here but in some other form is necessary. You agree.

**Shri Menon:** Yes, Sir.

**Shri N. Dandekar:** Now we will come to the term 'the commission of an offence within the precincts of the Bank'. Are you aware that in the Punjab National Bank during July, August & September, there were demonstrations inside the Bank buildings and that action could not be taken under their bye-laws because of the Union's resistance?

**Shri Menon:** In spite of the resistance, I have found my colleagues in the Punjab National Bank being proceeded against under the Service Rules.

**Shri N. Dandekar:** Yes, some of them were proceeded against.

**Shri Menon:** We do not know what 'resistance' means. All our resistance is only shouting slogans. When you take action, this is the only type of resistance.

**Shri N. Dandekar:** Are you claiming it as a trade-union right to shout slogan within the Bank premises?

**Shri Menon:** I am not aware of the circumstances under which the management of the Punjab National Bank found themselves so helpless.

**Shri N. Dandeker:** Whatever be the circumstances, are you against such things or are you for?

**Shri Menon:** Supposing the Management has not exercised their powers, it is their folly that has created those circumstances. I could not answer for them.

**Shri N. Dandeker:** I am not asking for any remedy. I am only asking you this simple question. Suppose in your bank people start behaving rudely and staging demonstrations, do I agree you disapprove of that?

**Shri Menon:** I disapprove it.

**Shri N. Dandeker:** You have been in the bank service for 13 years and you hold a responsible position in the Union and I am sure you disapprove all these things?

**Shri Menon:** I do disapprove of it in the strongest terms.

**Shri N. Dandeker:** Supposing in other banks where the position may not be as happy as in your bank, such sort of things do occur, you agree that drastic action should be taken?

**Shri Menon:** I do agree.

**Shri N. Dandeker:** Now let us go to clause (c). Clause (c) says 'act in any manner *calculated* to undermine . . .'. Note, it is not 'likely to undermine'. It should be an act deliberately done so as to undermine the creditworthiness of any banking company. So you have to distinguish between an act that is likely to be injurious to the creditworthiness of a bank and an act calculated to undermine the creditworthiness. Supposing in this particular matter as in regard to all matters, the question is that where any particular employee does this.—there have been cases I am

aware of,—an act calculated to undermine the creditworthiness of the bank, don't you think that some drastic action should be taken?

**Shri Menon:** I feel that the wording of the clause is very vague. Calculated by whom? Who does find it?

**Shri N. Dandeker:** Only a Magistrate can. The Bank cannot be the judge.

**Shri Menon:** Before that he is taking me to the court.

**Shri N. Dandeker:** I am not taking you to the court. I am talking of a man who has calculatedly committed an act to undermine the creditworthiness of the bank.

**Shri Kamalnayan Bajaj:** You suggest that the word 'calculated' should be withdrawn.

**Shri Menon:** I suggest that the entire clause should be withdrawn.

**Shri N. Dandeker:** Would you agree that 'to act in any manner *likely* to undermine' is different from 'to act in any manner calculated to undermine the creditworthiness of a banking institution', upon which depends tremendously the economic prosperity of the country. Would you agree that drastic action is necessary?

**Shri Menon:** Again my difficulty is that this word 'creditworthiness' has not been defined. The hon Committee may please excuse me if I seek a clarification. Suppose a depositor says that he is not satisfied with the services of the bank, that the bank is not serving its clientele properly, it will immediately attract the provisions of this clause.

**Shri N. Dandeker:** You have been in the banking line for 13 years and you should know what 'creditworthiness' means. When people start saying that this bank is likely to defraud its depositors, that is undermining

creditworthiness. To say 'we do not get proper service' is not undermining creditworthiness.

**Shri Menon:** If all the depositors stop coming to the bank, it will affect the bank. Suppose one depositor sends round a word that the Bank is sinking, then there will be a run and people will stop coming to the bank.

**Shri N. Dandekar:** Please understand my question. I have myself sometimes complained to my bank that they are taking a frightfully long time to cash my cheque. Therefore I am not assailing the creditworthiness of the Bank. I was assailing its efficiency, not undermining the creditworthiness of the bank which is a different thing. You have been in the bank which is a different thing, the bank long enough to know precisely what is meant by creditworthiness compared to efficiency and competence of the Bank.

**Shri Menon:** My criterion is: If there is one customer in our Bank like our hon Member and if he says that this bank is no good, it would seriously affect our bank.

**Mr. Chairman:** Instead of prolonging on this, you may pass on to the next question.

**Shri N. Dandekar:** You agree that these are objectionable things, but the only point is: why should they be brought in here and made as an offence and subject to the penal provisions, why not deal with them otherwise? But you agree that these are objectionable activities?

**Shri Menon:** Otherwise, it will not find a place in our Standing Orders. I do agree these are objectionable things, but as I said, I do object to the remedy sought in this manner.

**Shri N. Dandekar:** Now we come to the proposed section 10A. You want representation for the employees

of the bank. I think if you perhaps read this provision it is not representing any particular interests. It begins like this:

'shall have special knowledge of or practical experience in respect of..

accountancy', etc.

Is it not representing accountancy profession. What it is representing is that anybody may be a director but he must be a director for instance with the special knowledge of accountancy or practical experience of accountancy, agriculture or banking.

**Shri Menon:** If I may put it correctly, I would correct it like this, 'having special knowledge about problems of labour'.

**Shri N. Dandekar:** That is a different matter.

**Shri Menon:** And that special knowledge can be had only by an employee.

**Shri N. Dandekar:** If you were to say, 'having special knowledge or practical experience of labour-management affairs', perhaps there is something to be said for what you say. But the moment you say that the "employee" as an interest should be represented as an interest should be represented; then officers as an interest should be represented; depositors as an interest should be represented and so on. This is not representing any interest. Are you asking for a man with special knowledge or practical experience of labour-management relations?

**Shri Menon:** The person whom you select should be an employee only. It would be in the interest of banking industry also to have a person from among the employees who would be knowing the day-to-day work.

**Shri N. Dandekar:** Not just a man with special knowledge in labour-management relations, but an employee of the Bank.

**Shri Menon:** Yes.

**Shri Samarendra Kundu:** Why do you want an employee to be there? Is it because you feel that there will be better participation of employees in the management?

**Shri Menon:** Yes, It will also be in accordance with the policy enunciated in the Industrial Policy Resolution.

**Shri S. S. Kothari:** If 36 AD is not to be deleted, can you suggest any amendment with regard to phrases like imprisonment etc.?

**Shri Menon:** I would not just compromise myself to anything other than complete deletion, if I am given a choice.

**Shri S. S. Kothari:** If a person is imprisoned, under the Shastri Award, what will be the effect on his career?

**Shri Menon:** His services could be terminated.

**Shri S. S. Kothari:** Will it have any effect on his re-employment?

**Shri Menon:** It will be according to the standing order.

**Shri S. S. Kothari:** Can he be appointed elsewhere?

**Shri Morarji Desai:** If he is dismissed by one bank, he will not be taken by any other bank.

**Shri S. S. Kothari:** Why do you want to demonstrate inside the Bank?

**Shri Menon:** It depends upon circumstances. I have had occasions to witness the officers of the Bank assaulting the employees and even the Police did not interfere.

**Shri S. S. Kothari:** Officers assaulting the employees!

**Shri Menon:** I wish you believe.

**Shri Morarji R. Desai:** In your bank?

**Shri Menon:** It had happened in our Bank. But that was a matter which we could deal.

**Shri S. S. Kothari:** What about the 10 metres distance provided for this purpose?

**Shri Menon:** That also must go, because it prohibits others in the next room forming a trade union however much the management may indulge in blackmarket and other undesirable things. In a big building there may be another company in the next room.

**Shri Jyotirmoy Basu:** I would like to have a clarification from Mr. Dandekar. When he was asking the opinion of Mr. Menon on sub-clause (b), did he mean violent demonstration or a peaceful demonstration?

**Shri Morarji Desai:** We can discuss it among ourselves.

**Chaudhary Nitiraj Singh:** You insist that your representative should be appointed on the Board of Directors. Would you be satisfied if the Chief Personnel Officer is appointed on the Board?

**Shri Menon:** That is a matter of detail. We could decide that with the Employees' Union. I wish that the management first concedes our demand for the appointment of a Director from the ranks of employees.

**Chaudhary Nitiraj Singh:** You would admit that the present Bill gives more power of control to the Reserve Bank. Do you insist that the Reserve Bank should have the right to appoint the Chairman?

**Shri Menon:** I was prompted to say that because there was the talk that the banks had already voluntarily started implementing the provisions of this Bill. The purpose the framers of the Bill had in mind is being defeated. The Chairman has to be the full-time executive and that is necessary in the interest of the banking industry.

But that is being circumvented now because they are appointing their General Manager, who were responsible for certain things which prompted this measure by the Government, as Chairmen. It is only old wine in a new bottle.

**Mr. Chairman:** I am all the while requesting the Members to be brief. I request that you may also be brief in your replies.

**Shri Kamalnayan Bajaj:** In answer to a question you stated that you had the freedom of complaining to the Finance Ministry against any actions of the Bank which were not in the interests of the country or the bank or the depositor. In your service of 13 years how many times you have complained to the Finance Ministry in this regard?

**Shri Menon:** We have never done that. Fortunately for us, things were rectified when we had the occasion to point out certain things to the management.

**Shri Kamalnayan Bajaj:** You are a reputed leader of your Union and you also know that there are many other Unions working all over the country. It must be within your knowledge that the demands of the Unions are not so much prompted by legitimate interest of the employees but there are political influences behind such demands.

**Shri Menon:** Sometimes such things do happen.

**Shri Kamalnayan Bajaj:** You want that on the Board of Directors there should be a representative of the employees who knows the working conditions etc. With all sorts of political influence behind such representation, will it not harm the harmonious working of the Bank?

**Shri Menon:** I am not aware whether the Reserve Bank is subject to political influence. When the Reserve Bank feels that there are some other

considerations or political influence working behind him, it could remove him.

**Shri Kamalnayan Bajaj:** What will be your reaction if the Chief Personnel Officer is appointed on the Board as your representative?

**Shri Menon:** I have already said that it could be considered later, because it is a matter of detail. We shall not be satisfied by anybody other than the person who enjoys the complete confidence of employees being represented on the Board of Directors.

**Shri C. M. Kedaria:** At page 3, at the end, of your memorandum you have stated. "We are not for a moment suggesting to your goodselves that the Bank employees, should be given the privilege to obstruct the functioning of the Banks or to indulge in indecent demonstrations or to give the right to undermine the credit-worthiness of the Bank or indulge in any unlawful activities." Are you still of the same opinion?

**Shri Menon:** I am still of that opinion.

**Shri C. M. Kedaria:** Will you please explain the scope....

**Shri Morarji R. Desai:** He has already explained. He gave a long lecture on it. He has already stated that this should not be there.

**Shri M. Thirumala Rao:** Mr. Menon, you are aware that many of these Unions have got their political affiliations. But are you not aware that in this connection, politics can play a very, very important and a very disconcerting part in the relations between the management and the employee?

**Shri Menon:** The same question was replied to some time back.

**Shri Indrajit Gupta:** In the event of an employee being acquitted by a court in connection with some offence un-

der any law, is it provided in the standing orders which are now prevalent in your banks to re-employ him?

**Shri Menon:** I would read out the particular provision in our standing orders: "If he be acquitted, it shall be open to the management to proceed against him under the provisions set out below in clauses 17.11 and 17.12 infra relating to discharges. However, in the event of the management deciding after enquiry not to continue him in service, he shall be liable to only for termination of service with three months' pay and allowances in lieu of notice."

**Shri Indrajit Gupta:** Under section 36AD, even if there is an acquittal, the bank management is free to take action against him?

**Shri Menon:** They can simply terminate him.

**Shri Morarji R. Desai:** After an enquiry.

**Shri C. T. Dhandapani:** Are the demonstrations held before or after office hours?

**Shri Menon:** It depends upon the situation, Sir, or the urgency. Usually it is before or after office-hours.

**Shri Morarji R. Desai:** It is also done during office-hours. May I ask two questions? You say that an employee should be taken on the Bank directly, for management. Supposing an employee is taken on the Bank directorate and he becomes a Director, do you expect that he should cease to be an employee?

**Shri Menon:** No, Sir.

**Shri Morarji R. Desai:** Then, do you realise that when he works as Director, he is above all employees; that is, superior to every other officer?

**Shri Menon:** Yes.

**Shri Morarji R. Desai:** Then, should that employee work under any officer who will be under the Director?

**Shri Menon:** That is what you wanted.

**Shri Morarji R. Desai:** We have not said it. You are asking for it. I have not asked for it. But I am asking you how you solve this problem. Will it be possible for any officer to take work from him when he is a Director?

**Shri Menon:** That is a very hypothetical question.

**Shri Morarji R. Desai:** No, it is not hypothetical. This will happen. Any Director, whether he is chosen from the employees or from others, cannot be different from other Directors. There cannot be discrimination.

**Shri Menon:** Directors don't give direct orders to employees.

**Shri Morarji R. Desai:** And, no Director receives salary.

**Shri Chandrasekharan:** He must be full-time Director.

**Shri Morarji R. Desai:** Then there must be a Special Director. He will receive the same salary as of an employee.

**Shri Menon:** Yes, Sir.

**Shri Morarji R. Desai:** As a person interested in public affairs and also in the country, I am sure, you will agree that if the banking institutions work efficiently and without disturbances, there are better opportunities for employees to prosper and more employees to be taken in. Do you grant it?

**Shri Menon:** I do.

**Shri Morarji R. Desai:** Do you think it is the right of the Trade Union to make demonstrations inside the premises? Please tell me what is meant

by demonstration. Demonstration means any demonstration. Demonstration is demonstration.

**Shri Menon:** I would request that the trade union should be given the right to..

**Shri Morarji R. Desai:** 'Should be given' is a different matter. Do you claim that it is the right of the Trade Unions?

**Shri Menon:** Yes.

**Shri Morarji R. Desai:** Then, does that right not infringe the right of other people to work there peacefully?

**Shri Menon:** It does.

**Shri Morarji R. Desai:** Then how can you have a right against the Constitution?

**Shri Menon:** It is not against the Constitution.

**Shri Morarji R. Desai:** That is against the Constitution. I am asking you: can you prevent another employee from working in the Bank because you do not want him work?

**Shri Menon:** Question of prevention does not arise.

**Shri Morarji R. Desai:** Can you prevent him?

**Shri Menon:** I cannot say.

**Shri Morarji R. Desai:** That would be unconstitutional. Then, can you also claim the right to obstruct another person from entering in a bank for work or for transaction of work? Is it your right?

**Shri Menon:** It depends on what is meant by 'obstruction'. If peaceful picketing is included....

**Shri Morarji R. Desai:** The man can be prevented from going in....

**Shri Menon:** Prevented physically or....

**Shri Morarji R. Desai:** If you lie down at the entrance and you do not allow him to go like that. Is it not..

**Shri Menon:** If I put a placard with the slogan....

**Shri Morarji R. Desai:** I am not for taking away the right of satyagraha from anybody. If you stand peacefully there and do not prevent a person from going in nobody can prosecute you.

**Mr. Chairman:** Thank you very much, gentlemen.

*(The witnesses then withdrew)*

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

*Spokesmen:*

1. Shri A. C. Kakar
2. Shri Prabhat Kar
3. Shri H. L. Parvana

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

*Spokesmen:*

1. Shri S. N. Duber
2. Shri Amrit Lal Airi
3. Shri J. N. Kapur.

*(The witnesses were called in and they took their seats)*

**Mr. Chairman:** You are welcome. Before we start I would just read to you the direction 58: "Where witnesses appear before a committee to give evidence the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witness that even though they



might desire their evidence to be treated as confidential such evidence is liable to be made available to the Members of Parliament."

I hope you do not want your evidence to be treated as confidential.

**Shri Prabhat Kar:** No

**Mr. Chairman:** Will you explain your case first or confine yourself to the memorandum submitted earlier.

**Shri Prabhat Kar:** I will just explain our case.

**Shri Prabhat Kar:** We shall make an attempt to place our case as briefly as we can. We shall be dealing with various clauses of the bill about what we have to say. According to us 36AD directly affects us. I will put the point very briefly. As far as our understanding goes it restricts the freedom of speech and expression, assembly and demonstration. This freedom of speech is guaranteed by the constitution. I will explain further afterwards. It restricts the right of peaceful picketing which has also been held to be legal and justified by even the courts of law including the highest courts of our land, the supreme court of India. The Bill restricts the right to agitate for a cause, which is also guaranteed by the constitution. It restricts the pen-down, sit-down and stay-in strike which has been held to be legal by the supreme court of India. The right to strike is already guaranteed and pen down, sit-down and stay in strike also is part of the legal strike. This has been held by the supreme court of India. This is in relation to 36AD 1(a) and 1(b). So far as 1(c) is concerned it restricts the criticism about the functioning of the bank. It restricts the bringing into line of various activities even conspiratorial and shady deals of the bank. These are (a) (b) (c) clauses. Now I will show how it restricts. I am also representing the employees. The word 'no person' includes the employees also. That is, obstruct any person from entering

any office or place of the banking company or from carrying on any business there. If we divide into two parts, one is, obstruct any person from entering any office at the place of banking of the banking company. The right of peaceful picketing is there. It is part of genuine trade union activity. It has been held to be the right of the trade union by the court. That means the right to strike and also the means to strike and also peaceful picketing is a part of genuine trade union activity and this has been there. This can't be considered as an offence. In the Court of the Industrial Tribunal, Delhi in the case of Burmah Shell Delhi vs. its workmen, the court has held as follows:

"Peaceful picketing is a part of the strike and is associated with the strike. When it has been recognised that strike is a legitimate and lawful weapon in the hands of workmen so long as strike is not legal I fail to see how peaceful picketing in furtherance of such a strike can be held to justify the action of the management in this case. The action of the management viewed from whatever angle cannot be upheld."

Peaceful picketing is part of the strike. The right to strike has been guaranteed as per the judgement of the court. Now obstructing any person from entering any office means that there can't be a peaceful picketing. Peaceful picketing has been held to be part of strike. That means the right to strike is also being indirectly taken away. So, it restricts the right of peaceful picketing. You say 'carrying on any business there' The second part takes away my right to strike, pen-down, or sit-down or stay-in strike which has been held by the Supreme Court as legal. If a person is there sitting in the seat and not working, as the union has called a strike, if he refuses to vacate

his seat, then he falls within the mischief of the words carrying on business there' of obstructing carrying on any business there. Sit down strike and refusal to work and sitting also has been held to be legal part of the strike by the Supreme Court of India. I will just explain it. I will read out from the judgment of the Supreme Court of India. It says:

On a plain and grammatical construction of the definition of 'strike' in S2(q) of the Industrial Disputes Act, it would be difficult to exclude a strike where workmen enter the premises of their employment and refuse to take their tools in hand and start their usual work. Refusal under common understanding to continue to work is a strike and if in pursuance of such common understanding the employees entered the premises of the Bank and refused to take their pens in their hands, that would no doubt be a strike under S. 2(q) of the Act.

Further the entry of the concerned workmen in the Bank premises and their refusal to vacate their seats in spite of warning, would not amount to civil trespass or criminal trespass within the meaning of S. 441 of the Indian Penal Code. The concerned workmen were not put under suspension on the days in question. So long as the relationship of master and servant continued, the employees could not be said to have committed civil trespass when they entered the bank premises at the time in question. Even assuming that civil trespass was involved in the conduct of the concerned employees, that by itself could not justify the rejection of their claim for reinstatement.

Further such conduct on the part of the concerned employees

would not amount to 'criminal trespass' within the meaning of S. 441 of the Indian Penal code. It should be noticed that there are 2 essential ingredients which must be established before criminal trespass could be proved, against the concerned employees. Even assuming that the concerned employees entry in the bank premises was unlawful, or that their continuance in the premises became unlawful, it could not be contended that the said entry was made with intent to insult or annoy the superior officers of the Bank. Even if the strikers might have known that the strike might annoy or insult the Bank's officers, it would be difficult to hold that such knowledge would necessarily lead to the inference of the requisite intention. In every case where the impugned entry causes annoyance or insult it cannot be said to be actuated by the requisite intention. The said intention has always to be gathered from the circumstances of the case, and it may be that the necessary or inevitable consequence of the impugned act may be on relevant circumstances. But it could not be contended that the likely consequence of the act and its knowledge must necessarily import a corresponding intention.

I do not want to read everything.

"The history of trade union legislation in England shows that the trade union movement had to wage a long and bitter struggle to secure recognition for the workmen's right to organise themselves into unions and to exercise their right of collective bargaining if necessary by the use of the weapon of strikes. In America a similar struggle took place, which was also marked by violence on

the part of both capital and labour because the employer's theory of "hire and fire" offered relentless resistance to the workmen's claim to form unions and to resort to "strikes" for trade union purposes. Fortunately, as the Indian Trade Unions Act 16 of 1926, the Industrial Employment (Standing Orders) Act XX of 1946 and the Industrial Disputes Act 14 of 1947 show, our legislature has very wisely benefitted by the experiences of other countries in the matter of the development of trade union movement, and has made progressive, just and fair provision governing the important problems of industrial relationships, the formation of trade unions, and the settlement of industrial disputes. It can be justly claimed that though we have witnessed capital labour conflicts in our country, on the whole neither party has departed from the pursuit of peaceful methods, and both parties submit their disputes to be resolved in accordance with the provisions of the Act. In dealing with industrial disputes as in the instant case the relevant statutory provisions and the Indian decisions must be primarily considered and thus considered the conclusion is inevitable that the pen-down strike is a "strike" within the meaning of S. 2(q) of the Act and so it could not be treated as illegal.

The general hypothetical consideration that pen-down strikes may in some cases lead to rowdy demonstrations or result in disturbances or violence or shake the credit of the employer would not justify the conclusion that even if the strikers are peaceful and non-violent and have done nothing more than occupying their seats during office hours, their participation in the strike would be itself disqualify them from claiming reinstatement.

**Shri Morarji R. Desai:** I do not dispute it.

**Shri Prabhat Kar:** When I say that it restricts pen-down, and sit-down strikes. I was explaining that this part of their carrying on any business.

**Shri Morarji R. Desai:** That is not mentioned, that is a matter for argument.

**Shri Phabhat Kar:** According to our understanding we have put forward our case.

Then I come to sub-clause (b) of 36AD in Part IIB It says; "hold any demonstration which is indecent of which amounts to the commission, or incitement to the commission, of any offence, within the precincts of, or inside, any building in which the office or place of business of any banking company is situated or within ten metres from any entrance to or exit from such building". Here there are two things. One is indecent demonstration the other is commission of any offence, or incitement. You will agree that the word "indecent" is subjective. There is no absolute definition of that word. If the reports which have been published on the bill which was discussed in the Lok Sabha recently are correct you will see that there were such sharp differences of opinion on the word obscenity. Similarly the word indecent is very vague. It will put an embargo on any demonstration.

Similarly the word "offence" is also not defined. It has the widest connotation. For instance wearing badges by work-men may annoy the management and that becomes an offence. According to law it means causing not only insult but annoyance. Wearing of badges may fall under the mischief of the word "offence". In brief nothing can be done by the employees under the sub-clause (b), within ten metres from any entrance to or exit from such building.

Sub-clause (c) says "act in any manner calculated to undermine the

creditworthiness of any banking company."

It is not our intention at all to undermine the creditworthiness of any unit of the banking industry. We have been working in the banks and in the trade union for the last 22 years. We can very well say that up till now we have never undermined the creditworthiness of any bank.

**Shri Morarji R. Desai:** Have you been an employee of the bank?

**An hon. Member:** He was an M.P.

**Shri Morarji R. Desai:** That I know. But I did not know that he was an employee of the bank.

**Shri Prabhat Kar:** I was an employee, but not now. We have never undermined the creditworthiness of any bank till now. I would like to know what all the word "creditworthiness" includes. As early as 1950, we brought to the notice of the Reserve Bank certain matters relating to Bharat Bank Ltd. At that time Bharat Bank went into liquidation because, it only transferred assets and liabilities to the Punjab National Bank. When the Vivian Bose Commission went into this it was proved that every item of complaint placed before the Reserve Bank was correct. About 750 workers did not get jobs as it was a question of transfer of Assets and liabilities. Subsequently, the question of amalgamation of the Banks came as a result of amendments to the Banking Regulation Act which was not there. It was purely a matter between the Board of Directors of two banks and therefore 750 employees of the Bharat Bank lost their jobs.

As early as 1951, we brought out an appeal to the Members of the AICC regarding the activities of persons who were controlling the Punjab National Bank at that time. We pointed out to the Members of the A.I.C.C. with certain items. We simply drew their attention to certain activities of the bank. 150 employees

were dismissed for that. We have got that pamphlet. On the day when the Vivian Bose Report was being discussed in the Lok Sabha, I read out the pamphlet and read out the findings of the Vivian Bose Report. Each and every item was found to be correct. With the Statement of Objects and Reasons of the Bill as enumerated by the Deputy Prime Minister we entirely agree. It has been stated that "A good deal of concern has been expressed in the recent past about the functioning of the commercial banks." Concern has been expressed in the past because certain things have been found to be not conducive to the development of the country's economy. If these things are put forward, even through the Members of Parliament, we come under the mischief of this section. We cannot even supply these informations to Members of Parliament. On the floor of the House, at times, many things have been discussed including the affairs of the very many big industrialists—all were involved in the bank affairs. We cannot just inform you that this is what is happening because we fall under the mischief of this Act. Earlier we brought to the notice of the Reserve Bank the facts regarding the Mundhra affairs. Not only that, this was in relation to a foreign bank. The man who was involved at that time anyhow had gone back to England. At that time Mundhras were purchasing Jessop's shares from the Jessops and Company violating the provisions of the Foreign Exchange Control Regulations and it was done of course through a bank.

Ultimately, when the L.I.C. affairs were being discussed in the Lok Sabha only then these things came to light. Earlier we brought it to the notice of the authorities. Action might have been or might not have been taken. Who is the real authority whom we can tell these things? Inside Parliament, only the peoples representatives can do that. We cannot bring this to the notice of anybody because we shall come under this section. Parliament has immunity

Members of Parliament can do this. How can they know this unless somebody can brief them. Otherwise this will have no effect. Now we cannot go to the Members of Parliament and tell them these things because we fall under the mischief of sub-sec. (c) of this Act. That is how this section restricts.

I have expressed my point about three sections. Firstly it restricts the freedom of speech and expression and assembly of people; it restricts the right of peaceful picketing; it restricts the pen down, sit down and stay in-strike; it also restricts criticism about the functioning of the banks; also it restricts bringing into light the activities of the shady deals of the bank. I cannot deal with penal clauses. I can only speak about the restrictions which have been put under the above sections.

As you know, Sir, trade unions have got their rights which are sacred. They must have the right to agitate and hold demonstrations. The supreme court has held that the demonstration falls within the freedom of expression. That means demonstration, which means freedom of expression.

So far as restriction on demonstration is concerned, the Supreme Court has struck down holding that Central Government's rules infringe upon the fundamental rights of the worker. That is why the Supreme Court held that the demonstration has been held to be a fundamental right of the workers. Peaceful picketing is also, as I have said, a right; sit down strike is a right; that means obstructing somebody else doing a certain thing. This has been held as a legitimate right. Regarding criticism about the working of a bank, I have explained already. A statement has been made by the Deputy Prime Minister himself in the Bill which begins with 'A good deal of concern has been expressed in the recent past about the functioning of the commercial banks in the country.' Steps are naturally being taken. As regards concern expressed with regard to acts

and certain activities of the banks, we may be able to bring to the notice of the Deputy Prime Minister if not to anybody else but that will involve me under Sec. (c) of this Act.

**Shri Morarji R. Desai:** It will not happen. I can assure you that you may bring that to my notice.

**Shri Prabhat Kar:** Thank you, Sir. Only one thing I want to tell you. The law has been framed. But it debars me from bringing certain matters to the notice of the authorities. Suppose I bring them to the notice of the authorities, immediately I fall under the mischief of this section.

I cannot claim any authority whether in an Act which regulates the banking practices, you can import a section which may be part of other law. I can understand a common law that no person shall commit a theft. Here, you can talk in terms of a shareholder or in terms of the management or board of directors. You can think in terms of an employee. But, how the Banking Regulations Act can impose restrictions on common men who have got nothing to do with the banking itself?

**Shri Morarji R. Desai:** He is not covered. Anybody who goes to the bank is covered.

**Shri Prabhat Kar:** Anybody who demonstrates within 10 metres is covered. Take for instance a demonstration which has nothing to do with the bank. Sir, you had been recently to Calcutta. Take the Netaji Subhas Road. You know the position there, commercial firms and banks are situated side by side. If you enact this law, that whole area will become a 'Silence Zone' as no party can hold a demonstration within ten metres from a bank.

**Shri Jyotirmoy Basu:** It will be a perpetual Sec. 144.

**Shri Prabhat Kar:** Not only that, it will create a 'Silence Zone'. Just

as we have the signal for a silence zone a horn with a cross over it, you have to put the figure of a human head and put a cross over its lips. The roads in our cities are not so wide—of course, new cities may come up, but as it is, they are not so wide and if you enforce this provision, you will be reducing it to a silence zone.

**Shri Morarji R. Desai:** That particular zone is more than 10 metres wide.

**Shri Prabhat Kar:** 10 metres means 33 feet. The total width of the road is 50 ft. This bank will be within 20 ft. of another bank.

**Shri Morarji R. Desai:** On the side of the Government House it does not mean that.

**Shri Prabhat Kar:** You are asking me that if I have got a grievance, I got to go to Ouchterlony monument or I have to go to Azad Maidan and shout there.

**Shri Morarji R. Desai:** That will be safer.

**Shri Prabhat Kar:** That is not what you wanted. Either you ask me to go to Azad Maidan or Ouchterlony monument to speak about my grievances not only against any bank but also against any commercial or mercantile firm. So even, the Jute mill workers or the engineering workers cannot demonstrate before the Bengal Chamber of Commerce because within 10 metres of the Bengal Chamber of Commerce building there are four banks situated. If you impose restrictions on me this way, you are imposing restrictions on all working class people in that area.

**Mr. Chairman:** Please be concise now.

**Shri Samarendra Kundu:** This is a very important matter, Sir. Let him take his own time.

**Shri Morarji R. Desai:** Yes, the matter is important, but he is also a very important person. I also grant that.

**Shri Prabhat Kar:** Thank you for your compliment Sir, I just want to explain.....

**Shri Morarji R. Desai:** You have done it so many times. You have taken 35 minutes.

**Shri Prabhat Kar:** I was trying to explain to you.

**Shri Morarji R. Desai:** Do you think we are dunces to understand that?

**Shri Prabhat Kar:** May be in my anxiety, I am trying to impress upon you so that I can carry you with me.

**Shri Morarji R. Desai:** That is not possible.

**Shri Prabhat Kar:** At least in this matter.

**Shri Morarji R. Desai:** Even if you take 3 hours, you cannot carry me but you can carry other members.

**Shri Prabhat Kar:** But I want to carry you on this matter.

Just on this matter I was telling that in the Bank House there are other commercial and mercantile firms on the first, second or the third floor and their employees cannot also demonstrate against their employers. That is how it will work. The only point here is that a legitimate trade union right is sought to be stifled. I will just quote from a judgment of Shri Das Gupta, Chairman of the Labour Tribunal.

**Shri Morarji R. Desai:** You can leave it here. Why to read it out?

**Shri Prabhat Kar:** I will only read two lines:

"The whole object of the trade

unions is to carry on collective bargaining and negotiation with employers . . .”.

**Mr. Chairman:** What is the point?

**Shri Prabhat Kar:** He further says:

“When all attempts fail, coercive power is adopted as a final recourse. Strike is one of these coercive powers. It is most essential part of a trade union programme. The strike, picketing and boycott are the coercive powers. Without these coercive powers which have to be used with utmost vigilance, the union is defenceless.”

Therefore, it is part of a trade-union activity. When we say that it is a trade union right, I only wanted to support it by a judgment which I read.

Sir, this section is irrelevant to the object of the Bill as I understand. The object of the Bill, as it is mentioned here is that the Banks' credit should be diverted according to a planned economy so that priority sectors receive the due share in particular time. The main object of the Bill is to amend the Banking Regulations Act to incorporate certain new provisions towards achieving this purpose.

If it was being complained earlier that because of the demonstration, the priority sectors did not receive their due share or because of the demonstration the banks are forced to give advances to a particular group of clientele or because of the demonstration, the bank could not invest or properly invest for the development of country's economy, then surely restrictions on workers' activity will have relevance to the Bill. Now these have got no relevancy towards the object of the Bill. It is extraneous to the purposes of the original Act. That is nowhere in this Act. The ques-

tion of industrial relations of the bank employees or any of the officers have been dealt with. It lays down Does and Don'ts for the bank management. It has got nothing to do with the employer-employee relations. This is a Banking Regulation Act but Part IIB relates to relations between the employer and the employees which should rightly be governed by laws relating to industrial relations and it has no place in a banking regulation law. It also violates the provisions of awards and agreement. Today in the banking industry there is existing agreement which is binding legally on the parties upto 31st December 1968 and beyond that also until that agreement is modified. These awards and agreements are being followed. There is already a standing order which governs the relationship, particularly in respect of what you call minor and major misconducts, punishments etc. All these things are covered by the standing order. This is another superlative standing order which is being foisted over and above the agreement on the plea of banking relations. The bank employees have been chosen to be discriminated against. There is nothing which forbids other workers to act in any manner they like. But, here restrictions are put on the bank employees and so it discriminates bank employees. It grants premium to banking business because it puts restrictions on persons on whom restrictions cannot be imposed by the existing Act. Now, in our memorandum we have given certain amendments.

**Mr. Chairman:** Mr. Kar, how much time will you take?

**Shri Prabhat Kar:** We represent 1,75,000 bank employees . . .

**Shri Jyotirmoy Basu:** . . . out of 2-1/2 lakhs.

**Shri Prabhat Kar:** Naturally, if we have taken some more time on this matter, I wish to be excused.

**Shri Morarji R. Desai:** I don't say that necessary time should not be taken.

**Shri Prabhat Kar:** It only shows our anxiety.

**Shri Morarji R. Desai:** In your anxiety don't consider us as incapable of understanding.

**Shri Prabhat Kar:** I shall require at least an hour more to explain.

**Shri Morarji R. Desai:** You have already taken 45 minutes. You want an hour more! You have given us your memorandum also. If you want to say something apart from the memorandum, you can say that.

**Shri N. Daudeker:** The witness should be allowed whatever time he wants. So far as Mr. Kar is concerned, he should be allowed.

**Shri Morarji R. Desai:** I think we meet again at 3-30 to 5-30 tomorrow. I don't think they will require more than an hour.

**Shri Jyotirmoy Basu:** We start with them tomorrow..

**Shri Prabhat Kar:** Yes, Sir.

*(The witnesses then withdrew).*

*(The Committee then adjourned)*



**MINUTES OF EVIDENCE GIVEN BEFORE THE SELECT COMMITTEE ON  
THE BANKING LAWS (AMENDMENT) BILL, 1967.**

*Thursday, the 18th April, 1968 at 14.30 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 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, *Joint Secretary and Legislative Counsel, Ministry of Law.*

**REPRESENTATIVES OF THE MINISTRY**

1. Shri S. S. Shiralkar, *Additional Secretary, Deptt. 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, Deptt. 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.*

## WITNESSES EXAMINED

I. *Indian Banks' Association, Bombay:*

*Spokesmen:—*

1. Shri F. K. F. Nariman—*Chairman, Union Bank of India Ltd.*
2. Shri S. C. Trikha—*Chairman, Punjab National Bank, Ltd.*
3. Shri R. B. Shah—*Chairman, United Commercial Bank Ltd.*
4. Shri S. G. Shah—*Secretary, Indian Banks Association.*

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

*Spokesmen:—*

1. Shri A. C. Kakar—*President.*
2. Shri Prabat Kar—*General Secretary.*
3. Shri H. L. Parvana—*Secretary.*
4. Shri P. L. Syal—*Member, Central Committee.*

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

*Spokesmen:—*

1. Shri S. N. Duber—*General Secretary.*
2. Shri J. N. Kapur—*Circle Welfare Secretary.*
3. Shri Amrit Lai Airi—*Asst. General Secretary.*

I. *Indian Bank's Association, Bombay*

*Spokesmen:—*

1. Shri F. K. F. Nariman
2. Shri S. C. Trikha.
3. Shri R. B. Shah
4. Shri S. G. Shah

*(The witnesses were called in and they took their seats)*

**Mr. Chairman:** Should we start now Yes, Mr. Dandeker.

**Shri N. Dandeker:** Now in clause 2 which bring in some new definitions I want to invite your attention to the definition of small scale industrial concern and as you see there the limits are: Investment in plant and machinery is not in excess of seven and a half lakhs of rupees or such higher amount, not exceeding fifteen lakhs of rupees, as the Central Government may, by notification..." The

point I want to ask is whether it will improve matter if instead of the word "investment" it is said not investment that is, the gross investment less money borrowed for the purpose of investment. At present it is gross value of plant and machinery which determines whether it is small scale industrial concern or large scale industrial concern. The point on which I want your opinion is whether it would improve, from the practical point of view if it was provided in a suitable way that it is net investment that should be considered.

**Shri Nariman:** I personally think that the limits which are defined for small scale industries are very reasonable.

**Shri N. Dandeker:** The next point is about the definition of substantial

interest', "where in relation to a company, means the holding of a beneficial interest by an individual which is to the extent of five lakhs of rupees or five per cent of the paid-up capital of the company, which is less". That seems to be very narrow, or do you think it is adequate, or would you agree with the view if I suggest instead of 'whichever is less' we say 'whichever is more.'

**Shri Nariman:** I think the present definition is very small because 5 per cent is a term which may in practical terms mean only Rs. 5,000 also. In the definitions of substantial interest the amount may be reduced from Rs. 5 lakhs provided that it is amended to read 5 per cent or Rs. 3 lakhs whichever is more. That will be more equitable in our opinion.

**Shri N. Dandekar:** Then clause 3, introducing certain provisions having a bearing on the managerial structure of banks. Now, there are three questions that I want to ask you. First of all, do you think or agree to suddenly switching over from whatever be the present composition of the Board to a situation where not less than 51 per cent should be directors of the special categories that are mentioned here or would you suggest that it needs a more gradual change-over to that kind of position.

**Shri Nariman:** I think that is a matter of policy on which we would not like to express opinion. Several banks have been able to make the adjustments.

**Shri N. Dandekar:** I am thinking of the smaller banks because they may not be able to find competent men. I think in large banks there is no difficulty but I am talking of a large number of small banks in whose case it will be difficult and 51 per cent of such directors may merely bring ignorance on the boards of such banks.

**Shri Nariman:** This is not made applicable to those banks.

**Shri N. Dandekar:** I see. Now it is said here: 'Shall have special knowledge practical experience of the various categories that are mentioned.' That is for categories (i) to (viii). What do you think of this special knowledge or practical experience? A man may be very good at international law, but may not have any practical experience whatsoever. They should have either special knowledge, or if they have no special knowledge, then they must have practical experience of the accountancy. If we say special knowledge and practical experience is it all right? I invite attention to item No. (ix) in that list, where the Reserve Bank is left to select people who have knowledge and experience.

**Shri Nariman:** The choice of selection within that particular category is there except for two limitations where two of them must be from the small-scale industries and cooperative agricultural sector. It is left to the shareholders and the board of directors of the bank. It is a wide choice.

**Shri N. Dandekar:** I am asking you whether it is a competent choice.

**Shri Nariman:** It is within the competence of the Board of Directors, to select those personnel within that definition.

**Shri N. Dandekar:** You don't anticipate any difficulty on that. Very good. Now I come to item (ix) in the list, 'any other matter.' Would you suggest any change there because otherwise politicians by way of merely being politicians could get in there. Should it be defined more precisely?

**Shri Nariman:** If in the opinion of the Reserve Bank politicians are useful, it is all right. I expressed my opinion the other day. Merely being

politician would not be the ideal thing; but there are politicians on the Board of different banks.

**Shri N. Dandekar:** I am on the Board of Directors of a Bank, not as a politician. Would you think it ought to be provided to mean engineers or actuaries or something of that kind? Persons with technical knowledge and experience?

**Shri Morarji Desai:** That is covered by the next clause.

**Shri N. Dandekar:** Is there no case that 'any other' should have more precise meaning than just 'any other'?

**Shri Nariman:** It is in the opinion of the Reserve Bank. I am not in a position to give an opinion.

**Shri N. Dandekar:** In your opinion it ought not to be narrowed down.

**Shri Nariman:** We do not anticipate any difficulty in this.

**Shri Trikha:** If it is made clear, it would be better. It will be desirable if it is made more precise.

**Shri N. Dandekar:** I am thinking of excluding political influence from banks. If they have already other qualifications they can come in. As practical men, how would you like politics intruding into the board of directors?

**Shri Nariman:** This answer is given on more than one occasion and I expressed the opinion how the Bank feels about it. If they have special knowledge which will be useful to banking industry they come on their own merit.

**Shri N. Dandekar:** Special knowledge, that is how you would put it. Very good. Now, Please see the clause at page 6 which is admirable. Now, the point I want to know

more about is this. I have recently been reading your speech, Mr. Nariman which you gave as Chairman of the bank. No doubt other executive Chairman would be making their speeches. I want to know what would you say if the Reserve Bank thought that any chairman criticising banking or fiscal policy, the monetary or economic policies, was not a fit and proper person.

**Shri Nariman:** Is there any claim to question that?

**Shri N. Dandekar:** One of the things the propounders of policy sometimes resent is the criticism of those policies.

**Shri Nariman:** The choice will be left to the chief executive to continue or not.

**Shri N. Dandekar:** From the point of view of banking industry, should we have Chairmen who are fearless critics if necessary of banking policy while carrying out the directives of the Reserve Bank? I am not suggesting that failure to carry out the directive is not misconduct. It would obviously be. I have to invite your reaction to this, namely, from the point of view of a bank, really competent chairman should not be afraid to criticise policies, even though they may have to be carried out. Should we have something like this: Provided that no person who is or has been elected to be the Chairman of the Board of Directors shall be deemed not to be a fit and proper person to hold such office by reason merely of his being a critic of monetary, banking and economic policies?

**Shri Nariman:** The clause is too wide. I do not think that anything which you visualise could ever be done.

**Shri N. Dandeker:** The freedom of expression of opinion of the Chairman who may hold the office with long experience of banking should be protected.

**Shri Nariman:** It should be protected.

**Shri Morarji E. Desai:** Are they going to be debarred? You are perhaps worried that if the executive chairman is a critic of the policy, he will not be there.

**Shri N. Dandeker:** He may be regarded as not a fit or proper person to hold that post.

**Shri Morarji E. Desai:** How are you going to mention it here?

**Shri N. Dandeker:** There is nothing in the Bill that precludes the Reserve Bank from saying that such a person is not a fit or proper person.

**Shri Morarji E. Desai:** I do not think that that will be supported by Government.

**Shri N. Dandeker:** It has got to be supported because it comes from the Reserve Bank.

**Shri Morarji E. Desai:** Still, Government have supervision over the Governor. In such cases, the banks may appeal.

**Shri N. Dandeker:** I refer you to the proposed new section 10 (B) (7) at page 7 of the Bill which says that any order made by the Reserve Bank shall be final and shall not be called in question.

Now, I come to the provisions contained in the proposed new section 20, which occurs in clause 5, at page 8 of the Bill. So far as I can see, subsection (1) debars or prevents the grant of loans to three categories of persons: firstly, to the directors themselves, which is perfectly in order, secondly, to the concerns in which the director is a director regardless

of the interest which he holds in it; and thirdly, to persons who are managing agents or partners or guarantors. I want to ask you whether banks should be prohibited from giving loans to a company of which the director of a bank is a director merely because of the fact that the director of the company is a director of the bank or whether there should be any further requirement that he is the director of a company in which he; has substantial interest.

**Shri Nariman:** This is the submission that we have made in our memorandum.

**Shri N. Dandeker:** Could you elaborate it?

**Shri Nariman:** We have said about directors, managing agents, managers or guarantors holding substantial interest. The reason why we are seeking this amendment is that in several countries including India, institutions which are financially interested seek to protect their interests by having a man of their choice on the boards of those companies. When it is a question of nominal interest—and that term has been defined—I feel that the banks should make their advances to various companies. They can have a nominee who can be as one of the directors...

**Shri N. Dandeker:** I have caught the point.

This is about the appointment to the board of persons to protect the financial interests. I want to take it on to a wider footing. Is a company tainted by reason of the fact that the director of the bank is the director of a company?

**Shri Nariman:** The question of having substantial interest may have a certain bearing on that. In the Bill it is proposed that 51 per cent of the directors of banks shall be persons who shall have special knowledge and practical experience of one or more

of the various fields and who will not have any link with the industrial houses. This will be a sufficient safeguard against the industrial links of the directors of banks. As regards the other 49 per cent of the directors of banks, our suggestion is that prohibition against the grant of loans or advances to directors or to companies or firms with which they are connected should apply only where the directors of banks hold a substantial interest in these companies. But it should not apply when they hold only a nominal interest. We are trying to suggest that all the persons who have special knowledge or who provide consultancy services may be appointed. In the present Bill it has been proposed that not less than 51 per cent of the directors . . .

**Shri N. Dandeker:** 51 professionalised directors.

**Shri Nariman:** This is the submission that we have made in our memorandum.

**Shri N. Dandeker:** Sub-section 2 of section 20 contemplates not only freezing but repayment of the facilities already existing in favour of a company of which the director of the bank happens to be a director. Would you like to comment on that?

**Shri Nariman:** If there are restrictions on future advances, some restrictions should be there on the existing advances. But the reasonable time-limit which should be three years should be specified except in cases where there are long-term advances made to fulfil contractual obligations. In case of a renewal which is only a review every year, this provision is bound to result in conflict. This ambiguity should be removed that the period should be three years or the period of contractual obligation whichever is longer.

**Shri N. Dandeker:** It should be made clear so that adequate time should be given to the director either to quit the company or the bank.

**Shri Kamalnayan Bajaj:** During that period, if normal growth is there, should it be stopped?

**Shri Nariman:** If growth and everything else is considered, then it will be difficult because you cannot allow any advances, and increasing the limit would be tantamount to new advances. Certain powers should be given to the Reserve Bank so that there will not be any genuine difficulty. Looking to the genuine needs of the case, more powers should be given to the Reserve Bank.

**Shri Kamalnayan Bajaj:** Can you enlighten us that wherever the directors are interested, in your bank, if any amounts involved in the accounts of the director will be in risk?

**Shri Nariman:** In my opinion, if money is advanced by us I don't think there is any risk. It is no more a problem at all.

**Shri Kamalnayan Bajaj:** At recent, in your own bank or in any of the banks wherever they are, the directors have a common interest either in the bank or anywhere. Is there any risk involved in their account?

**Shri Nariman:** We cannot give a reply to this for the whole banking system, because our knowledge is limited to the working of our own banks.

**Shri Kamalnayan Bajaj:** I would like to know the percentage of interest by your bank as this will perhaps show the pattern.

**Shri Nariman:** With the change in the present directors, our bank more or less has 1 per cent interest of the directors. It was 9 per cent formerly.

**Shri Kamalnayan Bajaj:** May I know if Mr. Trika would oblige me as to what is the percentage of director's interest in your bank?

**Shri Trika:** It was 7 per cent before.

**Shri Kamalnayan Bajaj:** Have you any knowledge as to what is the percentage of the State Bank?

**Shri Trikha:** It was about 16 or 18 per cent. I do not remember exactly. It was perhaps more I understand it was about 23 per cent last year.

**Shri Kamalnayan Bajaj:** Have you any knowledge of any serious objection having been taken by the inspector of the Reserve Bank on any account which they were not able to remedy?

**Shri Trikha:** No serious objection was taken. Certain objections were raised which were of a routine nature.

**Shri Kamalnayan Bajaj.** Do you know any company or companies whose accounts were with your bank long before any person who became a director in that company and also in your bank?

**Shri Trikha:** Yes. There were certain such accounts with the banks. I know in one case this happened that a company who dealing with the bank long before a director of the Bank came on the scene of that company.

**Shri Kamalnayan Bajaj:** Are their accounts included in this 7 per cent?

**Shri Trikha:** Yes, Sir.

**Shri Kamalnayan Bajaj:** Have you seen those accounts? What would be the rough percentage if at all you know?

**Shri Trikha:** I think that should come down from 7 per cent to 4 to 5 per cent.

**Shri Kamalnayan Bajaj:** As far as the strike and gheraos and other things are concerned in the premises, can you enlighten us as to whether the employees have threatened or intimidations have taken place or was

there any indiscipline or obstruction to the normal working of the bank? Have you any experience of this sort?

**Shri Trikha:** Two latest experience of these things was in 1967—from August to October. In those three months a dispute was raised by the employees on the matter of promotion. We had also made offers to them for the promotion to officers' grade. This was an option given to them and not a compulsion at all. They accepted the offer of officers' grade. But, the union raised a dispute and during the dispute what they did was that they used to go to the managers and other officers and sit down in the officer's cabin or in their rooms, they would not permit him to come out of his room or permit anybody to go in. They staged demonstrations outside the bank premises. They collected in large numbers inside the bank and moved from seat to seat, from table to table and from department to department shouting slogans and using abusive language towards officers. They sat at the counters but would not work. They went deaf and dumb and would not speak to the customers. They would not talk to anybody and they would not perform any work. All these things were done just before and inside banks. They used to beat their chests with their hands and shouted 'hai, hai'. After this, the leaders would indulge in speeches against the bank's officers. These things continued for about three months particularly inside the bank premises. They were shouting slogans and moving from department to department shouting indecent language.

**Shri Kamalnayan Bajaj:** Can you give us the slogans used by them?

**Shri Trikha:** I have a few with me. What they said in demonstration was "Dirty officers of the bank" "come to senses", rascal officers of the bank come to senses, wake up."

**Mr. Chairman:** We have now got the idea. You need not go on.

**Shri Kamalnayan Bajaj:** Did this have any effect in the activities of the bank and did it affect the efficient working of the banks? Did that have any effect on the overtime? Can you enlighten us on this point?

**Shri Trikha:** It was a height of indiscipline in the offices of the Bank. There was no question of efficiency because they would not work. They would sit at the counter and start "the work to rule" movement and they did not speak to the customers and did not attend to them. They dragged the people from their seats to join their demonstrations and their meetings.

**Shri Kamalnayan Bajaj:** Did at any time the demand of this kind come in writing or even orally from the employees that those who were either absent or were on official leave were also to be paid overtime as if they were on duty during those leave or absent days.

**Shri Trikha:** So far as overtime is concerned, it has increased to many-fold. I have got the figures. In 1960, the total overtime for the bank was Rs. 8.81 lakhs whereas in 1966 it was Rs. 80 lakhs—it has shot up to Rs. 80 lakhs nearly 10 times more. The demand of the Union is that whether an employee was absent or present, since he was a member of the Union, he should be treated on a uniform basis and should be paid overtime no matter whether he has actually worked or not.

**Shri Kamalnayan Bajaj:** Is there anything else in connection with the strike and other things which you think would be useful for the information of the Committee to come to a conclusion?

**Shri Kamalnayan Bajaj:** I would invite your attention to clause 36AD where it has been said that where any demonstration takes place, without the permission of the Reserve Bank no complaint would be made to the Police authorities. In the light of the fact that Banks have branches

at many places even in the interior where the Reserve Bank has no branch of their own, do you think there will be any practical difficulty? Would it be better if the clause is entirely dropped or it should be retained?

**Shri Nariman:** We have expressed our views about this clause in our explanatory note that is placed.

**Shri Kamalnayan Bajaj:** That you have done. But would you prefer that clause to be dropped entirely?

**Shri S. S. Kothari:** You realise the connection between the industrial houses and the Banks is practically severed or it would be severed completely. So a great responsibility has devolved upon you now. You are obviously the General Manager and Chairman and you have to protect the interests of the depositors. What do you suggest should be done? Deposits upto Rs. 10,000 or 50,000 should be insured or would you like any guarantee corporation floated by the Government of India which would guarantee advances given by you so that the interests of the public and depositors are safeguarded?

**Shri Nariman:** As far as insurance of deposits is concerned, as high as it could be, is more welcome.

**Shri Morarji R. Desai:** Guaranteeing what?

**Shri S. S. Kothari:** Advances given by the bank.

**Shri Morarji R. Desai:** Government should guarantee that?

**Shri S. S. Kothari:** Government could charge some premium. Would you ask for a similar corporation?

**Shri Nariman:** It will be difficult, because it will also engulf a very big area of the Co-operatives. I do not think the commercial banks can ask to be placed in a better position. Co-operative Banks are actually the best fitted for the purpose of agricultural finance and to go to the Reserve Bank



and ask for a corporation to guarantee only the advances made by the bank, would not be proper. We are ourselves finding out whether any private or even the public sector insurance company could assure the risk in regard to the advances made by individual banks. We have that in mind as regards agricultural finance.

**Shri S. S. Kothari:** But you agree to the necessity of having this risk insured, but who is to take up the insurance is the question. It may be a private insurance company or it may be a Government corporation floated for this specific purpose.

**Shri Nariman:** As in the present stage, our knowledge is extremely limited in that field and our personnel are also limited, we consider it—we think personally—that it will not be possible for the Reserve Bank to guarantee to any one to the exclusion of the other.

**Shri S. S. Kothari:** My second point is that Reserve Bank may require you to invest a certain portion of your funds in the small scale industrial sector or agricultural sector. If you do not find adequate security, would you, against your better judgment, give loans or you would not? In that event, how would you comply with the Reserve Bank's directive that a certain portion of your funds should be invested in a particular sector—small-scale or agricultural?

**Shri Nariman:** I do not think to my knowledge there is any proviso at the moment where the Reserve Bank will ask us to put so much in the agricultural sector. After all the depositors' interests have to be safeguarded.

**Shri S. S. Kothari:** Now coming to Clause 36AD, would you agree to the penal provisions being dropped and only a provision made that the employee shall be dismissed?

**Shri Trikha:** This clause covers any person creating obstruction. It does

not cover employee only. It covers any person whether he is a depositor or customer. How can you dismiss a depositor?

**Shri S. S. Kothari:** What about employees? Depositors include employees.

**Mr. Chairman:** His answer is very clear. You proceed further.

**Shri S. S. Kothari:** Have you applied your mind to the point of compensation? Under certain circumstances banks may be nationalised or taken over or a particular bank may be taken by the Government. As far as I can see from the compensation clause, it is provided that the bank shall be paid the market value of their assets. Question arises as to what about the good-will. The bank may lose a special source of deposits. Would you like something to be provided for goodwill with respect to loss of earning power or an alternative basis provided for computing the compensation.

**Shri Trikha:** The intrinsic value is the right criterion.

**Shri S. S. Kothari:** What about the goodwill—for loss of earning power?

**Shri Morarji R. Desai:** What is the goodwill in this?

**Shri S. S. Kothari:** The only payment that the State makes is for taking over the assets and liabilities. But the shareholders lose all their interests, earning power and income.

**Shri Trikha:** What will be the return should be calculated and payment should be made accordingly.

**Shri S. S. Kothari:** Only on the basis of assets and liabilities. For loss of earning power you do not want any compensation?

**Shri Trikha:** That should be referred to the ordinary judiciary. No special tribunal is necessary as envisaged in Cl. 36AH.

**Mr. Chairman:** This question is not very relevant. You do not go into matters which have got nothing to do with the present Bill.

**Shri Morarji R. Desai:** Mr. Kothari wants more compensation. They do not ask for it. He becomes a greater advocate because he is interested.

**Shri S. S. Kothari:** I do not have any bank shares.

**Shri Morarji R. Desai:** Perhaps you may be auditing some of them.

**Shri S. S. Kothari:** I do not audit banks.

**Chaudhary Nitiraj Singh:** In clause 3 which deals with Sub-section 10B(2) you have suggested that there should be no prohibition on the Chairman remaining as a Director of any credit institution. Your suggestion is not to prohibit the Chairman from directorship in credit institutions. If it is accepted, will it not affect some of the principles of policy laid down in the proposed legislation?

**Shri Nariman:** The intercourse between the two would be of benefit to both. Such directorships are held in public interest and carry no financial involvement. The provisions for the chief executives to act as directors of financial or credit institutions is sought only in respect of such institutions as may be notified by the Central Government or the Reserve Bank of India from time to time.

**Chaudhary Nitiraj Singh:** What is the percentage of Indian Banking Association's total assets being advanced to agricultural sector? Do you mean to increase the investment and if so, what steps do you propose to take?

**Shri Nariman:** Frankly at the moment it is very negligible. But we have made advances to plantations.

**Shri Jyotirmoy Basu:** To organised tea plantation?

**Shri Nariman:** Yes.

**Shri Jyotirmoy Basu:** That is not agriculture.

**Shri Nariman:** Yes. That is also negligible. We have also to learn. Every effort is being made to have an agricultural cell in the bigger banks. The Agricultural Finance Corporation will try and assist the smaller banks in various ways in expanding the portfolios of advances. Then there is the question of limitation of resources. At the moment what we have is fully employed. Then, we have also to look to the interest of depositors. If we are now to divert what we have, then the question of priorities will disappear. We are trying to mobilise deposits and from the additional deposits we will contribute to the new

**Shri K. N. Tiwari:** Do you propose that the system of advances should be introduced in all the banks? You said that the advance to agricultural sector is negligible. What should be the ratio of advance to agriculture and industry? sector.

**Shri Nariman:** The banks will not be deciding that. That National Credit Council will decide that.

**Shri Indrajit Gupta:** You mentioned about the steps already taken by some, may be most, of the banks to appoint whole-time chairman in line with the provisions of the Bill. As far as we know this has been done in most of the cases by appointing the existing General Managers as Chairmen. Would you please tell us whether you consider that this type of appointment which the Banks have done *suo motu*, even before the Bill has been passed, is in keeping with the larger sort of purpose which is behind the Bill?

**Shri Nariman:** If I may give my personal opinion, after all the banking is a very specialised subject. Whether we go into one sector or another, it is necessary that the expertise

which has been built over years is very essential because the chief executive, whether he is called the Chairman or the Managing Director or the General Manager, is the person who looks after everything and sees that all the proposals are properly processed. Any outsider will find himself in a difficult position. It is a question of putting into effect what we have been asked to do. The priorities are something new to us and I don't see any reason why we will not be able to do them successfully.

**Shri Indrajit Gupta:** Do you think that the traditional executives of the bank can properly discharge the policy-making obligations also, especially when you say that you are strangers to the new priorities?

**Shri Nariman:** In the new composition of the Board 50 per cent is technocrats and professionals. That will greatly add to our strength, because of their special knowledge in particular fields.

**Shri Indrajit Gupta:** Why are the banks in such a hurry to bring about these changes even before the bill is passed?

**Shri Morarji R. Desai:** They have agreed to implement the new policy without waiting for the bill to be passed. I asked them to do that. May I suggest your question in another way if I am right in presuming what you want to ask? Are the new Chairmen being appointed in tune with the new policy?

**Shri Indrajit Gupta:** Whether they are in tune with the new policy or not, we can see that later on. I don't wish to labour on that point. Mr. Nariman, you must be familiar with the clause on page 8 of the Bill which relates to the time-limit for the recovery of existing loans. The time-limit which is given here is a period of three years. In your opinion, is this a fair limit or should it be reduced?

**Shri Nariman:** It is a fair limit, especially when we consider the large industrial concerns and what they are doing is in the larger interests of the economy. They will need working funds, advances to carry on. I don't think it is going to be that easy at the moment to switch over from one to the other.

**Shri Indrajit Gupta:** Don't you think that this would virtually amount to freezing the social control policy?

**Shri Nariman:** We are not considering any new proposals. The existing arrangement being what it is, a certain period is necessary for repayment.

**Shri Jyotirmoy Bosu:** Supposing the Parliament insists of putting certain number of employees or representatives of the Union on the Board of Directors, do you feel they can attend the Board's meetings, enjoy the status of a Director and come back to their own job? Yesterday, dispute was raised here in regard to this.

**Shri Nariman:** Whatever the Parliament directs, we will carry out.

**Shri Jyotirmoy Bosu:** I am asking from the working point of view.

**Shri Nariman:** The time is not yet ripe.

**Shri Jyotirmoy Bosu:** Once they are made Directors, then can't they take orders from their senior executive and all that? I am putting it like this. They go to the Board meetings, enjoying Director's status, cast their votes wherever they like, and come back to perform their duty and draw their salary.

**Shri Nariman:** Once they are given a superior status, I think it is going to be difficult to do that. That is my feeling.

**Shri Morarji R. Desai:** It was asked only for information; it was not a point of dispute.

**Shri C. T. Dhandapani:** I understand there is a secret reserve.

**Shri Nariman:** That is allowed under the Banking Companies Act.

**Shri C. T. Dhandapani:** Has the Government or any other authority the power to look into this?

**Shri Nariman:** Reserve Bank of India and Income-tax authorities are there to do this.

**Shri M. Thirumala Rao:** I would like to ask a question with regard to deposits. We have insurance only up to Rs. 5000. It is the depositor who is really the mainstay of a bank that contributes the whole funds, excluding the share money. But, to my mind, the limit for insurance, i.e. Rs. 5000 is very low. What is the present value of Rs. 5000? Is it not possible to raise it to Rs. 25,000, and also devise a method of giving representation to depositors on the Board of Directors? Is there any objection from giving representation to the depositors on the Board of Directors? Is there any objection from the management to this proposal of giving representation to the depositors on the Board of Directors?

**Shri Nariman:** The average deposits are area Rs. 5000. Except for the people who are having large amounts and they are spread over separate banks. But I think Rs. 5000 limit is quite reasonable. It covers a substantial amount of the depositors.

**Shri Morarji R. Desai:** Is it your opinion that under the new arrangement the banks will be working with more risk than before?

**Shri Nariman:** To start with, we will have to take extra risk, because we are new. But we have done well. It is only a question of gaining a little time.

**Shri M. Thirumala Rao:** You were saying something about the represen-

tation to depositors on the Board of Directors. He will be another watchdog. . .

**Shri Morarji Desai:** What watchdog? Most of the Directors will be depositors.

**Shri M. Thirumala Rao:** But here is a helpless one who places money in the bank.

**Shri Morarji R. Desai:** If he is so helpless, he will not put a deposit.

**Shri M. Thirumala Rao:** Where will he go?

**Shri Nariman:** There has been an increase particularly in the case of Savings Bank depositors, which are small people or middle class people. I am sure they just would not put anything there unless they are quite certain about it. There are potential safeguards which the Reserve Bank and Government take. That has made it safe and sound.

**Shri M. Thirumala Rao:** I am not satisfied with your reply. But I don't want to pursue the question any further. Are you of the opinion that the new Bill will bring about a new orientation in the working of these banks? Are you sure? Or old conditions will prevail?

**Shri Nariman:** It will take some time because we are now in this field.

**Shri M. Thirumala Rao:** You are accepting it with an open mind?

**Shri Nariman:** Yes.

**Shri M. Thirumala Rao:** It is not a question of loyalty to Government?

**Shri Nariman:** It is a question of loyalty to ourselves and to the people.

(The witnesses then withdrew)

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

*Spokesmen:*

1. Shri A. C. Kakar.
2. Shri Prabhat Kar
3. Shri H. L. Parvana
4. Shri P. L. Syal.

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

*Spokesmen:*

1. Shri S. N. Duber.
2. Shri Amrit Lal Airi
3. Shri J. N. Kapur.

*(The witnesses were called in and they took their seats)*

**Mr. Chairman:** You are welcome again today. Please begin from where you ended yesterday.

**Shri Prabhat Kar:** Yesterday I was pointing out with regard to the question of Supreme Court judgements and I said I will get reference. It refers to the judgement "Kameshwar Prasad vs. State of Bihar". It was a question of Government employee where the questions of a demonstration undermines discipline.

**Shri Morarji R. Desai:** There is a lacuna, therefore, that happened.

**Shri Prabhat Kar:** The question of badge wearing too is also a part of the demonstration. It is on page 294. There is another case of Joseph, page 630.

Now coming to the question of the various sections I may just start with that we agree with the Statement of Objects but we apprehended its efficacy. I may only draw the attention of the Members of the Select Committee to that our apprehensions have further been strengthened by the reactions of the banks about the Bill. These were published in the Press:

"Bombay bankers welcomed the social control of banking despite some of its cumbersome features:

- (i) absence of any drastic feature in the Bill.
- (ii) its primary responsibility for giving depth to social control on the Reserve Bank;
- (iii) the threat of take-over is academic. The proposal that the Central Govt. and not the Reserve Bank will take over recalcitrant bank is considered sound in principle as take-over by the Government involves payment of compensation and consequently parliamentary approval;

**Shri Morarji R. Desai:** Why do you take their opinion? They are making the best of a bad bargain.

**Shri Indrajit Gupta:** In their memorandum the bankers have written that they are glad to find that most of the provisions are in conformity with the discussions they had with him. I do not know how it is the best of a bad bargain.

**Shri Morarji R. Desai:** I did not leave for them any chance. I told them that they will have to agree and they said that they agree.

**Shri Prabhat Kar:** The last point I want to emphasise is:

"What has upset a few of the present industrialist directors of banks is that under the Bill a number of them will have to resign more importantly those who continue to be directors will have to shift their borrowing accounts from banks in which they are directors to other banks."

That was how the bankers reacted to this.

Now the powers to the RBI. I need not point out that in the main Act there are already powers even for the removal of the Director but these

powers have not been utilised or Reserve Bank has not been able to curb the ills which the present Bill seeks to correct.

**Shri Morarji R. Desai:** That clause was not intended for this kind of purpose. Now the purpose is specified. That policy was different. Take agriculture for instance. The policy of Government and also of cooperative banks was that cooperatives should be left to deal with agriculture and commercial banks should have nothing to do with that. Therefore they did not give loans. Reserve Bank would not force them also at that time.

**Shri Prabhat Kar:** The State Government of Maharashtra has said and we have read it in the papers that no advance to agriculturists can be given except through the cooperatives.

**Shri Morarji R. Desai:** All this will be settled down properly.

**Shri Prabhat Kar:** Even after this it has happened..

**Shri Morarji R. Desai:** I would also want that to be done because the cooperative sector would not be rejected.

**Shri Prabhat Kar:** You know the functioning of cooperative sector at present.

**Shri Morarji R. Desai:** In Kerala for instance. In Bengal the cooperative did not exist for the last ten months.

**Shri Prabhat Kar:** The National Credit Council is to determine the priority of this. I do not know if you have been reported rightly in the press. Here in the objects it has been stated that the priority sector should be given preference. This is the object as far as it goes, priority sector receives the due share.

**Shri Morarji R. Desai:** Due share, not preference. They were not priority sector before. They are attached to priority sector. It is not to divide

one sector and give to another. It is not the scope of the banking bill. You may continue.

**Shri Prabhat Kar:** So far as the National Credit Council is concerned it may determine priority but it will not be possible for them to interfere in the day to day working of the bank for advances and all these things. Priority naturally will have to shift.

**Shri Morarji R. Desai:** What you would suggest? Let us have some suggestions.

**Shri Prabhat Kar:** About the composition of the national credit Council...

**Shri Morarji R. Desai:** It is not the subject of discussion.

**Shri Prabhat Kar:** I know. The National Credit Council is not a subject of this bill. That is what I am saying. Within the framework of the bill we made some suggestions. Clause 10(a) for instance. 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 and all these things. Accountancy is there. Anybody who has been there for some years in the bank has developed some special knowledge about the accountancy. You are deciding how the policy of the bank should be determined.

**Shri Morarji R. Desai:** These are different categories to select.

**Shri Prabhat Kar:** Accountancy is not a special knowledge so far as banking is concerned. About the Board of Directors you have said agriculture and rural economy.

**Shri Morarji R. Desai:** Proper accounting of the bank is also relevant.

**Shri Prabhat Kar:** For smooth functioning of the bank you have made suggestion in Section 10A. We have made certain suggestions. There should also be persons who represent

the trade union in Board of Directors so that those who work day to day will also have a say in the bank's functioning and administration.

**Shri Morarji R. Desai:** What is the special knowledge of trade union to understand banking, I would like to know.

**Shri Prabhat Kar:** He is the representative of the employees.

**Shri Morarji R. Desai:** It is not essential that banking knowledge will be there.

**Shri Prabhat Kar:** Accountancy is redundant. That is what I say.

**Shri Morarji R. Desai:** Accountancy is better knowledge than trade union.

**Shri Prabhat Kar:** He is representative of the employees who will be working day to day in bank.

**Shri Morarji R. Desai:** They may be doing separate work which is not all banking work. There would be some, I agree, not all of them.

**Shri Prabhat Kar:** I am not saying any one of them. He should also have a preference there.

**Shri Morarji R. Desai:** That is all right.

**Shri Prabhat Kar:** Then at page 5, sub-clause of the same clause, you say, by reason merely of defect in the composition thereof.

**Shri Morarji R. Desai:** It has got to be done.

**Shri Prabhat Kar:** You are re-constituting the board.

**Shri Morarji R. Desai:** Suppose through ignorance something has been done. Because that one director's appointment may be wrong the whole thing has to be invalid, the bank will come to grief. So it has got to be rectified wherever it is found.

**Shri Prabhat Kar:** Immediately after the appointment, Reserve Bank should verify these facts.

**Shri Morarji R. Desai:** They will do it.

**Mr. Chairman:** Please be brief. Do not repeat whatever is stated in the memorandum.

**Shri Prabhat Kar:** We are to-day appointing a paid Chairman, a whole-time employee in the executive. Unless the Chairman is whole-time he cannot give proper attention to his functions. Once we decide that the Chairman should be the Chief Executive of the Bank, the question of holding any other office will frustrate the purpose.

I come to page 8 which refers to the period of three years. If time is to be given for three years, then passing of the Bill will have no meaning.

**Shri Morarji R. Desai:** Suppose they are not able to find loans elsewhere, your employees themselves will go out of jobs.

**Shri Prabhat Kar:** When you give three years' time and you want to pass the Bill tomorrow....

**Shri Morarji R. Desai:** It is not for any new loan. I would say even three years is not necessary.

**Shri Prabhat Kar:** You have already stated 'within the time fixed or three years'.

**Shri Morarji R. Desai:** If the time fixed is longer, then it is three years.

**Shri Prabhat Kar:** If three years are allowed, there will be no money to advance.

**Shri Morarji R. Desai:** More deposits will come.

**Shri Prabhat Kar:** They will come but it will affect the priority. It should

be adhered to as early as possible. Already more than six months are over.

**Shri Morarji R. Desai:** You have to give some reasonable limits without causing any disturbance to the economic life of the country. You perhaps do not mind disturbance but I do mind.

**Shri Prabhat Kar:** I do mind. But we are doing a thing which will be purposeful. If they are given a long time, the purpose will not be served. Therefore, we suggest that a lesser period should be there.

Coming to Part IIC, you have said 'persistently failed to comply'. You are giving them a long rope. You know the Reserve Bank used to publish a lot of data in the earlier days. I do not know why it is not done now. Please see that they publish all the figures.

**Shri Kamalnayan Bajaj:** May be due to paper economy.

**Shri Prabhat Kar:** Now it is a very thin publication.

**Shri Morarji R. Desai:** But was it stopped after the publication of the Bill?

**Shri Prabhat Kar:** It is for the last two or three years.

**Shri Morarji R. Desai:** Even before it was conceived. Anyway we shall look into it. I want to give more and more information not less.

**Shri Prabhat Kar:** In so many cases, there have been failures to comply with the directions of the Reserve Bank of India.

**Shri Morarji R. Desai:** Why not send me a list of such failures?

**Shri Prabhat Kar:** Surely I will give you. But 'persistently' means there must have been a number of such occa-

sions. Then only this will be done. I can understand your giving them a chance but not 'persistently'.

**Shri Morarji R. Desai:** We will see to it. We must have a reasonable definition.

**Shri Prabhat Kar:** In 36AE(1) (i), you say 'in the interest of the depositors of such banking company, or'. Our suggestion is 'and that' occurring in the previous line should be changed into 'or that'. In respect of 36AE(1), my point is this.

Clauses (a) and (b) read as follows:—

“(a) has persistently failed.....”

“(b) is being managed in a manner detrimental to the interests of its depositors.” and that—

My suggestion is instead of 'and that' it should read as 'or that'. Why I say is that you are taking over the bank because that is in the interest of the depositors of such banking company, or in the interest of banking policy.

You are laying down the banking policy. That is what we call 'social control'.

**Shri Morarji R. Desai:** Mark the words 'has persistently failed'. That is number one. See clause (b). That is being managed in a manner detrimental to the interests of its depositors. That is why it has to be taken over. These are the criteria under which the bank is taken over. That is another reason why this has been put like that.

**Shri Prabhat Kar:** As far as I have understood it, the words should be 'or that' and not 'and that'.

**Shri Morarji R. Desai:** See clause (b). The words are (b) is being managed in a manner detrimental to



the interests of its depositors, and that—

(i) in the interest of the depositors of such banking company, it is necessary to acquire the undertaking. It must be like that. What else can there be?

**Shri Prabhat Kar:** Even then what I was suggesting was 'or that—

(i) in the interests of the depositors of such banking company, or (ii) in the interest of banking policy....etc., it is necessary to acquire the undertaking.

**Shri Morarji R. Desai:** If it is read 'or in the interests of the depositors of such banking company, or in the interest of banking policy, or for the better provision of credit' with three 'or', simultaneously, then the grounds will have to be given.

If one of the three is not combined with 1 (b), it will be a mysterious thing because, Government can, at any time, say 'in the interests of the depositors', we will take it over as it has been managed in a manner detrimental to the interests of the depositors. And on no other reasons they can take over.

**Shri Indrajit Gupta:** For that, approval of Parliament is necessary.

**Shri Morarji R. Desai:** It may be approved or disapproved, Previous approval of Parliament is not necessary.

**Shri M. Thirumala Rao:** The people can come before Government for taking over the bank

**Shri Morarji R. Desai:** The bill is only a recommendation.

**Shri M. Thirumala Rao:** Anyway they seek the Government help.

**Shri Prabhat Kar:** So many things were done earlier in the public interest.

**Shri Morarji R. Desai:** What happened was that earlier there were 350

banks. To-day there are only 97 and all were amalgamated.

**Shri Prabhat Kar:** No doubt amalgamation had come in.

**Shri Morarji R. Desai:** After the Laxmi Bank had gone into liquidation, this thing took place.

**Shri Prabhat Kar:** Banking Regulations Act was mended i.e., Sec. 45.

**Shri Morarji R. Desai:** The depositors question also came up.

**Shri Prabhat Kar:** All these things came in as a result of this. That exactly gave a big jolt to the Finance Ministry to take over banking companies.

My suggestion is this. There are two things—one is 'in the interest of the depositors' and the other is 'in the interest of banking policy'. Under banking policy social control comes. The third thing that I have suggested is that 'in the interest of the nation' this should be done. And Parliament have got jurisdiction over this.

**Shri Morarji R. Desai:** 'In the interest of banking policy' technically means "in the interest of the country. I cannot put 'in the interest of the nation'. But, I can straightway nationalise it. I have said it very definitely that there is no clear scope for nationalisation.

**Shri Prabhat Kar:** I know that our Deputy Prime Minister will have the courage to do it by the front door.

Next point is this. On page 15, line 10 (clause (c) with regard to taking over of the bank, there is a line '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". We have said that 'provided, however, that after the expiry of one year'.

**Shri Morarji R. Desai:** What do you propose to be done?

**Shri Prabhat Kar:** Under Sec., 45, my amendment is the following:—

‘One year after the employees are taken over in the new bank, the readjustments of their salaries should be made.’

**Shri Morarji R. Desai:** They are to be taken over in the same terms and conditions as far as may be. And I cannot go beyond that.

**Shri Prabhat Kar:** Within three years we will take over the bank if it has been mismanaged.

**Shri Morarji R. Desai:** Let the Select Committee consider your suggestion.

**Shri Prabhat Kar:** All right. Now clause 28, page 30- new section 54AA is an amendment to the Reserve Bank Act. I suggest that it may be amended in such a way that the Reserve Bank should not have the right to transfer any member. The industrial relations should be governed by the award or agreement.

**Shri Morarji R. Desai:** After all the transfer is to its own subsidiary. I don't think I can allow that.

**Shri Prabhat Kar:** It is already being done.

**Shri Morarji R. Desai:** No please.

**Shri Prabhat Kar:** Under the service rules governed by the Reserve Bank it is there.

**Shri Morarji R. Desai:** It is better to have a Statute.

**Shri Prabhat Kar:** I do not know. This is my apprehension.

**Shri Morarji R. Desai:** There is no apprehension at all.

**Shri Prabhat Kar:** If it is in the service rules, why should this be done?

**Shri Morarji R. Desai:** It may be there. If it is done by Statute it is better for the bank. After all the transfer is to its own subsidiary banks. No body knows what would happen tomorrow we have got to provide. You may start an agitation that he may not be transferred. You know that such a transfer has created a strike also.

**Shri Prabhat Kar:** Sir, it is already provided for in the service conduct rules and so I say this should not be there. These are my amendments which I have suggested.

**Shri Duber:** I intend to make my submission before this hon Committee particularly from the view point of State Bank employees.

We, in the State Bank, have built up most cordial relations and harmonious relations through joint consultative body meetings and bipartite talks. I do not say that all is well in the State Bank. There were demonstrations here and there and largely, these demonstrations were spontaneous and not organized by the Unions. Such incidents are decreasing gradually....

**Shri Morarji R. Desai:** What is your suggestion?

**Shri Duber:** I am coming.

**Shri Morarji R. Desai:** You come to that.

**Shri S. S. Kothari:** Instead of reading it out, you can just give us a gist of the points.

**Shri Duber:** Sir, we in the State Bank are trying to arrive at an implicit understanding between the management and the employees to solve all the problems across the table. Today nobody in the State Bank thinks in terms of agitation in so far as their own issues are concerned. They have pinned their full faith in the

Bipartite settlements. Sir, this change has not come about abruptly. It is the spirit with which we are working for the last twelve years to eschew agitational approach as far as possible and through the process of collective bargaining. The Federation to-day is participating in the management to a very limited extent through the Joint Consultative and negotiating machinery and the results are satisfactory. Hon. Members may visualise the results when the right of the employees to participate in the management through the Federation would be recognised.

I would earnestly and humbly beg that provision for representation of recognized unions may please be made in the Bill for achieving positive results.

In this connection I wish, Sir, the other banks follow the good step of the State Bank management and take their representatives into their confidence for working out ways and means for building up harmonious relations.

Sir, Clause 36AD is sought to be incorporated in the Banking (Amendment) Bill to ban indecent demonstrations, to protect the credit-worthiness of the banks. All these offences have already been covered under the disciplinary action procedure or the laws of the land. According to us, the whole section is superfluous and no useful purpose will be served by keeping such a clause in a Bill which essentially deals with financial discipline and to tighten the control over banks. I firmly believe, Sir, that the more the laws we have on any given subject, the result would be less and less implementation of those laws, thereby making them ineffective. It will increase litigation in the banking industry and instead of bringing peace to the banking industry, would give further rise to discontentment. New means would surely be found out for staging agitations. It has been

envisaged in Cl. 36AD (b) that no person shall be allowed to hold any demonstration within 10 metres of a banking institution and so on. Let me assume, Sir, that by 'person' is meant a bank employee. No definition has been given about the 'person'. Then what will happen? Employees cannot hold peaceful demonstration within the bank premises and outside the bank premises Sec. 144 is in force. Here in New Delhi, all the major banks are situated in Parliament Street and Sec. 144 remains enforced throughout the year. Police does not grant permission to hold a demonstration under the influence of the banks' management. Then, naturally the Bank employees would find out other ways to give vent to their grievances and approach the political parties for help. If the cause is genuine, naturally, the political parties would lend their support and the demonstrations would be staged by their workers instead of by the bank employees. In this situation not only Cl. 36AD would become ineffective but politics would start pouring into the trade unions.

**Shri Morarji R. Desai:** But the clause will remove politics.

**Shri Duber:** I have a different opinion.

**Shri Morarji R. Desai:** You will see the result when it is passed by Parliament.

**Shri Duber:** It has been passed by a majority of votes. Naturally, there will be persons who will oppose it.

**Shri M. Thirumala Rao:** All laws are passed by majority.

**Shri Duber:** So far as the State Bank Federation is concerned, I may state here, Sir, that it is run by the employees of the Bank. Right from the Council member to the President, all are employees of the Bank. I hope, Sir, that it is not the intention of the Government to increase the political influence of any party in the unions.

I know from my personal experience that through Workers' Education Schemes employees are being encouraged to run their own unions. Further, Sir, if the employees are stopped to stage peaceful demonstrations within the Bank premises, thereby prohibiting them from showing their collective strength, thus leaving with them no alternative but to launch strikes on every issue to show their collective strength to achieve their demands.

Sir, I am reminded of the saying of Mahatma Gandhi that every individual has some good in him and that good in him should be exploited to the maximum for the benefit of the country and the nation.

I believe, Sir, that this good in each individual can be successfully exploited through joint consultative machinery, voluntary acceptance of a code of discipline and the proper functioning of the grievance procedure as is being experimented in the State Bank. Instead of resorting to enacting more and more laws, I may be permitted to submit that this is a human problem and may be tackled as such.

If hon Members still feel that something has to be done to arrest the tendencies on account of which Sec. 36AD is being inserted, then I may be permitted to submit that the Banking (Amendment) Law dealing with social control over Banks is not the appropriate place for such a law.

**Shri Morarji R. Desai:** How long is your statement? You said you wanted only 2 minutes. Now it is 10 minutes. How many pages more are there for you to read?

**Shri Duber:** 3 more pages.

**Shri Morarji R. Desai:** Go on. I only wanted to know how long it is.

**Shri Duber:** The Study Group formed under the aegis of the National Labour Commission has addressed a letter to its Chairman, Shri Gajendra-gadkar, to delete this section from the Bill and to leave a decision to be taken only after Government had

considered the recommendations of the National Labour Commission. These recommendations were unanimous. I hope the hon. Members will give due weight to the recommendation of this Study Group to the National Labour Commission. Further, there is a Standing Labour Committee and this section may, as per conventions be processed through this Committee. There is the forum of Indian Labour Conference and this forum may also be fully utilised to process this problem. Sir, all the problems facing the industry and the trade unions in the past were being discussed and decided upon through these agencies. This is a convention and I hope this convention will be followed in this respect also.

Sir, staging peaceful demonstration within the bank premises, stay in and stay out of banks, peaceful picketing, etc., are the conventional and traditional trade union rights of the working class, having the sanction of the highest authority in the land and I respectfully submit that, while considering clause 36AD, hon. Members may advise the Government to follow the method of proper communication, constant dialogues between the management and the representatives of the recognised trade unions. Though it is a long process, yet it would bring better results than the proposed section 36AD. Negative approach never yields the desired results. Our positive approach would surely help us in creating the much desired goodwill in the delicate banking industry for the benefit of the people of our sacred motherland.

**Shri Morarji R. Desai:** You said that the National Labour Commission has recommended. This was moved by the representative of Banking Employees Organisations. They said this to the Study Group set up by this commission. The Study Group after considering it should advise the the National Labour Commission. The employees have said that they should consider this.

**Shri Kamalnayan Bajaj:** In their memorandum they have said that.

**Shri Morarji R. Desai:** The Commission has not recommended to Government. You have said it to the Study Group. You don't lose anything in demanding something unanimously.

**Mr. Chairman:** I hope that you don't exclude the ex-Members of Parliament when you talk of political influence.

**Shri Jyotirmoy Bosu:** Mr. Kar, which particular provision of the bill you reckon will actually bring the benefit of banking credit facilities to the common man?

**Shri Prabhat Kar:** So far as this bill is concerned, no section of it goes in the direction of bringing the benefit to the common man.

**Shri Morarji R. Desai:** It has no relation to the common man!

**Shri Jyotirmoy Bosu:** Yet, it has the phrase 'social control'. How do you define peaceful obstruction and satyagraha and picketing?

**Shri Prabhat Kar:** Satyagraha means peaceful obstruction.

**Shri Kamalnayan Bajaj:** Mr. Bosu, you should have asked this question to the person who quoted the scripture from Mahatma Gandhi.

**Shri Jyotirmoy Bosu:** Sub-clause (c) of Section 36AD(1) reads:

"act in any manner calculated to undermine the creditworthiness of any banking company."

From what little past experience I have, I can say that all such actions have come so far from the men at the top, from the managerial cadre.

**Shri Prabhat Kar:** Up-till now from what has been revealed by various commissions, I can say that your proposition is accepted. Whatever has been done, defalcations, failure etc., has been by the persons at the top.

**Shri Jyotirmoy Bosu:** Do you approve of the idea that there should be no Member of Parliament on the Board of Management of a Bank?

**Shri Prabhat Kar:** I don't know whether I shall encroach upon the privileges of the Members of Parliament by saying anything about that.

**Shri Jyotirmoy Bosu:** By their presence they might influence.

**Shri Prabhat Kar:** Any influential man will automatically be there and the Members of Parliament will have greater influence.

**Shri Jyotirmoy Bosu:** Do you think that the Chairman of the bank should be an outsider, not from among the existing set-up, like the General Manager etc.

**Shri Prabhat Kar:** Our feeling is that promotion of General Manager to the chairmanship really does not mean anything because the General Manager will not be able to assert himself in the Board on account of the fact that he was holding office at the whims of the Directors.

**Shri Morarji R. Desai:** Now he cannot be removed.

**Shri Prabhat Kar:** This will not in any way alter the character of the Board of Directors—it is a question, pure and simple, of their promotion.

**Shri Morarji R. Desai:** We have not directed that the General Manager should be appointed as the Chairman. The Government have said that the Chairman must be a full-time Chairman with sound banking experience. Simply because a General Manager has been appointed the Chairman, it does not mean that he is incompetent.

**Shri Prabhat Kar:** It is not a question of their—incompetence. The point is whether he will be able to control the vested interests. The purpose of having the whole-time Chairman is that. The General

Manager who is now the Chairman was holding the office of General Manager under the Board of Directors.

**Shri Morarji R. Desai:** That is why 50 per cent. will be technocrats and professional people.

**Shri Prabhat Kar:** The point is whether this type of wholetime chairmanship is going to be helpful.

**Shri Morarji R. Desai:** Will M.P. Chairman serve that purpose?

**Shri Prabhat Kar:** It will depend upon which type of M.P. is the Chairman.

**Shri Morarji R. Desai:** It is not not the category but it is the man.

**Shri Prabhat Kar:** We have also the experience of M.P. being the chairman of a big bank.

**Shri Jyotirmoy Bosu:** What are the weapons the worker has in this country for getting speedy and inexpensive justice?

**Shri Prabhat Kar:** So far as our experience goes, we have spent quite a lot of money and time to get justice. We have got reinstatement after ten years, because the persons were wrongfully dismissed by the management. Even then the management had no punishment.

**Shri Morarji R. Desai:** Which was the Bank?

**Shri Prabhat Kar:** Punjab National Bank. He was dismissed in 1950 and were re-instated in 1959. Out of 150 persons who had been dismissed, three died in between; they could not get back.

**Shri Morarji R. Desai:** Were all re-instated?

**Shri Prabhat Kar:** Most of them.

Take my own case. I was in the Lloyds Bank and I was dismissed. Ten years an employee had to wait to get reinstatement because of a wrong decision, but there was no punishment for the management. Ten years an employee had to rot.

**Shri Morarji R. Desai:** It must have been with costs in this case.

**Shri Prabhat Kar:** Salaries paid. For some period it was half the salary. You will appreciate, for ten years....

**Shri Morarji R. Desai:** I cannot say that this is reasonable.

**Shri Jyotirmoy Bosu:** Don't you think that the present standing orders are good enough and wide enough to cover cases of indiscipline, and tell us how many persons do you know who are the victims of these standing orders of a particular bank?

**Mr. Chairman:** Yesterday he cited an example.

**Shri Jyotirmoy Bosu:** How many cases? It should be highlighted.

**Shri Prabhat Kar:** I will not be able to say exactly but more than 1000 cases. I can submit a list.

**Shri Morarji R. Desai:** Have they gone to court; if so, how many succeeded and how many failed?

**Shri Prabhat Kar:** I can submit a list if you like.

**Shri Morarji R. Desai:** It will give us some idea.

**Shri Jyotirmoy Bosu:** Mr. Kar how many cases you know about the violation of directives of the Reserve Bank by commercial bank granting credits?

**Shri Prabhat Kar:** We know very many cases which we have referred

to. We referred to Mundhra yesterday. I know even today persons who are working as Branch Manager who were found to have indulged in fraudulent transactions. They are still continuing.

**Shri Morarji R. Desai:** Will you send me the list?

**Shri Prabhat Kar:** Yes. Particularly I have got to mention one particular bank. I know hundreds of such cases. A man who was under bail of a few lakhs continued as Chief Accountant.

**Shri Jyotirmoy Bosu:** The Government invite information on economic offences and pay rewards to some of the informers..

**Shri Prabhat Kar:** Up-till now there has been no such reward.

**Shri Jyotirmoy Bosu:** For certain economic offences, the informers are supposed to get some reward. Have you got the freedom to write to the proper authorities about the mischiefs in the Bank?

**Shri Prabhat Kar:** There have been cases of dismissal.

**Shri Jyotirmoy Bosu:** You have some victims?

**Shri Prabhat Kar:** Yes.

**Shri Kamalnayan Bajaj:** Then if the General Manager has not taken any steps, probably it was within your rights to report to the higher authorities. Did you do that? I want to know the facts. As leader of the Trade Union, have you come across some cases of insubordination, violence etc.

**Shri Prabhat Kar:** Regarding violence, there has not been a single instance of violence in the banking industry during the last 20 years of our existence as a trade union. Whenever a case has been reported, it has been found to be incorrect and it has been dismissed. About the question of insubordination, I may explain that a part in a general pen down strike will be automatically insubordination. That is

completely different. When we are on a movement, naturally certain decisions of the Union will go against the decisions of the management.

**Mr. Chairman:** You should be brief in your reply. Mr. Bajaj you should ask questions which are the subject matter of the Bill.

**Shri Kamalnayan Bajaj:** As member of Parliament I have a right to ask such questions. Mr. Kar you have just said that there had been no violence in the last twenty years. Would you recall that three or four years ago when the Punjab National Bank Board meeting was held in Calcutta some of the Members of the Board were gheraoed and man-handled. My waste coat was torn; I was not allowed to go out of the Board meeting room and there were shouting of slogans outside.

**Shri Prabhat Kar:** Yes, it was reported to me. I was at that time at Delhi. This meeting took place at Calcutta. It was connected with bonus matter. I just got a report from Calcutta. But if it has happened it is very sorry affair. This question of man-handling was not there but shouting was there.

**Shri Kamalnayan Bajaj:** My waste coat was torn. It was not torn by the wind. Was any action taken on the part of the union workers who violated.

**Shri Morarji R. Desai:** There have cases. Why do you try to prove it through him.

**Shri Kamalnayan Bajaj:** On page 4 in your 13 para you say that wherever if there has been found some mistake and so on those mistakes should not be allowed to go on. Supposing if there is a technical mistake in the appointment of a director, do you mean to say that whatever he has done should also be nullified. It will create chaos.

**Shri Prabhat Kar:** I am only pointing out that for the first time we had a tribunal composed of three high

court judges. There is a technical mistake on the part of Government and after having spent a few lakhs of rupees and spending three years of time the whole Award was nullified. My point is the clause 8 does not talk of technicalities. The question is if a thing has been done by a person who has no authority or who is not authorised to be in the Board his action should be nullified.

**Shri Morarji R. Desai:** If by mistake Government servants do certain things they are also indemnified. If a man is appointed in a wrong manner his work that is done during that period cannot be nullified. That is all that is provided. He will be punished if there is punishment.

**Shri Kamalnayan Bajaj:** Regarding page 8, para 24, you say about the relationship. You say the law should not be made, it should go to tribunal etc. In this I think it is in favour of banking industry including employees. It tries to give peaceful and quiet atmosphere. How do you presume that it disturbs the industrial relationship at all?

**Shri Morarji R. Desai:** Do you seriously expect him to support you? You know the answer yourself. This is not useful at all.

**Shri Prabhat Kar:** I have explained it yesterday.

**Chaudhary Nitiraj Singh:** You have said about section 36A(d). Do you feel or not that raising of slogans inside the bank premises throughout the whole day is justified or not? Or, would you call it a peaceful demonstration?

**Shri Prabhat Kar:** If for a wrongful act I am to wait for 10 years for getting justice what is the other alternative? What is the other alternative left to me? For 10 years I have to wait. Is there any other way to get justice? You are talking generally. A bank manager who goes

from branch to branch takes along with him a particular account where some illegal transactions take place. Certain subordinate staff is also taken along with him who used to delay the payment. But the subordinate staff is dismissed and the manager is kept in service. What is the way out? What I have done? I have raised slogan only. I have not slapped anybody.

**Chaudhary Nitiraj Singh:** You said that the word 'persistently' should be deleted. Do you want to suggest that the mistake if committed should not be allowed to be corrected by giving the banks a chance to correct them?

**Shri Prabhat Kar:** Without the word 'persistently' that chance is also available to him. Persistence means that things should have to be repeated for half a dozen times before any action could be taken.

**Shri Morarji R. Desai:** If the bank does it 3 times it is persistent. But 3 times in 30 years is not persistent.

**Shri Prabhat Kar:** If you delete the word 'persistently' it does not take away the right of the bank to get chances.

**Shri N. Dandekar:** I think I understood you correctly. Your point was this. Section 36AD clause (a) and (b) were mentioned by you. You say they make offences where they are not offences. Not only that. These make certain offences which are against fundamental rights. Am I right?

**Shri Prabhat Kar:** Section (a) takes away my two rights; section (b) makes an offence which is a misconduct. Today, offence raises such a large connotation which includes annoyance.

**Shri N. Dandekar:** Today these things are not offences.

**Shri Prabhat Kar:** These are misconduct.



**Shri N. Dandeker:** You cited the ruling of the Industrial Tribunal, Delhi, which said that peaceful picketing is part of the strike and associated with strike, strike being a fundamental part of the labour working. You also quoted the decision of Indl. Tribunal, Calcutta, which went further and said that strikes, picketing and boycott are part of the established labour rights. You gave us also ruling of the Supreme Court that pen down and refusal to vacate seat is not offence and it is not civil trespass. Refusing to do work or to leave need not also necessarily amount to criminal trespass. All that you have said. But I would like to know this from you. Are you familiar with the order passed by the high court in the Syndicate Bank's case?

**Shri Prabhat Kar:** Yes.

**Shri N. Dandeker:** There were two injunctions. They still are interim injunctions, which the High Court upheld and practically they cover clause (a). This order was given by a division bench, not by a single judge. It said:

"There will also be an interim injunction restraining the defendants either by themselves or through the agents or servants from obstructing or intimidating or preventing the entry of any customer or visitor to the plaintiff's bank and or at any of its branches."

Another injunction was this. "There will also be an interim injunction restraining the defendants either by themselves, through their agents, or servants from holding any demonstration or morcha near any of the entrances of the plaintiff's bank or any of its branches in such a manner as to cause obstruction or interference in any manner to the officers or the staff of the bank or its customers or its business by causing any nuisance by any of the aforesaid activities."

With regard to the proposed new section 36AD, I suggest something with which you may not agree. Sub-clause (a) says that no person shall obstruct any person from entering any office or place of business of a banking company or from carrying on any business. I suggest that the Bombay High Court Division Bench has precisely said this. I will read out to you from the Bombay High Court Division Bench judgment relating to an injunction under sub-clause (b). "There will be an interim injunction restraining the defendants either by themselves or through their agents, etc. from shouting, holding meetings, shouting slogans, uttering abuses and holding demonstrations within the premises of the plaintiff's bank or any of its branches."

Another one bearing on the same sub-clause. "There will also be an interim injunction restraining the defendants by themselves or through their agents etc. from disfiguring walls or any part of the plaintiff's bank or any of its branches from affixing posters or handbills on the walls of any part of the plaintiff's bank or any of its branches except an injunction restraining the defendant union situated within the bank premises."

Then we have that part of clause (b) which is concerned with doing things ten metres from any entrance. There are two injunctions also in the same order. "There will be an interim injunction restraining the defendants from shouting abusive or defamatory slogans against the plaintiff or any of the officers or customers within a radius of ten meters from any of the entrances of the plaintiff's bank or any of its branches."

Another one. "There will also be an injunction restraining the defendants either by themselves or through their agents etc., from taking out any procession or morchas or holding any

demonstration or shouting slogans which are abusive or defamatory within the premises, threatening or intimidating within a radius of thirty metres from the residence of any of the directors of officers or customers of the plaintiff's bank."

Are you aware of these various injunctions and would you like to comment upon them in relation to these provisions.

**Shri Prabhat Kar:** I know also of other interim injunctions where the distance was reduced to one meter. We are also aware of the fact that the High Court were of the opinion that these types of interim injunctions should not be granted. These are all interims. The final thing has not yet come. So we need not bother much about these.

**Shri N. Dandekar:** Now sub-clause (c) says that no person shall act in any manner calculated to undermine the creditworthiness of any banking company. In the first place I would like to read to you an injunction which the Bombay High Court approved. "There will also be an interim injunction restraining the defendants from publishing, circulating or distributing any circular, pamphlet or any other typed communication either cyclostyled, printed, or hand-written adversely commenting on the creditworthiness of the bank or defaming the plaintiff's bank or any of its directors, officers or customers." Are you aware of that?

**Shri Prabhat Kar:** Yes.

**Shri N. Dandekar:** You suggested that if anybody in the bank comes to know of the offences committed whether against foreign Exchange Regulation Act, or Income Tax Act or Customs Act—which are known as economic-offences,—and if he reports the matter either to the Reserve Bank or the Finance Ministry or the Chairman of the Bank, you thought that it will be undermining the credit-

worthiness of the bank. The term used is "in any manner calculated to undermine the creditworthiness." Therefore, if you write to the Finance Ministry a letter that so and so has committed a foreign exchange fraud, it will not be in a manner calculated to undermine the creditworthiness. You are precisely doing what is not prohibited here.

**Shri Prabhat Kar:** These terms are required to be interpreted by the Court when this matter comes up before it.

**Shri N. Dandekar:** If you do it in a responsible manner without broadcasting it so much, you will be within your rights to do it.

**Shri Prabhat Kar:** Suppose I bring it to the notice of a Member of Parliament.

**Shri N. Dandekar:** Then you will be coming to the right person, if you do it in a manner not calculated to undermine the creditworthiness of the bank. I think it is happening.

**Shri Morarji R. Desai:** May I say what will be creditworthiness and what will not be creditworthiness? If you complain against any Director or Chairman saying that he is indulging in fraudulent activities, but you do not say that the bank is hopeless, then you are not damaging the creditworthiness of the bank in my view. But if you say that the bank is in a hopeless conditions and is carrying on undesirable activities, then that will affect the creditworthiness. Even that if you can prove that it is right, then you are within your right. That is what I would say. Then there is another case. If you go on creating disturbance every day and do not allow the working of the bank to go on, then surely it will affect its creditworthiness because the depositors would not come in there. Otherwise, in connection with your demands if you do peaceful picketing, that does not affect the

creditworthiness of the bank. But, if rowdiness takes place or something like that happens or slogans are shouted that this bank must be destroyed, that will affect the creditworthiness of the bank.

**Shri Prabhat Kar:** So far as your explanation is concerned, it may be all right. I am not satisfied with that. But if I approach Members of Parliament and tell him that this is the thing that has happened in the bank that means I am really talking about the affairs of a particular bank or particular person.

**Shri Morarji R. Desai:** In fact you are talking about the actions of particular employees or managers and not the management as a whole. If you talk about the management as a whole, with justification, then you are doing that all right.

**Shri Prabhat Kar:** If we talk about a bank, it will affect the creditworthiness of it.

**Shri Morarji R. Desai:** It will not affect the creditworthiness of the bank at all whatever you may say.

**Shri K. C. Pant:** On the other hand it may increase the creditworthiness of it.

**Shri Morarji R. Desai:** It is only when the depositors are scared as to their deposits and if they are asked to take their deposits to some other banks, then this affects the creditworthiness of the bank. If you do something which will make a run on the bank, surely, that affects the creditworthiness of the bank.

**Shri N. Dandekar:** If you even persuade the depositors to move on to the other bank, then also it affects the creditworthiness of the bank.

**Shri Morarji R. Desai:** If you say that the bank has managed its affairs in such a manner that no money is left

and that the money will not be returned, then it affects the creditworthiness of the bank. Otherwise it is not so.

**Shri Prabhat Kar:** On this particular point I have already said that we are concerned only with the question of scaring of depositors. This does not arise.

**Shri Morarji R. Desai:** It has happened in the past. Within my knowledge it has happened.

**Shri Prabhat Kar:** Take for example the case of Punjab National Bank. There was a run. We had to work up till 2 or 3 O'clock in the night for attending to the bank work.

**Shri Morarji R. Desai:** How did that happen? You did not do that. It was done by some disgruntled man.

**Shri N. Dandekar:** Suppose some disgruntled man tells the depositors to withdraw the deposits and they also do that. What would you call this?

**Shri Kakar:** Here I would like to add to what my colleague has already said. Suppose Bank 'A' has given Rs. 1 crore as advance without any security or if the security given is proved to be fictitious and if I make a factual statement, then will it come under creditworthiness or not?

**Shri Morarji R. Desai:** No, because you have made a factual statement. And if you bring this to the notice of the Reserve Bank of India then you will not be affected. On the contrary you will be doing a service to the public by making a factual statement.

**Shri Kakar:** Would it be in public interest?

**Shri Morarji R. Desai:** Yes, yes.

**Shri Indrajit Gupta:** As a trade-union leader in the banking industry:

for a long time, do you know of a case where a disciplinary action has been taken against an employee who has been dismissed on the ground that he has done such and such a thing affecting the revenue of the bank?

**Shri Prabhat Kar:** Uptil now, we have no such case.

**Shri Indrajit Gupta:** Whether any such charge or allegation been brought against him?

**Shri Prabhat Kar:** No, Sir.

**Shri Indrajit Gupta:** One more question is this. Suppose a shady deal comes to your notice and somebody prosecutes you on a complaint. And when a prosecution has been launched against you in the court, does it not mean that under the standing orders of the bank, the management can also take action against you and suspend you?

**Shri Prabhat Kar:** Yes, Sir. Under the standing orders, the management has an authority and the right to probe into the matter and take their own decision in the matter.

**Shri Morarji R. Desai:** That is the same thing is being done as in the case of government servants here too.

**Shri Indrajit Gupta:** I am asking you another question. Suppose he is acquitted in the court. While the case has been going on in the court he has been kept under suspension under the standing orders. If he is acquitted, is the suspension order against him withdrawn?

**Shri Prabhat Kar:** No, Sir. Until the departmental enquiry of the bank is over and until they come to decision that he should be acquitted, the suspension order will be there. It is only after that that will be withdrawn.

**Shri Indrajit Gupta:** He may be acquitted by the court but punished by the bank.

**Shri S. S. Kothari:** If he is convicted, what is the position? Will he be taken by any other bank?

**Shri Prabhat Kar:** He may not be taken by any other bank and his carrier is finished.

**Shri M. Thirumala Rao.** Mr. Kar, I just want to ask one question. You have quoted extensively the rulings given by the Supreme Court about the legality of sitting down, pen down and other strikes. May I know if you have any personal knowledge and experience of gheraos—a new expression? That is also an agitation.

**Shri Prabhat Kar:** I know the word 'gherao'.

**Shri M. Thirumala Rao:** Have you any experience of the gherao being practised in India?

**Shri Prabhat Kar:** Uptil now it has not taken place in the banking industry.

**Shri M. Thirumala Rao:** Are you aware of the Calcutta High Court's judgment holding this as illegal?

**Shri Prabhat Kar:** Yes, Sir.

**Shri M. Thirumala Rao:** Now I would like to draw your attention to some criticisms made about the working of the bank and the weapon used viz., gheraos.

**Shri Prabhat Kar:** I do not know whether this matter has been referred to. But, I have made a reference to a certain things. It may be that a demonstration may become violent but that does not mean that the demonstration should be stopped completely by any law. Art. 19 of the Constitution gives an opportunity as a right. Demonstration takes place violently only because something has been done to the employees.

Anyway, that is not the way of getting justice to a cause. I have given some references.

**Shri Morarji R. Desai:** May I have some clarifications from you? I understand—I am sure that you are interested—that everybody is interested in seeing that the banks function usefully and profitably. Am I correct in my understanding?

**Shri Prabhat Kar:** I can give so many examples.

**Shri Morarji R. Desai:** This is the impression I gather and I want to get that confirmed.

**Shri Prabhat Kar:** Yes, Sir.

**Shri Morarji R. Desai:** If it is so, can anything that can disturb the functioning of the bank usefully and profitably be called a right of anybody? I am not referring to strike. Strike is the right of a person. If it is an illegal strike, anybody will object. But, if it is a legal strike, nobody can object to that.

**Shri Prabhat Kar:** We only want to see that the institution functions smoothly and that 'nuisance' should be avoided. I do not want to go into the matter of how disturbance takes place.

**Shri Morarji R. Desai:** If there are ways and means of looking into the case and finding remedies, is any disturbance to counter a disturbance justified?

**Shri Prabhat Kar:** If that is there, perhaps there would be none.

**Shri Morarji R. Desai:** Do you make any difference between a demonstration in a public place, in a street or road and a demonstration in an office?

**Shri Prabhat Kar:** There is some difference.

**Shri Morarji R. Desai:** Do you think that a demonstration can be healthy to the working any office?

**Shri Prabhat Kar:** I am just only pointing out. The question is: I cannot see a proposition that in no circumstances it should take place. Generally, it does not take place. That is not conducive to the smooth functioning of the institution.

**Shri Morarji R. Desai:** When you say peaceful picketing, that is all right. I also believe that peaceful picketing is the right of anybody. I am not disputing it because I have fought for it though I have not participated in picketing.

**Shri Kamalnayan Bajaj:** I have done it.

**Shri Morarji R. Desai:** I also grant that right, but does peaceful picketing include obstruction of entry or exit?

**Shri Prabhat Kar:** Peaceful picketing means you stand in front and say 'Please do not go'. So, naturally it is obstruction.

**Shri Morarji R. Desai:** That is no obstruction because I am saying. You disregard what I tell you and go in but can you stand in my way and prevent me from going in or lying down or blocking the way?

**Shri Prabhat Kar:** If I lie down, that is peaceful picketing. That has been done as early as 1913.

**Shri Morarji R. Desai:** Mahatma Gandhi has condemned it.

**Shri Prabhat Kar:** But he has approved lying down.

**Shri Morarji R. Desai:** I can give it to you in his own words. You will accept that he was the apostle of Satyagraha. Neither you nor I know Satyagraha completely or properly, but he knew. Therefore, we have to take his definition for it.

Now if that is so, how can you claim that it is the right of any particular person to act against the legitimate right of any other persons?

**Shri Prabhat Kar:** When you talk in terms of peaceful picketing and if you look at the words 'obstruction' from any person from entering the bank.

**Shri Morarji R. Desai:** Obstructing means that the person is prevented from going in.

**Shri Prabhat Kar:** Even my saying will mean obstruction.

**Shri Morarji R. Desai:** It does not mean obstruction. Obstruction can never mean that.

**Shri Prabhat Kar:** This is peaceful obstruction.

**Shri Morarji R. Desai:** Orally if you tell somebody not to go in, it does not mean obstruction at all. It is only a request. A request is not an obstruction.

**Shri Prabhat Kar:** I am doubtful on this question.

**Mr. Chairman:** Now we have finished. Thank you Mr. Prabhat Kar and your colleagues for coming here and giving us the benefit of your views.

*(The witnesses then withdrew)*

*(The Committee then adjourned)*

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**MINUTES OF EVIDENCE GIVEN BEFORE THE SELECT COMMITTEE ON  
THE BANKING LAWS (AMENDMENT) BILL, 1967.**

*Friday, the 19th April, 1968 at 14.30 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 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 COUNCIL**

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

**REPRESENTATIVES OF THE MINISTRY**

1. Shri S. S. Shiralkar, *Additional Secretary, Deptt. 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, Deptt. 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.*

## WITNESSES EXAMINED

I. *The Indian Merchants' Chamber, Bombay.*

*Spokesmen:—*

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

II. Shri V. T. Dehejia, *Chairman, State Bank of India, Bombay.*

**The Indian Merchants' Chamber,  
Bombay**

*Spokesmen:—*

1. Shri Pratap Bhogilal.
2. Shri J. H. Doshi.
3. Shri C. L. Gheevala.

*(The witnesses were called in and they took their seats).*

**Mr. Chairman:** You are welcome.

**Shri Pratap Bhogilal:** We represent the Indian Merchants' Chamber. I am the President of the Chamber; Mr. Doshi is the Vice-President and Mr. Gheevala is the Secretary of the Chamber.

**Mr. Chairman:** We put before you the Direction No. 58 by the Speaker *viz.*, 'Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be

explained to the witnesses that even if they might desire their evidence to be treated as confidential, such evidence is liable to be made available to the Members of Parliament.'

I hope you do not want your evidence to be treated as confidential. Your memorandum is before us. Do you still want to make any other point clear? Or would you like our Members to put questions?

**Shri Pratap Bhogilal:** We would like to stress some points. At the outset, we would like to thank you, Sir and the other Members of the Select Committee for giving us an opportunity for appearing before the Committee and particularly, so because, we asked for a change in the appointment which you were kind enough to give.

We have already submitted our memorandum and therefore, I would like to refer to the main issues only which we have raised. May I, at the outset, make it clear that our Chamber represents a cross section of trade and industry including small-scale industries and small traders too.



**Shri Morarji R. Desai:** As also the Banking Association?

**Shri Pratap Bhogilal:** This is also a Member of our Chamber. We appreciate the objectives underlying the Bill in the context of our needs for economic growth and planned development.

We believe, Sir, that it is towards this end that this Bill seeks to bring about certain changes and in addition to large powers already vested in the Reserve Bank for the direction and regulation of the banking in the country.

Touching upon the viewpoints that we have raised in our memorandum, we would like to clarify certain aspects of the same with a view to making the working of the banks smooth, effective and efficient. Firstly, we have raised this question regarding Section 10B in connection with the appointment of the Chairman of the Bank. According to this Section of the Bill, the Chairman has been entrusted with the management of the whole of the affairs of the banking company. It is not clear however as to who will entrust these powers to the Chairman; whether the Bill automatically gives them or whether the Board of Directors will expressly entrust such powers to him under the Articles of Association of the banking company. If the former is the view, the same is not clear in the proposed Bill itself and if this is going to be so, I beg to submit that the position of the board of directors is likely to be anomalous since the Chairman and the Chief Executive are both combined in one and the same person. Under these circumstances we do not think that the board of directors will be able to function effectively. We have also suggested that the Board of directors should be given powers to fix remuneration of the Chairman subject of course to the approval of the Reserve Bank. It is necessary, Sir, I think from the point of view of section 314 of the Companies Act that the Chairman of the

Bank should not be deemed to be a person holding an Office of Profit. Otherwise it is likely to create certain difficulties. This is so far as the Chairman is concerned.

Another aspect which we have touched is restriction on loans and advances. This refers to Sec. 20 of the Banking Regulation Act placing restrictions on loans and advances. Sub-section (1) of Sec. 20 prohibits loans and advances or guarantees to the companies or firms in which the directors are interested. This even applies to an employee. We feel that this provision will cause great hardship particularly in respect of technical or professional directors like lawyers and accountants since their valuable advice will not be available either to the bank or the industry if they have to resign from the industry or the company. We feel that since under this legislation, a majority of the directors are to be non-industrial directors, there should not be any apprehension or fear regarding industrial directors getting any undue advantage or benefit from companies in which they are interested and as such we feel that this negation of advances to these industrial directors' companies would create unnecessary hardship, we suggest that if it is thought necessary, the Bill may provide for a fixation of a ceiling limit on such advances by a certain percentage of the total advances of the bank to such companies or firms say, may be a maximum of 10 per cent.

Another lacuna that we see is that all existing advances and loans will have to be recovered on the expiry of periods specified in the existing loan contracts, or where no periods are specified within three years of the date on which this provision is brought into force. Sir normally, all advances are renewable either six monthly or yearly basis. That the limit of three years will not take into account this yearly or half-yearly renewals is a point that needs to be clarified.

Another difficulty that we envisage is in regard to the fresh opening of Letters of Credit on behalf of the companies or firms in which directors are interested. A letter of credit naturally, has an element of guarantee by the Bank and therefore, we feel that such contingencies should be excluded from the definition of the term 'loans, advances and guarantee'. Another lacuna that we may point out is that the blanket provision will come in the way of a director of the company discounting at any office of the bank even a cheque drawn by him on his own account at any other branch of the bank other than the branch where he might have a substantial credit balance. It is suggested that loans and advances may be allowed to be granted to the Directors of the Bank against the security of their fixed deposit or other credit balances.

We have also referred to sub-section (1) of Sec. 30 where the sub-section authorises the Reserve Bank directly to ask the auditors, the statutory auditors of the banking company, to report directly to the Reserve Bank in connection with any account or any transaction of the bank. This provision we feel, will place the Directors of the Bank as well as the auditors in an embarrassing situation.

**Shri S. S. Kothari:** Why?

**Shri Pratap Bhogilal:** Our suggestion is that in order to avoid this embarrassing situation, any outside auditor may be directed to make such an inquiry and that the Director should be given an opportunity to place his points of view before any action is taken by the Reserve Bank on such report.

**Shri K. N. Tewari:** Sir, all these points are given in the memorandum. Over and above all those things, if he has to say anything, he may be asked to explain.

**Shri Pratap Bhogilal:** It is just an amplification of whatever we have mentioned in our memorandum.

**Shri Samarendra Kundu:** But he has omitted many if you have followed carefully and emphasized some points. That is the object of evidence, to impress upon certain points which he wants to emphasize.

**Shri Pratap Bhogilal:** After all we feel that the statutory auditors of the banking companies are paid by the company. What we feel, Sir, is that in the normal course they should have investigated certain things and reported to the Reserve Bank. Then if there is something that has specially come to the notice of the Reserve Bank and the Reserve Bank wants an investigation, is it not better that it should be through an independent investigation?

**Shri S. S. Kothari:** It is intended to be an independent investigation when they say that the Reserve Bank may direct the auditor of a banking company. After all he is performing a public duty, and he is expected to be independent.

**Shri Pratap Bhogilal:** Supposing certain things have not come to the notice of auditors who have already audited the accounts, will they not have a little bit of hesitation? Would it not be in the interests of all concerned that an independent auditor should be appointed?

**Shri S. S. Kothari:** Let the auditor worry about it.

**Shri Kamalnayan Bajaj:** Do you feel that the Chairman appointed under the Bill should be a whole-timer necessarily?

**Shri Pratap Bhogilal:** I do not see any objection to his being a whole-timer. I think it may be a good thing even. What I feel is that the Chairman of the Board of Directors who is also the Chief Executive should function normally under the direction and control of the Board of Directors. The last point that we have mentioned in our memorandum is in connection with

Sec. 36AD. We feel that such demonstrations do seriously interfere with the working of the establishment and cause great hardship and inconvenience to the public dealing with the establishment. A lacuna in the provision, we feel, is that the court can take cognizance of any offence under this section only on a complaint in writing made to it by the Reserve Bank or by a person authorised by it. We feel that this will make the provision not very effective and we submit that the banking companies that are most affected by such demonstration should be the authority which should be entitled to initiate proceedings in this regard. After all the banking company, we feel, is a sort of public utility concern.

Thank you.

**Shri S. S. Kothari:** With regard to Sec. 30, cl. A, with regard to auditors reporting direct to the Reserve Bank, why should you have any objection when such a provision exists in the Companies Act even in regard to any other company. Why should banks be treated differently? Also any reasonable auditor will give the management an opportunity to explain his point of view and then he will report to the Reserve Bank. I do not think there should be any reason why you should be apprehensive about it, and, therefore, the powers that are vested in the Chairman should be those that are delegated to the Chairman the Chief Executive by the Board.

**Shri Kamalnayan Bajaj:** Do you also feel that there is no objection if the Chairman and the Chief Executive remain the same person because the Chief Executive will be doing the day to day work and he is the only person who will supervise or guide the Board of Directors? Will it be better in your opinion that the Chairman and the Chief Executive are two different people or it is good, if they are combined in one person?

**Shri Pratap Bhogilal:** I do not see any particular objection for the two offices being in one person provided, of course, the overall superiority of the Board of Directors is maintained.

**Shri Kamalnayan Bajaj:** Now I come to Sec. 36AE—Part IIC where a banking company has repeatedly not complied with the directions of the Reserve Bank there is a proviso that on the recommendation of the Reserve Bank, the Bank could be nationalised. Do you feel that if the Board of Directors or the Executive or the Management have failed to comply with the directions of the Reserve Bank oftener, only then should they take over the management of the company or change the management of the company or change the managers or the Board of Directors of the Bank. I think they can improve the conditions or they should be made as a temporary administration as an alternative to take over the bank and nationalise it.

**Shri Pratap Bhogilal:** After all the ownership should not count really. After all it is the management that is responsible for any non-obervance of the directions or not falling within the limits of the policies laid down. Therefore, I think, the better thing would be to change the Board of Directors, if necessary or change the Chief Executive, if necessary.

**Shri Kamalnayan Bajaj:** You mean thereby that the Management being at fault, the shareholders, the owners of the Bank should not be penalised.

**Shri Pratap Bhogilal:** After all the owners are not responsible for the day to day management.

**Shri Morarji R. Desai:** Who are the owners?

**Shri Pratap Bhogilal:** The shareholders are the owners of the Bank.

**Shri Morarji R. Desai:** How much do they own? What is their ownership compared to the depositors and it is these owners who appoint the managers and they deserve to be punished more than the managers.

**Shri Kamalnayan Bajaj:** You have suggested that wherever demonstration and other things take place, regarding the complaint that is to be made, the bank should only be able to make the complaint and it should not be necessary that the Reserve Bank should be approached but apart from the bank, there are clients who may be going to the bank for their own work and they may be obstructed. Do you mean to say that apart from the bank, even the individual's freedom and liberty would be jeopardised. So the bank should be able to take action or this offence should be made cognizable so that even the Police or any individual can take objection and go to the court.

**Shri Pratap Bhogilal:** It may be made cognisable, but, after all, supposing some individuals are affected, particularly, when some abuses of the nature that you mentioned take place, I think an individual can take action against the persons concerned. He should be in a position to do so because he is being obstructed. But I do not think it is possible for an individual to take action against the whole group.

**Shri Kamalnayan Bajaj:** In your experience as the Indian Merchants Chamber, have you come across cases where there are common Directors on the Company and also on the Bank their experience in the Company has benefited the Bank and vice versa? If it is barred, apart from the technical experts as solicitors, lawyers etc., that such common Directors should not be there, then both the Bank and the Company will lose the services of men with business,

industrial and banking experience. People with business and industrial experience will not be able to contribute to the growth of Banking industry and people with specialised banking experience will not be able to contribute to the industrial development of the country.

**Shri Pratap Bhogilal:** I had already told that there should not be any objection to advances being given in the case of companies where professionals are Directors. Even in the case of industrial Directors, as they are called, there should not be any objection to giving advances to their concerns. After all the loans are given on merits. Where it is not so, the Reserve Bank has ample powers to see that these misdemeanours are stopped. By and large the Industrial Directors have been of great use and I think they have also contributed to the development of banks.

**Shri Doshi:** In the case of financial institutions like the IFC, ICICI, they always reserve the right to nominate a Director over the Board of any industry to whom they give loan. In this case, the representative of the Bank on the Board of management of the industry watches the activities of the industry concerned. It is the same the other way round—the industrial Director on the Bank.

**Shri Morarji B. Desai:** It is strange argument. It is the industrial representative going to the industry. The ICICI does not send a member belonging to that industry. He is not holding any shares. This is quite different. There is no comparison for marrying the horse with a *kha-chchar*.

**Shri Kamalnayan Bajaj:** You should also be clear on this point whether the time-limit of 3 years would be applicable to such renewals which are done yearly or once in six months. What is your opinion if such a time limit is removed and

such amounts are allowed to be continued with the permission of the Reserve Bank—after all they are also producing wealth and creating good for the country? The powers are already there with the Reserve Bank and if necessary those powers could be enhanced.

**Shri Pratap Bhogilal:** I have already said that in principle there should not be any objection for continuing the advances given to the Directors of companies. If it is decided to allow such advances then necessary changes should be made in the bill, the provision where it has been mentioned that the advances should be called back, should be liquidated within three years or within the time of the advance. Normally all advances are recallable on demand. They are renewed yearly or six-monthly also. Even here the advances are given on merits and the Reserve Bank has ample powers to see that such advances are really given on merits. When it finds that any advance has not been given on merits, it could be called back.

**Shri Kamalnayan Bajaj:** There is a provision in the Bill that in the Board of Directors more than 50 per cent Directors should be from the category of specialists and less than 50 per cent from the category of industry. The banking industry or the banking institutions, as you know are giving large advances to different aspects of industry and in doing this they are greatly helped by the industrial and business experience of the Directors. If the present proposed system is to be followed, do you not think that there will be difficulty in discharging the duties of the Bank and total experience and interest required for the growth of banks will be jeopardised or hand-capped?

**Shri Pratap Bhogilal:** I don't think so. After all, the people who are chosen as technicians and professionals, will also have a broad-minded

vision in order to help the overall development of national economy. If that objective is kept in view, I don't think there should be any objection.

**Shri C. M. Kedaria:** You said that the opening of a letter of credit is not a direct responsibility. Do you consider it as a substantial interest of the Director?

**Shri Pratap Bhogilal:** Take, for example, the company which has large advances and the company's Director is also there on the Bank company. For every transaction a letter of credit is to be opened and it is in the nature of a guarantee and the bank guarantees the payment. So long as it is within the limits already sanctioned, a letter of credit should not be termed as a guarantee within the meaning of loans and advances.

**Shri C. M. Kedaria:** You hold that it is not a direct responsibility, as the loan is.

**Shri Pratap Bhogilal:** When the Bank opens a letter of credit, the party shipping the goods gets the money, even before the customer in India has paid for. Therefore, it becomes an advance for a temporary period. The Bank guarantees due payment of letter of credit. Therefore it is both in the nature of advance and also guarantee.

**Shri C. M. Kedaria:** The opening of LC is not a direct guarantee on the Director.

**Shri Pratap Bhogilal:** It should not be classified as guarantee in the normal sense of the term. Otherwise, as the clause stands as it is, there might be difficulties in opening letters of credit. Therefore this clarification is being sought for.

**Shri C. M. Kedaria:** You have held that the Chief Executive and the wholetime Chairman should be one and the same person. But the

feeling of the general public is that honorary chairmanship is a more respectful position than the paid one. Our general public is of the opinion . . .

**Shri Morarji R. Desai:** What do you mean by the general public? You do not represent the general public here, nor do I.

**Shri K. N. Tewari:** I hope advances for agriculture are also made.

**Shri Pratap Bhogilal:** After all, agriculture is a very big industry. We have got to see that agriculture functions and develops properly.

**Shri Indrajit Gupta:** May I know what is your understanding of the Bill before us here? What are the objectives of this social control bill as you understand?

**Shri Pratap Bhogilal:** After all, banks function to collect the deposits and see that deposits are allocated and utilized in various sectors of trade, business and industry in such a way that the development of the country will be maximum. And that should be the objective of every Bill; I believe this is the objective of this Bill also.

**Shri Indrajit Gupta:** Does it mean that this objective has not been satisfactorily achieved upto now?

**Shri Pratap Bhogilal:** I would not say that. The banking policy was directed in such a way that the economic development could be maximised; but there might have been some lacuna.

**Shri Indrajit Gupta:** Therefore, would you say that the powers enjoyed by the Reserve Bank were enough to carry out those objects?

**Shri Pratap Bhogilal:** In my humble opinion, they were.

**Shri Indrajit Gupta:** Then there is really nothing in this Bill?

**Shri Pratap Bhogilal:** I cannot say that.

**Shri Morarji R. Desai:** Do you think that the powers of the Reserve Bank as before are enough to carry out the objectives specified in this Bill?

**Shri Pratap Bhogilal:** It is really a question of seeing how this Bill will operate after all.

**Shri Morarji R. Desai:** But you are seeing the objectives here.

**Shri Jyotirmoy Bosu:** Has the theory impressed you?

**Shri Pratap Bhogilal:** Social objectives have been mentioned in this Bill—particularly the objective of financing agriculture. Now, in my humble submission the banks in the previous instance were not expected to function in this direction.

**Shri Morarji R. Desai:** I am asking whether with those powers which the Reserve Bank had so far, the Reserve Bank could cope with the objectives which are there now?

**Shri Pratap Bhogilal:** My submission is this. The Reserve Bank had the power to say that advances for agriculture should have been given by the banks....

**Shri Morarji R. Desai:** Did they have powers to do that?

**Shri Pratap Bhogilal:** I believe so.

**Shri Morarji R. Desai:** I don't think.

**Shri Pratap Bhogilal:** My understanding is a little different.

**Shri Indrajit Gupta:** Do you also feel that it is desirable to break this link between the industrial houses and the banking companies in the way in which has been so long?

**Shri Pratap Bhogilal:** My submission is that the link has always got to be there between the bank and the industry concerned. If that link has proved disastrous or is against the interests of the country I think the Reserve Bank had ample powers to see that these links are snapped and it has been done in the past in several instances. Some banks have been wound up. Some of the Directors, etc., have been taken to task.

**Shri Indrajit Gupta:** So, in your opinion, apart from hoping that this new Bill may work better, you don't think that anything new is being introduced?

**Shri Pratap Bhogilal:** After all, we are living in hope. The Bill may achieve which has not so far been achieved.

**Shri Jyotirmoy Bosu:** I am also hoping against hope!

**Shri Samarendra Kundu:** Would you kindly see section 36AD of the Bill? I will put certain propositions before you. Do you think that under this section any person who is not a worker can also be booked even if he is not directly connected with the demonstration but just passing by? Is there a possibility of his being harassed?

**Shri Pratap Bhogilal:** There is a possibility. After all, if he is responsible for obstruction, there is no reason why he should not be.

**Shri Samarendra Kundu:** My question is: Is there a possibility?

**Shri Bhogilal:** Yes.

**Shri Samarendra Kundu:** Yes. So, a person who is passing by a place where a demonstration goes on, can be booked under this law, though he is not in any way connected with it?

**Shri Pratap Bhogilal:** It is just possible. But after all such things

would be in the minority; majority would be obstructionists.

**Shri Samarendra Kundu:** Don't you think that if this feeling goes round the country, banking business will be seriously affected?

**Shri Pratap Bhogilal:** Well, Sir, there would be a serious effect on the banking business of the country. These obstructions are undermining the confidence of the public as well as it may undermine the stature of banks...

**Shri Samarendra Kundu:** My question is different...

**Shri Morarji R. Desai:** May I explain to you. His question is this: Will a person who is passing by get involved in the section even if he has nothing to do with the demonstration? If so, will it not discourage people from going to the bank as a result of this section?

**Shri Pratap Bhogilal:** The banking habit would be affected.

**Shri Morarji R. Desai:** You are not understanding what he is asking. He wants to know if section 36AD is kept will the banking habit diminish?

**Shri Pratap Bhogilal:** No, Sir. It is the other way. If the demonstrations are not precluded the banking habit is likely to be affected.

**Shri Jyotirmoy Bosu:** Gentlemen, how do you define the term 'credit worthiness' of a bank. I have a definition of my own. Please let me know whether you agree with it or not: "that you find out who are persons on the Board, whether they are honest or not; secondly you try to find whether they have substantial assets in conducting banking business and thirdly, I hope you would agree, whether they are liberal enough to give you over-drafts." These three things attract a customer to a bank. That is

my impression. Tell me what are the things in a bank that attract you to be their customers?

**Shri Pratap Bhogilal:** First of all, the assets of the bank; then the promptness of the service, its credit worthiness, the management of the bank, there are many factors.

**Shri Jyotirmoy Bosu:** What is the management if a man who has been convicted under section 421 has been found to be desirable to be on the management?

**Shri Pratap Bhogilal:** There may be a few instances but the Reserve Bank has acted there. Generally, the bank management has been in sound hands. Credit worthiness of a bank is composed of so many factors and if any one factor is affected its credit worthiness is affected. Banking is a very sensitive instrument.

**Shri Jyotirmoy Bosu:** The subordinate staff matter is not one of the items which dominates the list.

**Shri Pratap Bhogilal:** It is one of the items. If there is mishandling on the hands of the Board of Directors they should not be spared. But we should also see that the subordinate staff also behaves and the sensitive mechanism of our economic development should not be jeopardised.

**Shri Jyotirmoy Bosu:** The State Bank commands a big business in this country but the service of the State Bank is very poor. Even today if you go to National and Grindlays Bank you get a cheque cashed in five minutes whereas the State Bank will take 20 minutes. In spite of that they command a big business because they offer full security, lower rate of borrowing interests and some such services. Would you agree with me?

**Shri Pratap Bhogilal:** Unfortunately, I do not agree. My experience with the State Bank is not as bad as you say.

**Shri Jyotirmoy Bosu:** It seems to me that you are not inclined to support 36AD because of the demonstrations etc. But has those things really hindered the growth of banking habits, trade, commerce and industry or the recession which the Government and the Finance Ministry have failed to check has hindered the growth?

**Shri Pratap Bhogilal:** I am in support of this clause. I am not against this clause. In fact, I want to strengthen it because these demonstrations have had their predominant place during the last few years and the extent of damage that might accrue can only be gauged in course of time.

**Shri Jyotirmoy Bosu:** Have these demonstrations really hindered the growth of banking habits, trade, commerce and industry in this country?

**Shri Pratap Bhogilal:** Yes, they have certainly affected trade, commerce and industry. Whether the banking habit has been affected or not is too early to judge.

**Shri Jyotirmoy Bosu:** So far, you have not appreciated anything.

**Shri Pratap Bhogilal:** It is too early to judge.

**Shri Jyotirmoy Bosu:** You must be going to produce markets, I had the chance to do. In produce market you have to do a lot of things especially in jute markets in villages. There one could peacefully demonstrate, resist to a price, high or low.....

**Shri Pratap Bhogilal:** I have not gone to any produce market.

**Shri N. Dandekar:** I would like to be clear on two points.

First of all talking about 'the Chairman shall be entrusted with the management of the whole of the affairs of the Banking Company' there is one technical point you have raised. I am not very much concerned with that. I



am concerned with the other question, —about entrusting the powers to the Chairman of the entire Management, the entire business of the Banking company's affairs.

**Shri Pratap Bhogilal:** If it is automatic by the Banking Company Law, then there is not delegation of powers.

**Shri N. Dandekar:** Are you suggesting, if by this Section it is automatic, then the whole of the management of the business of the banking affairs is entrusted to the Chairman. Is it your point that the Board of Directors have no function to discharge?

**Shri Pratap Bhogilal:** The position of the Board of Directors will be anomalous.

**Shri N. Dandekar:** Are you suggesting that the Board of Directors can be ignored even if they pass whatever resolution they like?

**Shri Pratap Bhogilal:** Yes, it means.

**Shri N. Dandekar:** In other words, the Board of Directors will not effectively exist.

**Shri Pratap Bhogilal:** In certain cases the Board's position may be infructuous.

**Shri N. Dandekar:** I want to take you to our Company's Act which requires Chief Executive, General Manager, Managing Director, has to be a person to be entrusted with the whole management, subject to the control, guidance and direction of the Board of Directors. Are you suggesting...

**Shri Pratap Bhogilal:** If the Board has to be fructuous.

**Shri N. Dandekar:** The second point I want to get cleared is this. You have said that the Chairman—whole time Chairman, paid by the Bank ought not to be regarded as holding an office of profit. Why not?

**Shri Pratap Bhogilal:** Under Section 314 any person holding an office of profit, a Resolution has got to be passed by 75 per cent majority. It might be possible that 25 per cent of the people might vote against that. It is a safety provision that I was thinking of.

**Shri N. Dandekar:** The office of profit has other consequences. Would token remuneration be fixed by the Board of Directors? I am thinking of the limit. In the Company Act, there is a limit of 5 per cent, whatever be the remuneration if it is the Chief Executive, and total over-all limit of managerial emoluments is 11 per cent. Would it get counted or not, if it is not an office of profit?

**Shri Pratap Bhogilal:** It is not to be counted.

**Shri N. Dandekar:** Since the person holding this office will be approved by the Reserve Bank, his remuneration is also to be approved by the Reserve Bank. In order to get over the first difficulty of 75 per cent share holders approving, it should be called not "an office of profit"; and regarding second question,—remuneration should not exceed the 5 per cent managerial limit.

I want to take you now to a couple of definitions. It is not in your Memorandum; for Small Scale Industrial concern, which is defined in Clause 2, sub-clause 3 — a new definition has been introduced. At page 2 the definition of Small Scale Industrial concern is being introduced. If you have any comments on that definition at all or not, please let me know. I might remind you that it has two bearings:— one in relation to the qualifications of Directors who come within the category of Specialist Directors or Industrial Directors and the other is in relation to the granting of loans. The granting of loans to Company if it is really small scale industry Company

is not helped by this provision. Having regard to this purpose, have you studied this at all and have you any comment on this?

**Shri Pratap Bhogilal:** Actually I do not know that the Director of Small Scale Industry who is a Director of the Bank is hit by this.

**Shri N. Dandekar:** You find in the 'loan clause', the Director is hit even if he has no substantial interest. If you turn to the definition of substantial interest—interest in small scale industry, it has got relevance,—from that point of view have you any comments on the definition?

**Shri Pratap Bhogilal:** I do not see why the definition of small scale industry be changed.

**Shri N. Dandekar:** Is the definition too small for small scale industry in modern times?

**Shri Pratap Bhogilal:** It might depend on inflation.

**Shri N. Dandekar:** You know what has been in the last 10 years. You think the definition to be a restrictive one.

**Shri Pratap Bhogilal:** In the present circumstances. After all if we raise to 25 lakhs, it might be more in line with the present context.

**Shri N. Dandekar:** In other words it is too restrictive.

**Shri Pratap Bhogilal:** 15 might be raised to 25.

**Shri N. Dandekar:** Now, the definition of substantial interest: It means interest which exceeds 5 lakhs or 5 per cent of the paid-up capital of the Company whichever is less. In other words many of the small industries are there. If 5 per cent or 10 per cent interest is there, because then it becomes a substantial interest.

Would you think it is again a too restrictive definition of substantial interest?

**Shri Pratap Bhogilal:** I think it is too narrow. In fact I mentioned in my submission that there should not be any objection to giving loans to companies in which the Directors have substantial interest.

**Chaudhary Nitiraj Singh:** Mr. Tewari asked you a question. He said, if agriculturists could be added, you said 'yes' I would like to know whether those who are mainly industrialists and to a lesser degree agriculturists are to be included or persons who are solely tillers of the soil are to be included?

**Shri Pratap Bhogilal:** If he is a farmer, he is a farmer also. He also is an agriculturist. It depends on the share holders whether to elect him as a Director. He should not be debarred from coming into the category of agriculturists because of his interests in industry. Simultaneously he might qualify for the industrial category also.

**Chaudhary Nitiraj Singh:** You would also include organised planters.

**Shri Pratap Bhogilal:** Yes.

**Shri M. Thirumala Rao:** You said under the Act the Chairman should be controlled by the board of directors and he will take orders from them. If that is so what is the new difference between this chairman and the existing managing chairman of the companies' Act?

**Shri Pratap Bhogilal:** Under the definition the Chairman is also the Chief Executive. That makes a lot of difference.

**Shri M. Thirumala Rao:** He is subject to control and direction of the board of directors you said. In the existing state of affairs such directors of big industries and banks are interlinked

together. This exercises such an influence about their loans, about the terms of loans, good loans, bad loans and extending indefinitely the term of repayment etc. that I think you would agree that this Bill is intended to put an end to this State of affairs in the banking industry. So this bill is sought to be placed on the statute-book. Do you want to perpetuate the same thing again? There are several cases of people who have taken lakhs of rupees not merely for industrial purposes or for business purposes but for using it for some other purposes as well and stalling the repayments. There are several cases like that. In order to remedy these affairs when you ask for a chairman who may not be completely under the directors would you envisage a position like this? For example, a municipal corporation is there and the executive called the commissioner of the corporation has got certain executive powers—somewhat independent of the corporators. The corporators will have statutory powers like rules, regulations and resolution. But the executive capacity of the Chairman should not be easily amenable to the influence of these directors. Do you envisage such a position if you are to remedy present state of affairs?

**Shri Pratap Bhogilal:** I don't agree with you, with due respect to your point of view that the position there is in the nature of the municipal corporators. The second thing is this. I do not agree with you that there has been such an interlocking between business and industry and banks that certain things have acted against the interests of the country. After all the percentage of such banks advances as you have pointed out is very very infinitesimal. The composition of the Board of directors is being changed. 51 per cent are non-industrial directors. After all, the banking company is a company. And if the Board of Directors is there, the Board of Directors is supposed to guide and control and direct the affairs of the Bank. The powers ought to be delegated to

the Chief Executive by the Board of Directors. It is in the fitness of things, if the management is to be managed as a joint stock company.

**Shri M. Thirumala Rao:** You don't agree that the Chairman under the Act will not be subject to any undue influence and pressure by the Board of Directors to suit their purposes?

**Shri Pratap Bhogilal:** It was never so in the past. It can never be so also.

**Shrimati Sucheta Kripalani:** I want to refer to page 12 of the Bill, to clause 36 AE. There it says 'persistently failed to comply with the directions'. Now, what do you think would constitute persistent failure on the part of the bank?

**Shri Pratap Bhogilal:** It is difficult for us to say. The Reserve Bank gives certain directives. If the directives are not complied with by the board of directors or by the chairman then the powers should be vested with the Reserve Bank to remove.

**Shrimati Sucheta Kripalani:** What do you say, is it a wide power or limited, or it should be further defined or qualified or should it be as it is? What is your view?

**Shri Pratap Bhogilal:** It should be more specified.

**Mr. Chairman:** Thank you very much.

*(The witnesses then withdrew)*

## II. Shri V. T. Dehejia, Chairman, State Bank of India

*(The witness was called in and he took his seat).*

**Shri Jyotirmoy Bosu:** You have given a very interesting note and after you left day before yesterday we had met your staff people and they all seem to be quite happy with the staff relations in the State Bank of India. I don't think you will contradict that.

**Shri V. T. Dehejia:** It is a very good compliment to both sides, to the employees as well as to the management.

**Shri Jyotirmoy Bosu:** It is very good. Have you more than 1,75,000 staff? What is your staff strength?

**Shri V. T. Dehejia:** 48,000.

**Shri Jyotirmoy Bosu:** Why are you supporting this 36 AD?

**Shri V. T. Dehejia:** When I talk of the provisions of the Bill it is not with respect to the State Bank of India alone but it applies to entire banking industry. And I take into account what is happening in the entire banking industry and not only what happens in the State Bank of India.

**Shri Jyotirmoy Bosu:** I have to compliment you that the staff relations are good because you give them a human treatment. You try to look into their difficulties because you take personal care and interest in their affairs. Don't you think if the other banks follow the example like this in their staff relations there should be none of the articles like 36AD?

**Shri V. T. Dehejia:** As I have stated earlier good relations are due to both sides—management as well as the employees. Some of our unions and the federation itself is good and reasonable and that is why our relations are good and we are able to maintain good relations. I have seen that it is wholly and completely out of hand in certain banks.

**Shri Jyotirmoy Bosu:** The Gentleman who came from Union Bank Mr. Nariman said like this. He has had 35 years of standing in the banking industry. He believes in your philosophy. He does the same thing as you do. The relation there as between staff and management is good.

**Shri V. T. Dehejia:** The Syndicate Bank had lot of trouble. Their working had come to a standstill. There are

also a number of other cases, in respect of individuals as well as banks as a whole. Take for instance at Patna. A number of bad instances did happen in Patna a year ago. I can multiply the instances.

**Shri Jyotirmoy Bosu:** You don't make a mountain out of a mole-hill.

**Shri V. T. Dehejia:** It is not so

**Shri K. N. Tewari:** Was there any labour trouble in any of your Branches—any strike or gherao?

**Shri V. T. Dehejia:** Gherao I cannot recall. There was a strike by a fairly large section on the 28th of February this year.

Before that, for the bank as a whole, I don't recall strike but in other individual offices, there has been accessation of work.

**Shri K. N. Tewari:** You have stated that the relations between the staff and the management are very cordial and good.

**Shri V. T. Dehejia:** It is cordial and good. When I say it is good, it is with the top management and the top officials or leaders of most of the unions. That does not apply to all the unions or leaders or all the staff of the branches.

**Shri K. N. Tewari:** What is the lean that you give to agriculturists?

**Shri V. T. Dehejia:** We have given all-told a loan of Rs. 183 crores for agriculture and allied purposes including the cooperative societies.

**Chaudhury Nitiraj Singh:** Out of a tota of what?

**Shri V. T. Dehejia:** Out of a total of Rs. 600 and odd crores. This is a very large proportion.

**Shri K. N. Tewari:** For what purpose you make the advances to the agriculturists.

**Shri V. T. Dehejia:** Our advances are to cooperatives. These are the figures as on 31st March 1968:

Cooperatives Rs. 121 crores.

Warehousing Rs. 18 crores.

Agriculture proper Rs. 45 crores.

They are also divided purpose wise like this:

For production Rs. 90 crores.

For process Rs. 12 crores.

For storage Rs. 18 crores.

Rest for marketing.

I have got divided this into different parts—poultry, farm, markets, dairy farming, finance for production, agricultural produce, finance for tractors and other implements. I have got the figures.

**Shri K. N. Tewari:** Do you make advances only through cooperatives or make advances directly to them too?

**Shri V. T. Dehejia:** We have got direct advances to agriculture also.

**Shri K. N. Tewari:** Do you give through your branches—some selective branches at different places?

**Shri V. T. Dehejia:** I would not be able to say whether every branch has this. But, it is all over India.

**Shri K. N. Tewari:** Will you agree with me if I suggest that advances to agriculturists for agricultural development such as for purchase of tractors and so on should be introduced direct but not through cooperatives? Direct advances should be made through the banks.

**Shri V. T. Dehejia:** It should be well as to cooperatives depending on well as to cooperatives depending on the conditions of the area—in some areas, cooperatives are well-developed while in some areas they are not well-developed. The bank should not start stepping on the toes of cooperative. The cooperative movement should succeed and it is a part of our Constitution also.

**Shri K. N. Tewari:** Uptil now our experience is that whatever advances the agriculturists get, they get them through cooperatives. Are you to make advances through the cooperatives? And should they not be directly to the agriculturists?

**Shri V. T. Dehejia:** We make advances to the agriculturists directly also. This point I want to make.

**Shri K. N. Tewari:** Will you tell us that the system of making direct advances to agriculturists should be encouraged and should be adopted by all types of banks?

**Shri V. T. Dehejia:** I see no difficulty. If you prefer to combine this, that is a different matter. Instead of doing that they are proposing to form an agricultural finance corporation. I think it is a good move. The Indian Bank's Association has set up an Agricultural Finance Corporation and that Finance Corporation advances loans. I think this is a good arrangement.

**Chaudhary Nitiraj Singh:** You said that Rs. 183 crores are advanced to agriculturists. May I know which State of the country has got the maximum amount?

**Shri V. T. Dehejia:** I have not got the statewise break-up but I have got the purposewise break-up with me.

Production Rs. 90 crores.

Process Rs. 12 crores.

Storage Rs. 18 crores.

Marketing Rs. 60 and odd crores.

**Shri Kamalnayan Bajaj:** You have held very important posts in Government as administrator and also as head of the biggest commercial bank in the country. Because of your experience, can you enlighten us that when the directive as it is provided in the Bill in Part, IIC, 36AE(I) that if any bank does not follow repeatedly the directive or fails to follow the directive of the Reserve Bank under some given circumstances, on the re-

commendation of the Reserve Bank, that particular bank would be nationalised. If the management or the Board of directors are at fault in carrying out the policies or the directives given by the Reserve Bank, as an administrator do you think that under the administrative action, the management if it is bad, could be taken over? This is one thing. Should the ownership also be taken over by administrative action without going to Parliament?

**Shri V. T. Dehejia:** I see nothing wrong in the proviso.

**Shri Kamalnayan Bajaj:** Has it been done in any industry or wherever it is badly managed—in textile and so on—the Government takes it over for the management to take over the ownership by negotiation is a different story, but to take over by administrative action. The policy-making authority would be the Reserve Bank and the same authority would be the judge and whether that policy has repeatedly been failed or whether the same authority would recommend as to whether such a bank should be nationalised or not and whether there is a possibility of discrimination or not in that?

**Shri V. T. Dehejia:** I do not think there is the least possibility of discrimination; the Reserve Bank, in the past, had exercised powers with extreme care.

**Shri Kamalnayan Bajaj:** In your experience, Mr. Dehejia, whether the common directorship has been misused in any bank. The other day if I remember correctly, you said something that the common directorship has been misused in some of the banks.

**Shri V. T. Dehejia:** That is true.

**Shri Kamalnayan Bajaj:** And for stopping that, whether the Reserve Bank, under the Bill, has sufficient power or not so that certain issues could be corrected?

**Shri V. T. Dehejia:** Whatever the powers the Reserve Bank has, it has not been able to implement these even.

**Shri Kamalnayan Bajaj:** That might be due to inefficiency on the part of somebody. The responsibilities on the part of the Reserve Bank may not be very effective.

**Shri M. Thirumala Rao:** The powers are not very effective.

**Shri Kamalnayan Bajaj:** The powers are not very effective. Or due to inefficiency the Reserve Bank was not very effective. In some cases, you might recall that they have taken action and they have removed the persons concerned.

**Shri V. T. Dehejia:** They have stopped some advances or they have asked them to re-pay to the Banks. In one case the Chairman had to resign from a bank because a loan was given by him to a particular concern. These instances are there. But, in spite of that, there are quite a few instances known to be of bad bankers.

**Shri Kamalnayan Bajaj:** This Bill prohibits completely giving of advances where common directorship is there. Do you not think that it will hamper the experience available to both the companies and the banks. Instead of that if it is provided that advances are given only subject to the permission of the Reserve Bank—something like that—will it satisfy the objective that is behind the Bill?

**Shri V. T. Dehejia:** This question was also asked earlier and in my reply I said that it would not be practicable for the Reserve Bank to scrutinise the advances thoroughly because so many factors are suppressed. The Reserve Bank cannot go into the detailed working of the banks. It has got to go on certain facts which are furnished.

**Shri M. Thirumala Rao:** There is a general reputation for the State Bank that one who goes to the State Bank must have to stay for longer time than if he goes to other banks. Is it your experience? Have you received such

complaints that people have to spend more time in the State Bank even to cash a cheque?

**Shri V. T. Dehejia:** I have received such complaints. In some cases they are true and while in some others I found they are exaggerated.

**Shri M. Thirumala Rao:** Is it because of a feeling that State Bank being a State-owned bank, it is just like public undertaking? You know the history of public undertakings in the country. Apart from the principle of socialism that all the public undertakings must be managed by Government, is there any possibility of a remedy for this thing, as a matter of competition with other banks where they are getting better service?

**Shri V. T. Dehejia:** We are putting through a scheme which should soon give quick service. We are introducing a thing known as teller system. It has been introduced in some branches and it will soon be extended to more branches. Under that we would be able to compete like banks in foreign countries.

**Shri M. Thirumala Rao:** Then there is the question of representation to staff of the Bank on the Directorate. Have you given your thought to this?

**Shri V. T. Dehejia:** No.

**Shri M. Thirumala Rao:** You don't? Have you ever thought of the idea of representation of the depositors also on the Board of Directors?

**Shri V. T. Dehejia:** It does not arise.

**Shri M. Thirumala Rao:** This is quite an orthodox way of reply.

**Shri V. T. Dehejia:** The depositors are such a body, for them to elect one person is not possible. And the Directors of the Bank are also depositors or most of them.

**Shri M. Thirumala Rao:** That is not the point. But a depositor cannot

vote unless he has got qualifying number of shares.

**Shri V. T. Dehejia:** That is what I have explained to you that the depositors' interests are safeguarded by a variety of ways.

**Shri M. Thirumala Rao:** Why vicarious way of safeguarding? After all the shareholder holds a much smaller holding. A man holding Rs. 50 lakhs worth of shares controls an asset of Rs. 200 crores of deposits.

**Shri Morarji R. Desai:** The hon. Member knows that in other companies also there are depositors. Have they any representation? Are they making deposits in order to have representation?

**Shri M. Thirumala Rao:** My points is . . .

**Mr. Chairman:** He has clearly stated that in his answer.

**Shri M. Thirumala Rao:** Sir, he is the head of a whole public institution. He is different from private banks.

**Mr. Chairman:** If he does not state as you wish him to say, you should not go on pressing.

**Shri M. Thirumala Rao:** It is all against orthodox thinking. But there is nothing which will prevent him. Is there a possibility of Government having it? That is all what I want to know.

**Shri S. S. Kothari:** There is a corporation for guaranteeing loans to small-scale industries. Would you be in favour of a similar scheme for guaranteeing loans to agricultural sector so as to safeguard the interests of depositors?

**Shri V. T. Dehejia:** I don't think such a corporation would be necessary. A bank taking a risk should itself assess the risk. If it is to depend on a guaranteeing organization, then the lending will become indiscriminate.

**Shri S. S. Kothari:** Then why was it considered necessary in the case of loans to small-scale industries?

**Shri V. T. Dehejia:** Firstly the guarantee organization has not been resorted to by most of the banks excluding the State Bank of India even though it exists and the banks prefer to assess the risk on their own.

**Shri Samarendra Kundu:** You have said that there is a provision here where an attempt has been made to snap the relations between the Directors and the borrowers of the Bank. Perhaps you must be aware that there have been serious allegations that many commercial banks have given credits in a fraudulent way to certain particular industrial houses. A lot of things have been spoken in this matter. I would like to know from your experience how that fraudulent way of giving credit to certain groups, to certain individuals, to certain industrial houses which has put our entire economy into imbalance could be stopped in a better way. Do you think that snapping this relationship as it has been done in this Bill is enough to control that?

**Shri V. T. Dehejia:** I followed the question. Only there are quite a few statements with which I would not agree without going into them. Whether the Bill is a good way of achieving the purpose which is in our view, I think it is a very good way of achieving the purpose which is in view. The purpose is to sever the link between industries and banks and that is being achieved by three things: (1) having a full-time Bank Chairman, (2) having a revised Board of Directors and (3) not lending to companies in which the Directors of Banks are interested.

**Shri Samarendra Kundu:** Do you think there is enough to achieve the objective?

**Shri V. T. Dehejia:** I think so. It will achieve.

**Shri Samarendra Kundu:** You think the borrowers, the individual borrowers and big industrial houses cannot influence the Chairman and Board of Directors if it is re-organized, to give special privilege to certain types of borrowers under this law?

**Shri V. T. Dehejia:** That really goes into the question of how straightforward people are in their behaviour. I assume that mostly they would behave in an independent manner which it is provided.

**Shri Samarendra Kundu:** Provided those people who are Directors and Chairmen are good people and straightforward people.

**Shri V. T. Dehejia:** Fairly reasonable people.

**Shri Samarendra Kundu:** I will draw your attention to Clause 36AE which reads:

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

(a) has persistently failed to comply with the directions given to it under section 21, section 35 or section 35A, or . . .”

**Shri V. T. Dehejia:** I have read that section.

**Shri Samarendra Kundu:** Now this judgment that this failure has been persistent or not is to be made by the Reserve Bank of India. Don't you think that in making such a judgment sometimes that will be used to harass certain people and the real culprits may be let off because the word is persistent?

**Shri V. T. Dehejia:** The power is being given to the highest body controlling the banks.

**Shri Samarendra Kundu:** From your personal experience—you have been



there for long years now—you can suggest improvement to this.

**Shri V. T. Dehejia:** I have not been there in the Bank for long. But I have long experience in administration. The power given to the Reserve Bank is not likely to be abused.

**Shri Samarendra Kundu:** Don't you know that the Governor, Reserve Bank is appointed by the State and mostly the State will be an instrument of coercion. This word 'persistent' can be interpreted to mean differently, to suit the convenience of people with the result the real culprits may get away.

**Shri V. T. Dehejia:** I cannot think that the Reserve Bank will harass people unnecessarily.

**Shri Samarendra Kundu:** I am not talking of the present State. I am talking of the State that might come every five years.

**Shri V. T. Dehejia:** If we come to that stage, then various things will happen.

**Shri Morarji R. Desai:** This Constitution itself may not be there.

**Shri Kamalnayan Bajaj:** I would like you, in this connection, to say whether this is not a sort of harassment by the Reserve Bank. There was a directive by the Reserve Bank asking the banks to freeze all the limits to individual borrowers. Supposing the limit had been fixed at Rs. 5 lakhs and an individual had borrowed 1 lakh and he was sure that he could draw the balance of 4 lakhs some other time, with this directive the limit was frozen and the man could not draw any more amount.

**Shri Morarji R. Desai:** Is this discriminatory? You seem to be opposing the whole law!

**Shri V. T. Dehejia:** Even his interpretation is incorrect. The proportion of advances was 80 per cent to

industries and 20 per cent to commerce. The Reserve Bank directed, 'please achieve it before the busy season closes', and as a result of that the banks which had not achieved that took fright and they froze everybody's limits.

**Shri Samarendra Kundu:** For the better working of the institutions, don't you think that this word 'persistent' should be qualified—for example, you can even spell out, once defaulted, twice defaulted, or ten times defaulted etc. so that the judgment need not be on vague grounds like 'persistent' failure.

**Shri V. T. Dehejia:** If you say, 8 times, 10 times or 12 times, it will mean that the man who has failed three times, or four times, will say, 'give me four more trials'. The word 'persistent' gives a certain amount of discretionary power to the Reserve Bank. It may happen that one man has failed 5% in one directive, but later on he might have rectified that. Another man may be defaulting regularly 40 per cent of the directives. Then this failure is bigger than the earlier one.

**Shri Samarendra Kundu:** Even if it is stated in percentage, 40%, 50% or 60%, it will be good. Then the judgment of the Governor will not be on vague grounds.

**Shri V. T. Dehejia:** The Governor is a very seasoned man of very sound judgment. Otherwise, he would not be appointed.

**Shri Samarendra Kundu:** I can tell you that you are also a very capable man.

**Shri V. T. Dehejia:** I don't mean to say that the other man is not a seasoned man. The point is, trying to make it much more specific may make it worse. If you have a mathematical or statistical formula; it will be much worse.

**Shri Samarendra Kundu:** My idea is only to make it clear and purposeful.

**Shri V. T. Dehejia:** Then, when the directives are not carried out, it can be interpreted in a variety of ways.

**Shri Samarendra Kundu:** Here also in a variety of ways many extraneous matters can be brought in while coming to a decision. It will always be a personal judgment and is liable to be misused.

**Shri V. T. Dehejia:** Computerised judgement will not work. Whether it is a democracy or controlled democracy or even dictatorial, judgements are personal.

**Shri Samarendra Kundu:** Similarly in subclause (c) of Section 36AD(1) should not 'in any manner' be qualified? Don't you think that it will be better to be more specific, instead of being specific? Will it not be better if it is stated, 'in any manner detrimental to the interest of the depositors'?

**Shri V. T. Dehejia:** Palai Bank worked in a manner detrimental to the interest of the depositors and action had to be taken. Advances were of a particular type; they could not be recalled; they could not materialise. Again, I may say that computerised judgement will not work; a judgement has to be made. If you were to say, 'if so many advances are sticky', it will be far more complicated. It may act otherwise also.

**Shri Samarendra Kundu:** Yours is State Bank. Supposing it were in the private hands, the Directors would be trembling in fear that they will be called to book, which in turn will affect the growth of banking industry. They must know what is the specific allegation what is the meaning of 'persistently', what is the meaning of 'in a manner calculated' etc. They must know what are the types of advances that go against the banking policy or against the interests of depositors.

**Shri V. T. Dehejia:** I think banks will have enough notice.

**Shri Morarji R. Desai:** It has been said that far more advance has been made to the Directors—a larger percentage in the State Bank—than in any other bank. These are facts. Can you explain why this is so?

**Shri V. T. Dehejia:** In the case of State Bank, advances to Directors include advances to the members of local boards also. We have got seven local Boards and one Central Board. There are in all 49 persons as at the end of December 1967. So when we mention that, it covers the entire batch of 49 persons. While in the case of other banks the Board of Directors would be, say, of 10 to 12 persons; and that will cover only 10 to 12 persons.

**Shri Morarji R. Desai:** You were asked and told and complimented that the relations between the management, the Board and the staff have been happy. That is, there has been no violent trouble. Do you think it has not put a strain to do all that on the Board?

**Shri V. T. Dehejia:** Yes.

**Shri Morarji R. Desai:** Do you think these healthy relations will always be there? And they will not be affected by what is happening in other banks?

**Shri V. T. Dehejia:** One can never be sure that it will always be so.

**Shri Morarji R. Desai:** Do you think that the absence of this nature would not be conducive to the future help to banking institutions?

**Shri V. T. Dehejia:** I think so. Actually it was mentioned by the hon. member concerned. He put it that I had taken special pains in this matter.

**Shri Morarji R. Desai:** Is it also due to the fact that the State Bank is giving very high emoluments as a result of the legacy of the Imperial Bank that you have?

**Shri V. T. Dehejia:** Yes.

**Shri Morarji R. Desai:** Therefore, that also is the reason why the relations are healthy.

It has been asked sometimes in the course of evidence whether the Reserve Bank has ample powers, as it is. Do you think that the powers the Reserve Bank had so far, are sufficient to carry out the new policy regarding the working of the Banks contained in this new Bill?

**Shri V. T. Dehejia:** No; because I had once made an analysis of the powers of the Reserve Bank, and the wording chosen was such all along in the sections that the Reserve Bank would find it difficult to act under the existing Act.

**Shri Morarji R. Desai:** Would you say that the policy followed by the Banking institutions in this country was the same as it has been now sought to be re-oriented in this new Bill?

**Shri V. T. Dehejia:** In the Bill, the policy has been, as I explained in reply to some questions, certainly oriented towards particular sectors. If I may put it, it is a very long step towards controlling banking industry.

**An hon. Member:** Are you aware of the fact that some of the employees in your Parliament Street Branch were harassed by the supervisory officials recently? If so, have you made any enquiry?

**Shri V. T. Dehejia:** Actually it has been brought to my notice. I have started enquiry into the matter.

**Shri M. Thirumala Rao:** Last week I read in some newspaper that the employees of Bombay office gave a notice for strike. Are you aware of it?

**Shri V. T. Dehejia:** I do not know of any such notice for some months.

**Shri Morarji R. Desai:** Threat cannot be objected to.

**Shri Samarendra Kundu:** Mr. Dehejia, don't you think that the promotion of Banking business is very necessary for industrial harmony and peace in the banks?

**Shri V. T. Dehejia:** At a price.

**Shri Samarendra Kundu:** Price may be too heavy. Don't you think that for industrial harmony and peace in banking industry, personal relations between management and workers, etc. are very necessary?

**Shri V. T. Dehejia:** Yes, I do agree.

**Shri Samarendra Kundu:** Going a step further, don't you think that the fear of a sword hanging on the head of these workers—I am referring to section 36AD—will always disturb industrial harmony and peace?

**Shri V. T. Dehejia:** I would not describe it as a sword hanging over one's head. Now, take this direction 'Please don't smoke'. This is not like a sword hanging over one's head. There are things like that.

**Chaudhary Nitiraj Singh:** Are you satisfied with the investment the State Bank made for agricultural purposes or that some steps should be taken to improve?

**Shri V. T. Dehejia:** We want to improve.

**Chaudhary Nitiraj Singh:** What would you suggest for improving that?

**Shri V. T. Dehejia:** Agriculture advances. We are setting up cells, that is, units in all our local head offices which will undertake proposals of direct advances to agriculture and we would like to go in advance for fertilisers, insecticides, tractors, pumps, etc. They will go into the

question and on the basis of additional productivity being achieved by these inputs the results would be assessed and loans given. This will be primarily at our local head offices and the Central head office. Firstly, we are taking intensive areas. We are setting up an office at Pant Nagar.

**Shri C. M. Kedaria:** You have had good experience in the Administration and also as the Chairman of the State Bank. Will you please tell us regarding the emoluments and pay-scales paid to the bank employees as compared to the Government employees? Who are at an advantage?

**Shri V. T. Dehejia:** The banks scales are very much higher for clerks. His comprehensive emoluments are Rs. 275 to Rs. 300 and he can rise without a day's promotion to thousand rupees.

**Shri K. N. Tewari:** What total amount you pay yearly for overtime?

**Shri V. T. Dehejia:** I cannot say.

**Mr. Chairman:** Thank you very much, Mr. Dehejia.

*(The witness then withdrew)*

*(The meeting then adjourned)*