

Adulteration (Amendment)
Bill

श्री राम सेवक यादव: अध्यक्ष महोदय, मैं भी ऐसा आदमी हूँ जिस के साथ अन्याय हुआ है।

अध्यक्ष महोदय: नहीं साहब।

12.52 hrs.

COIR INDUSTRY (AMENDMENT)
BILL*

The Minister of International Trade (Shri Manubhai Shah): Sir, I beg to move for leave to introduce a Bill further to amend the Coir Industry Act, 1953.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Coir Industry Act, 1953."

The motion was adopted.

Shri Manubhai Shah: Sir, I introduce the Bill.

12.52½ hrs.

PREVENTION OF FOOD ADULTERATION (AMENDMENT) BILL*

The Deputy Minister in the Ministry of Health (Dr. D. S. Raju): Sir, on behalf of Dr. Sushila Nayar, I beg to move for leave to introduce a Bill further to amend the Prevention of Food Adulteration Act, 1954.

Mr. Speaker: The Question is:

"That leave be granted to introduce a Bill further to amend the Prevention of Food Adulteration Act, 1954."

The motion was adopted.

Dr. D. S. Raju: Sir, I introduce the Bill.

12.53 hrs.

BANKING LAWS (MISCELLANEOUS PROVISIONS) BILL—contd.

Mr. Speaker: The House will now take up clause-by-clause consideration of the Bill further to amend the Reserve Bank of India Act, 1934, the Banking Companies Act, 1949 and the State Bank of India (Subsidiary Banks) Act, 1959. There is no amendment to clause 2. I shall put it to the House. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

Mr. Speaker: There are some amendments to clause 5.

Shri Morarka (Jhunjhunu): Sir, I beg to move:

Page 2, line 33,—

for 'any other assets' substitute—

"other marketable securities of a like nature" (52).

Page 2,—

for lines 37 and 38, substitute—

'(d) "firm" means a firm as defined in the Indian Partnership Act, 1932 of which the capital subscribed by its partners exceeds one lack of rupees.' (53).

Page 5,—

for line 30, substitute—

"or with fine or with both." (55).

My amendment No. 52 is of a clarificatory nature. The reason for this amendment is, if we have the expression "any other asset", then all the

companies which are acquiring any type of asset would become a non-banking company within the meaning of this section and would become controllable by the Reserve Bank, whereas the intention of the Reserve Bank is only to control the financial companies, investment companies etc. Therefore, those who are dealing in shares or other securities will all come under this. Therefore, this amendment is only to clarify the position and make the intention more clear and precise.

My amendment No. 53 defines the word "firm". The intention of this amendment is to see that smaller firms which have a capital of less than one lakh rupees are not brought within the purview of this Act. The reason is this. There are many small firms who are dealing on a small scale and they also accept deposits of a very small amount. For the time being, since this is only a beginning, those firms should not be brought within the purview of this. My amendment seeks to make it clear that small firms which have a capital of less than one lakh rupees should be left out.

My amendment No. 55, again, clarifies the position. Since this is the first time that we are bringing all these investment and other non-banking companies under the purview of this law, any mistake made in the submission of statements etc. should be punished with imprisonment or fine or both instead of making imprisonment compulsory straightway. Therefore, this also is of a clarificatory nature and I hope the hon. Minister would find it possible to accept my amendments.

The Minister of Planning and the Minister in the Ministry of Finance (Shri B. R. Bhagat): Sir, I accept all the three amendments.

Mr. Speaker: The question is:

Page 2, line 33,—

for "any other assets" substitute—
"other marketable securities of a like nature." (52).

Page 2,—

for lines 37 and 38 substitute—

'(d) "firm" means a firm as defined in the Indian Partnership Act, 1932 of which the capital subscribed by its partners exceeds one lakh of rupees.'

(53)

Page 5,—

for line 30, substitute—

"or with fine or with both."
(55)

The motion was adopted.

Mr. Speaker: The question is:

"That clause 5, as amended, stand part of the Bill."

Clause 5, as amended, was added to the Bill.

Clauses 6 to 8 were added to the Bill.

Mr. Speaker: Then we come to clause 9.

Shri M. R. Masani (Rajkot): Sir, I would like to oppose this clause. This clause seeks to reduce the maximum holding by any shareholder from 5 per cent. down to 1 per cent. of the total holdings. The hon. Member Shri Morarka yesterday made out an excellent case against this clause. I do not wish to argue the ground again, but I would like to say that this is an entirely unwarranted and uncalled for attempt to interfere with the holding of shares beyond the limits of what may be considered necessary. After all, in the Banking Bill this 5 per cent. limit was laid down by this very Government itself. There is no reason why the restrictions once reasonable should be increasingly made unreasonable. I, therefore, oppose this clause.

Shri B. R. Bhagat: I have dealt with this matter. The hon. Member

[Shri B. R. Bhagat]

raised this point in the general discussion and I have replied to it. I do not want to take the time of the House by repeating it.

Mr. Speaker: The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

Clause 11- (*Amendment of section 20*)

Mr. Speaker: There are some amendments to clause 11.

Shri B. R. Bhagat: Sir, I beg to move:

Page 8, line 20,—

omit "public" (29)

Page 8, line 25,—

for "public company or as",
substitute—

"company if such company has no managing agent or as the managing agent or" (30)

Page 8,—

after line 27, insert—

"Provided that nothing in clause (b) shall apply to the grant of unsecured loans or advances made by the banking company—

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

(ii) in respect whereof trust-receipts are furnished to the banking company." (31)

Shri M. R. Masani: I beg to move:

Page 8,—

omit lines 20 to 27 (42)

Sir, the reasons for this amendment are clear. I mentioned them in my speech during the general discussion and Shri Morarka and others also made out a case. I therefore, suggest the deletion of sub-clause (3) which needlessly interferes with the proper functioning of banks.

Shri Morarka: Sir, I beg to move:

Page 8, lines 22 to 24,—

for "(where the articles of association of the banking company provide for the appointment of a chairman for a fixed term)"
substitute—

"(where the appointment of a chairman is for a fixed term)"
(56)

Sir, this is a very simple amendment and it is mainly meant to make the intention very clear. The restrictions which are sought to be applied to the Chairman who is appointed, according to the Bill, only for a fixed period by the Articles of Association only. My amendment says that a Chairman appointed for a fixed period whether by the Articles of Association or by a resolution of the Board or in any other manner should be brought in. I hope the Finance Minister would find it possible to accept this amendment.

Shri B. R. Bhagat: Sir, I accept the amendment No. 56. I do not want to say anything about Shri Masani's amendment because I oppose his amendment and, as he himself has stated, I have answered these things when he raised them during the general discussion.

Shri M. R. Masani: Unconvincingly.

Mr. Speaker: The question is:

(i) Page 8, line 20,—

omit "public" (29)

(ii) Page 8, line 25,

for "public company or as",
substitute—

"company if such company
has no managing agent or as
the managing agent or" (30)

Page 8,—

after line 27, insert—

"Provided that nothing in
clause (b) shall apply to the
grant of unsecured loans or ad-
vances made by the banking
company—

(i) against bills for supplies
or services made or rendered
to Government or bills of
exchange arising out of bona
fide commercial or trade trans-
actions, or

(ii) in respect whereof
receipts are furnished to the
banking company." (31)

The motion was adopted.

13:00 hrs.

Mr. Speaker: I shall now put am-
endment No. 42 to the vote of the
House.

*The amendment was put and
negatived.*

Mr. Speaker: The question is:

Page 8, lines 22 to 24,—

for "(Where the articles of
association of the banking com-
pany provide for the appointment
of a chairman for a fixed term)"
substitute—

"(where the appointment of a
chairman is for a fixed term)".
(56)

The motion was adopted.

Mr. Speaker: The question is:

"That clause 11, as amended,
stand part of the Bill.

The motion was adopted.

Clause 11, as amended, was added to
the Bill.

Mr. Speaker: The question is:

"That clause 12 stand part of
the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13— (Amendment of section 21)

Shri M. R. Masani: Sir, I beg to
move:

"Page 9,—

omit lines 19 to 29." (45).

My amendment No. 45 seeks to re-
move sub-clauses (c) and (d). This
clause, as has been argued by myself
and other hon. Members, interferes
with the right of a bank to make ad-
vances where they think it is in the
interest of the share-holders and the
depositors. This clause gives the
Reserve Bank power to give direc-
tions. As I said yesterday, this is
giving power without responsibility.
The share-holders and the depositors
should know who is running a bank
and this super-imposition of bureau-
cratic interference with the normal
running of a bank is liable to land
the banking industry in a situation
which will lead to its destruction
with great harm to this country. I,
therefore, move this amendment.

Shri Sham Lal Saraf (Jammu and
Kashmir): To what Mr. Masani has
said, I would like to add something
more. Personally, I feel that this is
a half measure. By bringing a half
measure, it does not help us. The
hon. Minister should bring in a full
measure with the consent of all. A
measure like this will retard the pro-
gress of banking and also it will not
help the economy. I again submit to
the hon. Minister to reconsider this
clause. In keeping with the amend-
ment that has been moved by Mr.
Masani, this should be given recon-
sideration.

Shri B. R. Bhagat: I do not agree with the hon. Member that it will retard the growth of banking industry.

Shri U. M. Trivedi: (Mandsaur): I want to say few words here.

Mr. Speaker: All right.

Shri U. M. Trivedi: It is only on the question of principle that this amendment should be supported. I know that the Government must have made up its mind and that is why it has been embodied in the Bill. But then sometimes from the Government also the reasons must come. Every time to become unreasonable is not fair to the House and is not fair to him also. After all, a bank runs a business and it is for a particular purpose that a bank is established and the main purposes of banks are always to accommodate concerns or firms or corporate bodies to have their business. Now, if that very function is controlled by this provision, what fun is there in running a bank? What provision is Government making next to allow a bank to determine for itself whether a particular loan is to be given, whether a particular accommodation is to be given, on what circumstances the loans should be given? The limitation that is put by this provision means that you run your house, but eat what I ask you to eat and eat what I allow you to eat and whether you may starve or die is immaterial. I would say that the Government should reason out this thing: why this provision is necessary. It has not been explained at all why this provision has become so necessary that the Government should insist upon having it and deny the very fundamentals of banking business. In this sense, I support this amendment.

Shri Prabhat Kar (Hooghly): I oppose this amendment because here what has been asked for is that the money deposited in a bank should not be utilised in a manner which

will upset the whole economy. Now, here, the purpose for which the advance may or may not be made is what the Reserve Bank wants to know. It is common knowledge that banks are run merely for earning profits by advancing money to be invested in stock exchange and other fields and for the purpose of profit-earning motive of an individual. Now, it is necessary that the Reserve Bank must know the purpose for which these advances may or may not be made. The margin is to be maintained. It is also common knowledge that so far as those few persons who have the opportunity of controlling the banks are concerned, they can utilise them with an advantage which also is against the interest of banking and, therefore, the purpose of this clause is to give information to the Reserve Bank. Even Mr. Masani had to say that so far as the role and the part played by the Reserve Bank up-till now is not to be condemned but it is commendable. From that angle, the power is given to the Reserve Bank and it is expected that the power will be utilised for the interest of the banking industry which is one of the most important functions of the Reserve Bank. That is why I support this clause as it is.

Shri B. R. Bhagat: The hon. Member, Shri Trivedi, said that the reasons should be given. I think, he was not present yesterday when I explained this and in the debate also this matter came up because this is an important clause. To say that we have not given any reasons is not correct. Broadly speaking, this clause proposes to give to the Reserve Bank the power to give directions....

Mr. Speaker: He need not repeat all those things that he had said.

Shri B. R. Bhagat: Thank you, Sir. I think, the power of issuing directions....

Shri U. M. Trivedi: Sir, let us hear those reasons....

Mr. Speaker: All that he gave yesterday, should I allow him to repeat that again?

Shri U. M. Trivedi: He wanted to give some reasons.

Mr. Speaker: He has already given all that and now he wants to repeat them. If something new is to be stated, that might be done.

Shri B. R. Bhagat: The hon. Member does not object to (a) and (b), that is, the purpose and the margin. What he objects to is to the maximum amount in respect of advances. That is the very substance of it. He agrees to the purpose and the margin, but not to the amount. There should be effective control in the larger public interest and in the interest of the credit and other institutions of the country with which the Reserve Bank's responsibility is there. It is necessary that the Reserve Bank should have these powers without which the Reserve Bank will not be able to guide the credit and other institutions, to prevent any undesirable activity; and to call all such desirable power to be given to the Reserve Bank as a bureaucratic power and all that is, I think, quite beside the point. So, I oppose the amendment of the hon. Member.

Mr. Speaker: I shall now put amendment No. 45 to the vote of the House.

The amendment was put and negatived.

Mr. Speaker: The question is:

"That the clause 13 do stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clauses 14 to 17 were added to the Bill.

Clause 18— (Insertion of new part after Part II)

Mr. Speaker: There are amendments by Shri T. T. Krishnamachari— Nos. 32, 33, 34, 35, 36 and 37.

They are all moved.

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

"Page 10,—

for lines 34 to 37, substitute—

"Provided that if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors, the Reserve Bank may, at the time of giving the opportunity aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer or other officer or employee, shall not with effect from the date of such order—

(a) act as such director or chief executive officer or other officer or employee of the banking company;

(b) in any way, whether directly or indirectly, be concerned with, or take part in the management of, the banking company.

(3) (a) Any person against whom an order of removal has been made under subsection (1) may, within thirty days from the date of communication to him of the order, prefer an appeal to the Central Government.

(b) The decision of the Central Government on such appeal, and subject thereto, the order made by the Reserve Bank under subsection (1) shall be final and shall not be called into question in any court;" (32)

[Shri T. T. Krishnamachari]

"Page 10, line 38,—

for "(3)" substitute "(4)" (33)

"Page 11, lines 7, 12, 18 and 29,—

for "(4)", "(5)", "(6)" and "(7)", substitute—

"(5)", "(6)", "(7)" and "(8)" respectively. (34)

"Page 11, line 8,—

after "sub-section (1)" insert—

"or under the proviso to sub-section (2)". (35)

"Page 11, lines 37 and 38,—

for "not more than five" substitute—

"one or more". (36)

"Page 11,—

after line 39, insert—

"Provided that the number of additional directors so appointed shall not at any time exceed five or one-third of the maximum strength fixed for the Board by the articles, whichever is less". (37)

Mr. Speaker: Then there are amendments by Mr. Masani—Amendments Nos. 46, 47 and 50. They are moved.

Shri M. R. Masani: Sir, I beg to move: १!

"Page 10,—

omit lines 34 to 37." (46)

"Page 11,—

omit lines 12 to 28." (47)

Page 11, line 38,—

for "five persons" substitute,—
"one person" (50)

Mr. Speaker: Then there are amendments by Mr. V. B. Gandhi. Is he moving them?

Shri V. B. Gandhi: I do not move my amendment No. 42.

Mr. Speaker: The amendments Nos. are 48, 49 and 51.

Shri V. B. Gandhi: The amendment Nos. 48 and 51 I move. Amendment No. 49 I do not move.

Sir, I beg to move:

"Page 11,—

for lines 12 to 17 substitute—

"(5) Where an order under sub-section (1) has been made, the Board of Directors of the banking company concerned may, in consultation with the Reserve Bank, appoint a suitable person in place of a director or chief executive officer or other officer or an employee who has been removed from his office under that sub-section." (48)

"Page 11, line 38,—

for "five persons" substitute
"two persons" (51)

Shri M. R. Masani: Sir, I have moved these amendments, 46, 47 and 50, to this clause bearing on different aspects of this matter. If these amendments are not accepted, I would like to oppose the clause as a whole. This clause as a whole seeks to do something which hon. Members from the Congress Party yesterday quite rightly described as being contrary to the rule of law and importing new criteria of justice and equity which are alien to this Constitution of ours and to the Constitution of all societies.

Sub-section (1) says that the Reserve Bank may remove from his position a director, officer or even an employees of a bank for two reasons, for conducting the company in a manner detrimental to the interests of the depositors and alternatively for securing the proper management of the company. The first at least makes a little sense, however worthless the opinion of the Reserve Bank

without the check of somebody else might be. But for the Reserve Bank to say that somebody may be dismissed from his job because, in their opinion, the proper running of the company demands it, is as objectionable as the clause in the Companies Bill which we were unfortunately persuaded to pass the other day, which said that Government could decide better how a business should be run. This again is the same ridiculous principle that a Government official or someone else knows better how to run your own business. In my opinion and in the opinion of those who believe in a free business economy, the people who risk their own capital and whom the shareholders have elected are the best and sole judges about how to conduct their business. The proper management of a banking company is in the hands of those who own the company and to give the bureaucrat the power to sit in judgement on the running of a company and to go so far as to remove a man from his office to which he is duly elected is entirely arbitrary and contrary to all concepts of justice and equity.

In my three amendments, I have tried to make the effect of this clause somewhat more limited. My first amendment, namely amendment No. 45 deals with the proviso at page 10 of the Bill. There, you will notice from sub-section (2) that normally a director to be removed would be at least given a chance to be heard in his own defence or justification. But then the proviso says:

"Provided that it shall not be necessary to give any such opportunity if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors:".

Shri Morarka: That is being amended by Government.

Shri M. R. Masani: As amended too, it does not altogether meet my point. I appreciate the amendment,
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and I think it is an improvement on the original clause. I admit that the Government amendments to this section are helpful in mitigating some part of the mischief. But enough mischief remains, and because some part of the mischief remains, I am moving these amendments which seeks to provide that this proviso be dropped. Under any canons of equity it is known that a man must be heard before he is judged. Here, the judge is given the right to decide that in some cases he may not hear the party. This is entirely unnecessary and should be dropped.

By my second amendment to page 11, I seek to delete sub-sections (5) and (6). The provision in the Bill says that when a man has been removed, the interference should not stop and the mischief should not stop, but the Reserve Bank may move into appointing a successor also. In modification of the banking law which had been drafted and which is now operative, what is the reason for saying that when a man is removed, even the successor must be appointed by Government or governmental institution? May I point out that this applies to directors, officers and even ordinary employees, even an accounts clerk could be removed and Government would say 'We shall appoint your successor.'. This is entirely beyond the needs of the case. Deal with the malpractice, but why make your imposition permanent? If you want a banking company to function, then your interference should be limited to the needs of the case. Here, it seems to me that in sub-sections (5) and (6) it goes well beyond the needs of the case.

Finally, my amendment No. 50 says that Government should be empowered to appoint one director but not as many as five. Here again, my hon. friend the Minister has introduced an amendment which is somewhat more reasonable than the original clause or the original proposition. Here, again, one Government nominee on a board, everyone should

[Shri M. R. Masani]

realise, is adequate. He has to act as a watch-dog; he has to act as a guide; if you like, he has to act as a spy. But surely one man acting as a watch-dog is as effective as five people or two people or three people. I see that my hon. friend Shri V. B. Gandhi has suggested two. I am not quarrelling over numbers. I am trying to limit the mischief of this unwarranted interference to the minimum, and I suggest that one Government director on any company or bank is perfectly adequate for the purpose of giving the Reserve Bank a finger in the pie. The capacity to have a veto, the capacity to watch, and the capacity to report to the Reserve Bank will be there; multiplicity of numbers will not do any good.

If even these three modest amendments of mine along with the amendments of the Congress Members are not accepted, then, ultimately there is no remedy for those of us who want to keep before ourselves a perspective and a sense of proportion but to oppose the whole clause and to vote against it.

Shri V. B. Gandhi (Bombay Central South): My amendment No. 48 seeks to suggest that lines 12 to 17 at page 11 be substituted as given in my amendment. The object of this amendment is that the right of appointing a director in place of the one who will be removed by the order of the Reserve Bank should belong to the board of directors. This right normally does belong to the board of directors, and there is no good reason why because the Reserve Bank thought it necessary to order the removal of one director or one officer, that right should be taken away from the board. However, I am willing to go some distance in the direction of making some concession and suggest that the new director may be selected by the board of directors in consultation with the Reserve Bank of India.

So far as amendment No. 49 is concerned, I have not moved it. But in amendment No. 51, my proposal is that instead of 'five persons', we may substitute 'two persons'. These five persons are five substitute or additional directors for whose appointment Government are taking power. Normally, we do not understand why these five are necessary. After all, the functions that these Government directors are expected to perform would be to influence the other members of the board, to be watchful and to see that the operations and the activities of the bank are conducted in a manner not detrimental to the interests of the depositors and so on. If those are the functions of these directors, then one should be just as good as any other number. However, I have suggested that we should have two directors, that is, two additional directors just for the sake of being more helpful. But we see that Government are not here seeking to impose a majority on the board. That intention is made clear by the new amendment that Government have moved.

However, the Government still seem to stick to the notion of 5 members or one-third of the maximum strength fixed by the articles of association, whichever is less. But that number 5 is still there somewhere in the mind of Government. As I said, the purpose would be just as well served by having one or at the most two members if we consider the function of these directors as I have stated.

Shri Prabhat Kar: I oppose the amendments moved by Shri Masani. He made the point that without giving an opportunity the man will be suspended. That has been taken away by the amendment of Government. Now everyone will be given an opportunity. In the opinion of the Reserve Bank, if the continuance of the man in a particular post is considered dangerous to the interest of the company or industry, he

will be suspended and an opportunity will be given, and then the necessary steps taken.

Shri M. R. Masani: First suspend, then given an opportunity!

Shri Prabhat Kar: Even now that is the case in every case. It is so in his Tata company (*Interruption*).

Shri M. R. Masani: Only one's employees, not free people.

Shri Prabhat Kar: Secondly, as regards the question of the Chairman and executive officers, even now under the Banking Companies Act, the Reserve Bank has the power to decide about an employee including managing director. The big business people may have various nomenclatures. It will be difficult to embody all these nomenclatures. That is why the word 'employee' has been put in. So there is no danger of the Government acting in a different way; it has not been done in spite of the fact that already power is vested in the Reserve Bank in this matter.

So far the appointment of the directors is concerned, it has been stated here that the number will be not more than 5. The amendment is to the effect, whether it is one-third or five, whichever is less. The apprehension that the Reserve Bank will through this go in for back-door control and thus control the whole thing has been removed. Government are specifically mentioning that they do not want to control by a majority in the board.

The first and foremost thing is that control over management is necessary. I would have preferred if instead of control like this there had been nationalisation. The present measure of control is a very mild manner of control, a minor step that has been taken, though in the right direction. I gave an illustration yesterday and I am prepared to give hundreds of illustrations, how the bank

managements function. The prosperity of the banking industry, as it is today, is dependent not on the efficiency of the managements.

Mr. Speaker: We need not reopen that now.

Shri Prabhat Kar: Shri Masani said that the banking industry is flourishing. I am saying that it is flourishing not because of the efficiency of the managements but because of the expenditure of Plan whereby money is flowing to the banks. But what is being done is that instead of utilising it properly, there are cases where managements are mis-utilising it. So the prosperity of the industry or development of banking is more due to the Plan expenditure than due to the efficient management of individual banks. Rather there are inefficient managements. It is to control them that this power is being vested in the Reserve Bank.

Shri U. M. Trivedi: The previous speaker has expressed his views in a very lucid manner, but there is no reason to support his argument, except that he is obsessed with this that a particular person because he belongs to a particular type of profession, must have his functions curtailed. That is the only object in view. I will only speak on amendment No. 46. The reasons for removing a man or for apprehending him are reasons which relate to that apprehension which are described in every Act, that a man does a particular type of thing and then certainly for that he can be apprehended and brought to book, detained or anything of that kind. Here the reason is so broad that it may cover anything. What can be the reason? Supposing the Government were to say that a particular man is putting on a white cap, therefore, we will not keep him. Or because a man wears a black cap, we will not keep him. Or because he has a turban on, he cannot be kept. That can be a reason.

Mr. Speaker: I may be left alone.

Shri U. M. Trivedi: I am sorry. You have a black turban, but I am talking of a white turban.

Mr. Speaker: Whether black or white does not matter.

Shri U. M. Trivedi: Therefore anybody can be removed on such grounds. Or it may be that because a man is moving about bare-headed, they may not like to keep him. Will these reasons be defined by Government anywhere? Will rules be framed to specify the reasons? Is there any provision anywhere to say that these reasons will be described? Government have not explained to us that these reasons will be such as will be just.—I do not use the word 'convenient'; I use the word 'just'. Can a rational indication be given of the reasons on the basis of which a man will be removed.

The other question is about giving an opportunity of hearing before awarding the punishment. If the Reserve Bank so thinks, the man will not be heard. He will be heard later on. Action will be taken first. That means there will be a prejudice against him to begin with. Then when it comes to a hearing, it will be always a *fait accompli*. If the Government wants to go the whole hog in this matter, it is necessary to provide a safeguard according to the principle of natural justice that a man must not be condemned unheard. Here there is no question of double opportunity enjoined in article 311 of the Constitution so far as government employees were concerned—which has been taken away. Here there is not even one opportunity. The other opportunity contemplated is only against the order, why the order should not be made. First, a prejudice has already been created; then the opportunity is given to show why the order should not be made. The opportunity should be given in such a manner that it does not prove to be merely a mirage.

Shri B. R. Bhagat: I must say that the hon. Member was not present yesterday here. Therefore, he has repeated the whole argument. There is no violation of any principle of natural justice. The due process of law will be gone into. To say that he will have no opportunity to represent is wrong. I think the hon. Member also admitted that the subsequent amendment that we have moved improves the position and he can go in appeal to the Central Government.

Shri M. E. Masani: Improves partially.

Shri B. R. Bhagat: He objects even to the fact that the orders will be in writing and he has tried to make light of what the reasons can be.

The Reserve Bank has got to come to the conclusion that the activities of certain persons, be they directors or officers or other employees are detrimental to the interests of the depositors. It is common knowledge that due to such activities, banks have gone into liquidation. There has been a run on the banks. It could have been prevented if the Reserve Bank had these powers.

Another mistake of the hon. Members is that they equate the banking companies with other ordinary commercial or industrial companies. I think Mr. Masani very well knows that to give powers to shareholders to control the banks will be disastrous . . .

Shri M. R. Masani: I do not agree at all.

Shri B. R. Bhagat: . . . for the simple reason that banks may have a share capital or share-holding of a crore or two but may have deposits of 100 or 200 crores. There is no relation between shareholding and deposits; it may be 50 or even 100 times.

Shri M. R. Masani: The depositor has made his choice freely. Respect his choice.

Shri B. R. Bhagat: The depositor made his choice because there is sufficient guarantee and control given by Parliament through the Reserve Bank. So, they are reasons from misconceived notions. By these amendments you are asking the same people who have put in these undesirable people who are to be removed in the interest of the banks; you want the same people to be given powers and they will appoint the same set of undesirable people as they have no concern with the interest of the banking companies. To give powers to the same set of people would lead to the banks' ruin. So, I suggest the acceptance of the amendments moved by the hon. Finance Minister which make the position flexible. I oppose the other amendments.

Mr. Speaker: Shall I put all the amendments? Sir V. B. Gandhi.

Shri V. B. Gandhi: I withdraw my amendments.

Mr. Spetaker: Has the hon. Member leave of the House?

The amendments were, by leave, withdrawn.

Mr. Speaker: I shall now put amendments 46, 47 and 50 to the vote of the House.

The amendments were put and negatived.

Mr. Speaker: The question is:

(1) Page 10,—

for lines 34 to 37, substitute—

"Provided that if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors, the Reserve Bank may, at the time of giving the opportunity

aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer or other officer or employee, shall not, with effect from the date of such order—

(a) act as such director or chief executive officer or other officer or employee of the banking company;

(b) in any way, whether directly or indirectly, be concerned with, or take part in the management of, the banking company.

3 (a) Any person against whom an order of removal has been made under sub-section (1) may, within thirty days from the date of communication to him of the order, prefer an appeal to the Central Government.

(b) The decision of the Central Government on such appeal, and subject thereto, the order made by the Reserve Bank under sub-section (1), shall be final and shall not be called into question in any court;"(32)

(ii) Page 10, line 38,—

for "(3)" substitute "(4)". (33).

(iii) Page 11 lines 7, 12, 18 and 29,—

for "(4)", "(5)", "(6)" and "(7)", substitute—

"(5)", "(6)", "(7)" and "(8)", respectively (34).

(iv) Page 11, line 8,—

after "sub-section (1)" insert—

"or under the proviso to sub-section (2)" (35).

The amendments were adopted.

Mr. Speaker: The question is:

(i) Page 11, lines 37 and 38,—

[Mr. Speaker]

for "not more than five" substitute—

"one or more" (36).

(ii) Page 11,—

after line 39, insert—

"Provided that the number of additional directors so appointed shall not at any time exceed five or one-third of the maximum strength fixed for the Board by the articles, whichever is less." (37).

The amendments were adopted.

Mr. Speaker: The question is:

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clause 19— (Amendment of Section 44A).

(Amendment made)

Page 13, line 15.—

after "legal proceedings" insert—

"(whether in appeal or otherwise and whether instituted before or after the commencement of the said section 19." (38).

(Shri T. T. Krishnamachari)

Mr. Speaker: The question is:

"That clause 19, as amended, stand part of the Bill."

The motion was adopted.

Clause 19, as amended, was added to the Bill.

Clause 20 was added to the Bill.

Clause 21— Amendment of section 45)

(Amendment made)

Page 13, line 33,—

after "legal proceedings" insert—

"(whether in appeal or otherwise and whether instituted be-

fore or after the commencement of the said section 21)". (39).

(Shri T. T. Krishnamachari)

Mr. Speaker: The question is:

"That clause 21, as amended, stand part of the Bill".

The motion was adopted.

Clauses 21, as amended, was added to the Bill.

Clause 22 to 25 were added to the Bill.

Clause 26—(Amendment of section 47)

(Amendment made)

Page 16, line 21,—

for "sub-section (4)" substitute—

"sub-section (5)". (40)

(Shri T. T. Krishnamachari).

Mr. Speaker: The question is:

"That clause 26, as amended, stand part of the Bill".

The motion was adopted.

Clause 26, as amended, was added to the Bill.

Clauses 27 to 30, Clause 1, the Enacting Formula and the Title were added to the Bill.

Shri B. R. Bhagat: Sir, I beg to move:

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

Mr. Speaker: The question is:

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

The motion was adopted.