

to introduce a Bill to provide for the levy and collection of an additional excise duty on dhoties issued out of mills in excess of the quota fixed for the purpose.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the levy and collection of an additional excise duty on dhoties issued out of mills in excess of the quota fixed for the purpose."

The motion was adopted.

Shri Karmarkar: I introduce* the Bill.

BANKING COMPANIES (AMENDMENT) BILL.

Mr. Speaker: The House will now take up the Banking Companies (Amendment) Bill.

Shri T. K. Chaudhuri (Berhampore): On a point of order, Sir. Consideration of this Banking Companies (Amendment) Bill has been given priority in this List of business. But we are already in the midst of consideration of the Ancient and Historical Monuments and Archaeological Sites and Remains Bill. The general consideration of that has not been finished and if we go on in this way it is very difficult...

Mr. Speaker: The hon. Member will notice that this is a Bill for replacing an Ordinance that has been promulgated. Hon. Members are aware that in the priority fixed, it was stated from the beginning that Bills to replace Ordinances should have the first place, as and when the Bills would be ready. This Bill was not ready and, therefore, in order to save time, the other Bills were introduced and taken up. And now that this Bill is ready and before the House already introduced, we are taking up this Bill first.

Shri M. S. Gurupadaswamy (Mysore) rose—

Shri S. S. More (Sholapur): I want some information, Sir. In the

Statement of Objects and Reasons, certain documents have been referred to and it is stated that certain opinions have been elicited by Government on the strength of which they have come up with this particular measure. Sir, in fairness to the House, to enable the House to decide what line it should take on this particular measure, is it not necessary that all these documents ought to have been circulated?

Mr. Speaker: It is rather premature for me to express an opinion on that point. Let me hear first what the hon. Minister has to say. Perhaps he will give all the information that is received by him, and then, if necessary, the hon. Member may make his point when he speaks for or against the Motion.

Shri S. S. More: If the hon. Minister gives us certain facts, we will have to read them through his spectacles.

Mr. Speaker: At this moment the hon. Member is anticipating difficulties. Let us hear the hon. Minister and then if the difficulty really arises, we shall see whether there is any difficulty at all and if there is any, how to overcome it.

Shri S. S. More: I am seeking a sort of procedural clarification.

Mr. Speaker: From the procedural point of view, it is premature to raise any objection about what the hon. Minister is going to say before he really says anything in the House.

The Deputy Minister of Finance (Shri A. C. Guha): I beg to move:

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

I think it would be proper for me to give the background leading to the proposed legislation. Previously, Sir, the working of the Banking Companies was regulated by the Indian Companies Act and there was no separate Act for the Banking Com-

*Introduced with the recommendation of the President.

panies. But, after some experience was gained, it was found that the Banking Companies have some special and peculiar features, distinct from other trading Companies and so the separate Act, the Banking Companies Act was passed in 1949. Even then the liquidation proceedings of the Banking Companies were being conducted under the Indian Companies Act and no separate arrangements for the liquidation of Banking Companies was made. But, then, after the last war and the partition of the country, there were a large number of bank failures, particularly in the Punjab, Bengal, Bombay and Madras. It was found that Banking companies had a peculiar nature as regards their creditors and debtors, and that the liquidation proceedings of the Banking companies cannot be conducted under the Indian Companies Act as ordinary trading companies. Because of the large number of its debtors the collection of the available assets under the Indian Companies Act becomes very difficult. The problem became acute in West Bengal and in 1949 the West Bengal Government started an enquiry into the liquidation proceedings of the Banks then closed and subsequently an Ordinance was passed which was later on replaced by an Act passed by this House, Act XX of 1950, amending the Banking Companies Act.

Sir, this amending Act could remove only one of the two great difficulties in the way of speedy and economic liquidation proceedings. The two primary causes of the lengthy and costly liquidation proceedings were the multiplication of courts and the multiplication of cases. This amending Act of 1950 removed only one cause, that is the multiplication of courts. It was indicated in that Act that all the liquidation proceedings of Banks would be conducted by the High Court and one High Court and so the multiplication of courts was avoided under this Act. But, another major cause for the delay and unnecessary expenses continued—there being still sufficient cause nor multiplication of cases.

In the meantime representations started pouring in from the depositors of the Banks that had closed their operations. Sir, this matter was raised repeatedly in this House and I think the hon. Members are quite aware of the miserable condition of the depositors. Sir, I wish to lay on the Table of the House a statement which was supplied by the Calcutta High Court which will show how the operation of the liquidation proceedings in the Banks, particularly in West Bengal, were going on.

In July 1952, the Central Government set up an Enquiry Committee under the Chairmanship of Shri D. N. Mitra to examine the difficulties and defects in the existing liquidation procedure and to recommend changes in law, procedure and machinery in order to facilitate the speedy disposal of proceedings in liquidation. The Committee submitted its Report in January 1953. The Report reveals rather a pitiable state of affairs and I think we have every reason to think that drastic measures as suggested by this Committee ought to be put into operation as soon as possible. Sir, it may not be quite in-appropriate here to refer to some of the passages from the Enquiry Committee's Report. It reads:

"The information available to us discloses that only one Bank out of 78 Banks in liquidation in Calcutta has declared a dividend."

I think I should explain the term dividend; that means payment made to the depositors. This has nothing to do with the shareholders.

"This Bank declared a dividend of 100 per cent. to preferential creditors and 10 per cent. to depositors. We are informed that this dividend was declared prior to the adjudication of the rights of a large secured creditor. We understand that two other banks are considering the declaration of a dividend. It will thus be seen that liquidation of banks in Calcutta has resulted in very

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little benefit to the large number of depositors involved."

Out of the 78 Banks, only one has declared a 10 per cent. dividend to the depositors and that also I know that all the depositors have not got that 10 per cent. of their money.

Sir, then this report says:

"The cost of management excluding legal expenses and the liquidator's commission in proportion to realisation are heavy, ranging from 10 to 80 per cent. The salary paid by all the liquidators to their staff totals about Rs. 21,000 per month and the total office account paid per month amounts to about Rs. 6,000. In some cases, the official liquidators have been allowed to use motor-cars belonging to the Banks. It would clearly be to the advantage of the conduct of liquidation if the staff and the premises be concentrated in one office under one liquidator."

That is the final conclusion which this Committee has arrived at and which we are now proceeding under this Bill to implement.

Then, Sir, I have to refer to the number of Banks and the amount involved. I think I should again here read the figures given in this report. In 1947, the total number of banks that closed operations was 33; the amount involved is Rs. 16 crores; in 1948, the total number of banks closed was 52, in 1949, 48, in 1950, 33 and in 1951, 24. The total number of banks that have closed operations during these five years is 180, mostly in Calcutta, the Punjab, Bombay and Madras.

Shri R. K. Chaudhuri (Gauhati): How many of them were Scheduled Banks?

Shri A. C. Guha: I have not got the figure; if the hon. Member wants it, I can get the figure.

The total amount involved is Rs. 92,63,35,000. This is the money of poor depositors involved in this crash.

Of course, I think I should state here that out of these 92 crores about 60 or more than 60 crores are to be covered by some banks which are supposed to be operating under some schemes of re-arrangement. Most of them are in the Punjab and the report says that they have been doing tolerably well; but I cannot say 'fairly well'. In other States, particularly in Bengal, under the re-arrangement scheme the Banks are not doing anything satisfactory at all.

3 P.M.

[MR. DEPUTY-SPEAKER in the Chair.]

Shri B. Das (Jajpur—Keonjhar): I thought they are better off in West Bengal.

Shri A. C. Guha: No. On receipt of the Enquiry Committee's report, we examined it and then the Central Government gave some directives to the State Governments to implement some of the recommendations which could be implemented only through some administrative measures. Out of the 41 recommendations, some 28 would require legislative provisions, and the others, the Committee thought, could be implemented simply by administrative measures. But on some of these also—and I think on one of the recommendations which we considered to be the most important—we found that simple administrative measures were not quite enough. I am referring to the appointment of a court liquidator. The Central Government sent directives to all High Courts and particularly to the Calcutta High Court, where this problem arose in a most acute form. I was personally in correspondence with the Chief Justice of the Calcutta High Court. He told me, in fact he wrote to me "It will not be easy to remove the liquidator already appointed, because under the Companies Act,

he can be removed only on due cause shown....." Now, Sir, you, being an experienced lawyer, can understand what "on due cause shown" would mean. So, even if the Calcutta High Court had appointed a court liquidator, none of the 82 liquidation proceedings now pending with private liquidators could have been transferred to the court liquidator except on the specific order, in each case, of the Judge who sent that case to the liquidator, and that would involve delay and besides more cost—I think it would at least take one or two years' time. So, that provision could not be implemented.

In the meantime when this report was published, the depositors thought that some relief might be forthcoming almost immediately. Government began receiving representations and exhortations from depositors almost in hundreds. Some expectations have been aroused in the minds of the poor depositors, and Government feel that it is their obligation to implement these recommendations as early as possible and in the most effective manner. It was also felt that any delay would mean the loss of money by some poor depositors. The statement which I want to place on the Table of the House will show that out of the money collected from debtors by these liquidators, except in the case of one bank not a single pie has been paid to depositors and almost the entire sum has been consumed in the administrative expenses and in the liquidator's own commission. In most of these cases, the liquidators were getting 5 per cent. of the amount collected irrespective of whether a single pie was paid to the depositors or not—it is the depositors' money that they are squandering. Sir, in the present Bill, we have tried to implement the recommendations in the most effective manner as far as it has been possible for the Government to do, and we have consulted the Chief Justice of the Calcutta High Court, the Judicial Minister of West Bengal Government, the Reserve Bank and all relevant

and interested parties. Whatever provisions have been put in this Bill, I think, have the blessings and support of the Chief Justice of the Calcutta High Court. In fact, some of our original sections have to be made more rigid and more stringent on the suggestion and advice of the Chief Justice of the Calcutta High Court.

We have provided in this Bill, firstly, for a special officer who is to take charge of all the books and accounts and assets of the bank when it closes its operations, so that interested parties may not tamper with the accounts and books and assets of the bank. The next provision is the appointment of a court liquidator. I have already stated why the court liquidator is necessary, but I think I should further clarify this point because I consider that it is the most important point. Sir, in the Calcutta High Court, there is also an official receiver and he has been given charge of about 24 banking companies. What are these banking companies? These companies have practically no assets and so no private liquidator would come forward to take charge of the liquidation of these banks. Therefore, the official receiver had to take charge of these banks. We have thus appointed the official receiver in cases where owing to paucity of assets private persons were unwilling to undertake this work. The result has been that he has been unable to take possession of the assets of some of the banks for want of funds. It will therefore be apparent from this that private liquidators have not come forward to take the responsibility of being liquidators of these banks. The profit motive is there; otherwise why should they not come forward to take charge of these banks? Where the assets are not quite enough and where the profit is not quite alluring, the private parties would not touch it and the poor official receiver has to take the burden on his shoulders and in some cases he could not even take possession of the assets for want of funds. It appears that the maximum liquid assets which came in the hands of the official receiver at the

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time he took possession of any bank did not exceed Rs. 3,500. Unless we can put the liquidation proceedings of all the banks, which have some liquid assets or which may not have liquid assets, under one organisation or under one liquidator, the depositors of these smaller banks have no way of expecting any amounts. The total number of these banks is, I am told, 44 and the total number of depositors also would come to a considerable figure.

Then, Sir, the private liquidator, when engaged as an official liquidator, charges 5 per cent commission. The court liquidator would be a paid officer. Even if we take that he will be fairly paid, I think his emoluments would not even be equal to the emoluments which we are paying to the liquidators of, say, one single bank. I know the case of one bank where there are three liquidators. They were taking Rs. 2,000 each monthly and after the end of the year they must have got something more. The court liquidator, whoever might be appointed, cannot expect to get Rs. 5,000 or Rs. 6,000 monthly, as the three liquidators of one Bank are now getting. He will be a paid official and it will be his job to do liquidation work, irrespective of the commission, irrespective of the patronage that he can distribute and irrespective of the number of lawyers he can engage from the funds available in his hands.

So, it is absolutely necessary that the court liquidator should be appointed and we have also provided that all pending liquidation cases should be automatically transferred to the court liquidator, except in cases where the liquidation proceedings might have advanced too far, or where the cost of liquidation may not be anything which may be called unreasonable. In such cases if the Company law Judge thinks that the transfer of that case to the court liquidator would be to the detriment of the depositors, then he will specifically order that those cases may not be transferred. I am sure, Sir,

every High Court will use this authority with caution. I am confident no Company law Judge can use this power without due care of the interest of the depositors. I think considering the status of the High Court we should leave this much option to the High Court.

Then we have further provided a sort of preferential payment of an amount not exceeding Rs. 100 to savings banks accounts. These are mostly of the lower middle class people and any amount up to Rs. 100 is deposited in savings banks should be paid in full.

Then comes the provision to avoid multiplicity of proceedings which is one of the chief causes of delay and expenses. Sir, I have already stated that in our previous Banking Companies Act (Amendment) Bill of 1950, we provided to eliminate the causes for multiplicity of courts. But the factor of multiplicity of cases still remains and we are now trying to remove this and we are sure this will remove the chief causes of delay and expense. A banking company has a far larger number of creditors and debtors than a trading company of comparable size. The High Court of Calcutta in a case has stated:

"The Companies Act, for example, in Section 186 provides for the recovery of what is due from the contributaries and no suit is necessary. But there is no provision in the Banking Companies Act entitling a liquidator to recover due from the debtors of the bank in any other than the ordinary way, namely by suit."

Now in this Bill the provision we are going to make is based on the analogy of the settlement of list of contributaries under the Indian Companies Act. Sir, under the present Act settlement of the list is held up even if a single contributory raises an objection with the consequence that when ultimately it is settled it is difficult to trace the whereabouts of some of the contributaries. Now we are removing this handicap.

Another difficulty in establishing a claim against a debtor is that the liquidator has to produce in addition to the books of account some other persons to testify that the entries in the books of account were genuine and correct. During the liquidation of a bank when it has stopped operation most of its officials must have gone away to some other place and it is not always easy to find out the appropriate person to testify the correctness of an entry in the books of account. Very often an officer even if found, may not be willing to oblige a liquidator to come forward and testify and give evidence in a court. So, it has been provided in this Bill that simple entries in the books of account will be admitted in evidence and there is a further clause that the book of entries against directors will be *prima facie* evidence.

Sir, the directors of a Bank have larger responsibilities than the directors of a trading company. In an ordinary joint stock company, the directors are elected by the shareholders and they handle only the money of the shareholders, that is the capital amount the company might have received from the shareholders. But in the case of banks the directors handle money not of the shareholders, but of the depositors who have no voice in electing the directors. So, these directors should take particular care and caution in handling the money of some other persons who have nothing to do with their appointment or election. So, the directors of banks should be held responsible if the depositors money which they have taken charge is in any way squandered, or there has been any acts of misfeasance or if the money is not used for the proper purpose.

Thus, we have provided that entries in the books of account against directors should be taken as *prima facie* evidence. We have also provided that the limitation period should be extended. In the case of ordinary persons the liability being time-barred, instead of three years the time-limit

has been extended to twelve years. But in the case of directors in certain cases there is no time limit. We have found in many cases that directors might have stood guarantee for certain other creditors or might have taken loans or might have some contractual liabilities with the banks. In such cases these liabilities should not be allowed to be time-barred. In other cases it has appeared to the Government that sometimes the authorities who have been managing the bank might have allowed certain claims of the banks to be time-barred. There might have been some collusion between a creditor and the Managing Director or Chairman, or some other authority of the bank to get that claim time-barred. By this Bill we want to revive those claims. Even in the case of those banks which are now in liquidation these things should be revived. And in the case of directors there should be no time limit for their liabilities to cease.

Shri B. Das: You must arrest them and put them in jail.

Shri S. S. More: First hang them and then try!

Shri A. C. Guha: We have also provided in the Bill that the directors might be called for public examination. There is already a provision, in sections 195 and 196 of the Indian Companies Act. But that provision is so worded that it is not so easy to put it into operation or to give effect to it. So what was already admitted in the Indian Companies Act on principle, we have tried to make effective, and we have put it in a proper language so that the director may be called for public examination.

Experience has shown that great difficulty is felt in establishing the claim of a bank against the director under section 235 of the Companies Act, namely, misapplication, misfeasance, unauthorised retainer or breach of trust. A change of procedure by requiring directors or officers to prove their innocence when

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a *prima facie* case is made out by the liquidator, is therefore provided. The onus of proving innocence would lie on the directors and officers of the bank in liquidation.

Then we come to benami property. Very recently the Official Receiver of the Calcutta High Court, in charge of liquidation proceedings of a non-scheduled bank in Calcutta got a decree against the *ex*-managing director, I think, to the tune of Rs. 18 or Rs. 20 lakhs. But that managing director is shrewd enough to have no property in his own name but I think he is having some in the name of his wife and children and some in the names of other friends. Under the present provisions of the Act the Government feels almost impotent to take any action against that managing director. We have provided in this Bill that the liquidator would have the authority to attach the property which might be held by the managing director or some authority of the closed bank or is held as benami property in some other name. This does not give liquidator authority to sell the property or to put it in auction; only, he will have the authority to attach it. And it will be the onus of the *ex*-managing director or *ex*-chief executive officer of the bank to prove that that attached benami property does not belong to him really but does belong to the person in whose name it really stands.

I come to banks working under arrangement. So long the procedures followed have not been found to be quite satisfactory. Courts are empowered to exercise supervision over banks working under schemes of arrangement and to order winding up when the schemes are found to be unworkable. This class of banks is separate from banks under liquidation. The provisions relating to public examination of directors and auditors and a simple procedure for the settlement of debt, are also to be made applicable to banks under schemes of arrangement.

In this connection I think I should refer to the entries in the book of accounts. Before taking this matter I hope, Sir, that you will allow me to refer to a matter which I overlooked in my speech earlier *i.e.* regarding the provisions of the entries in the books of accounts to be taken as evidence. I think I should state here the observations of the Chief Justice of the Calcutta High Court. He said:

"It is true that such a provision will to a certain extent be contrary to the provisions of the Evidence Act which provides that mere book entries shall not be sufficient to charge any person with liability, but in my view sufficient reason exists to make a special provision in the case of debts due to banks in liquidation."

In another letter he writes:

"It should be provided in the proposed amendment to the Banking Companies Act that the entries appearing in the book of account will be *prima facie* evidence of the transactions recorded therein. It has been the experience of the Company Judge of this Court that in many cases it becomes very difficult for a Liquidator to prove his case although the case is a genuine one. This is mostly due to the fact that the old employees of the bank who had personal knowledge of the transactions are not traceable and, even if they are traceable, they are reluctant to give evidence in support of the bank and the Liquidator has no other means to prove his case except through the entries in the books and documents."

Then we have also provided in this Bill that the Reserve Bank should have the authority to supervise the working of the liquidation proceedings, and the Central Government would also have the right to write to the Reserve Bank to inspect or scrutinise the liquidation proceedings of any bank; and on the report of the Re-

serve Bank, which will submit its report both to the Central Government and to the High Court concerned, the Central Government will have the authority to draw the attention of the High Court concerned to look into the liquidation proceedings of that particular bank.

Sir, in this House on several occasions we have felt that the Government have not got proper authority, not even the Reserve Bank which in banking matters is the expert body for the Government of India. To obviate that difficulty, to give sufficient power to the Reserve Bank and also some source of knowledge to the Central Government, we have provided that the Central Government may ask the Reserve Bank to examine and scrutinise the liquidation proceedings of particular banks and on receipt of that report the Central Government may write to the High Court concerned to examine the liquidation proceedings.

Sir, I think I have covered most of the provisions of the Bill. Still, before concluding I should like to give a short summary of the main provision: firstly, a Court Liquidator is to be appointed for conducting the liquidation proceedings of banking companies;

and also a special officer to seize all the books and accounts of the bank in liquidation; preferential payment to every depositor in the Savings Bank account up to Rs. 1000:

a simple procedure for the settlement of the list of debtors on the analogy of the list of contributors under section 186 of the Indian Companies Act; recovery of amounts due to banks as arrears of land revenue in certain cases;

limitation to cease to run against banks from the date of the presentation of the petition for winding up;

courts to be empowered to examine at their discretion any of the previous directors and to disqualify any director considered not fit to act as such for any period not exceeding

5 years from being a director of a Company;

courts to be similarly empowered to examine and disqualify the delinquent auditors of a banking company;

the statements to be made by any director or auditor in such examination may be used in evidence against him in any proceeding, civil or criminal;

speedy enforcement of the liabilities of directors and officers of a bank and no limitation in case of claims against directors arising *ex-contractu* and the extension of limitation period to 12 years for others;

courts to be empowered to supervise or modify schemes for arrangement and order investigation into the past conduct of auditors and directors; banks at present under schemes of arrangements to have the benefit of summary procedure for settlement of debts; the courts will have the right to attach benami property;

closer supervision by the Reserve Bank over banking companies in liquidation and some authority and initiative with the Central Government;

right of appeal to be limited to cases where the value of the matter in controversy exceeds Rs. 5,000.

Before I sit down, I think I should again read a passage from the letter of the Chief Justice of the Calcutta High Court. He writes to me on the 24th June, 1953:

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

* * * *

"If investigation of claims and collection of debts be left to the ordinary law, as it is now, delay ruinous to the creditors and contributories is inevitable."

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I specially urge on this House to take note of the words of the Chief Justice of Calcutta High Court that "delay ruinous to the reditors and contributories is inevitable", if the present procedure is allowed to continue. We have got sufficient grounds to come before this House with this Bill. When I met the Chief Justice of Calcutta High Court only about 10 days ago, he told me, "today you are a proud man".

Shri B. Dass: Certainly you must be proud.

Shri A. C. Guha: This matter, I brought before this House as a private Member. I do not know whether it would be proper for me now to refer to what I did as a private Member. But, I think I cannot but make some mention of it. I told the Chief Justice: I do not know whether I am a proud man, but I shall be a happy man if by this Bill, I can render some help to the distressed depositors. I come from Bengal. The problem is acute in Bengal. This Bill is actually meant for Bengal. I can say as a citizen of that State that I have nothing but to be ashamed of the state of affairs both in the banks that were working, and the banks that are in liquidation. I commend this Bill to the House. I hope it will have a favourable reception from every corner of the House.

Mr. Deputy-Speaker: Motion moved:

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

There are no amendments for reference to the Select Committee.

Shri M. S. Gurupadaswamy: There is one.

Shri Tulsidas (Mehsana West): I have also sent some amendments.

Mr. Deputy-Speaker: What about the names?

Shri M. S. Gurupadaswamy: As regards the names, I shall give just now.

Mr. Deputy-Speaker: He must have given the names already. He must

have ascertained the names and consent of the Members to serve on the Committee. I will pass on to some clause.

Shri M. S. Gurupadaswamy: I shall give the names in 5 minutes, if you allow me to speak on that motion.

Mr. Deputy-Speaker: It is a rule to be hereafter observed by every hon. Member that if he has a motion for reference to a Select Committee, he must give the list of names in advance to the Secretary and also, he must have ascertained the consent of those Members to serve on the Committee. I will make an exception today as regards Shri M. S. Gurupadaswamy. Yes; Shri M. S. Gurupadaswamy.

Shri M. S. Gurupadaswamy: The hon. Minister while concluding his remarks, observed that he is a proud man today and I think there is some justification for that statement. But, I want to make one thing clear. This Banking Companies Amendment Bill was too much delayed. There was no necessity to bring about an ordinance for this purpose. I say this; because there was enough time for Government to introduce this Bill even during the last session. Even in the present session, the Government could have introduced this Bill much earlier and given us some sufficient time to study the Bill. But, only a few hours ago, we were told that this Bill will be taken up today, interrupting the debate on another Bill. I feel that the time given is very inadequate. This is a very important Bill. In this hasty fashion, we cannot discuss it thoroughly and do justice to the various provisions contemplated.

Mr. Deputy-Speaker: Was not the change of programme circulated to hon. Members earlier?

Shri M. S. Gurupadaswamy: No, Sir.

Shri T. K. Chaudhuri: It was circulated only yesterday morning.

Mr. Deputy-Speaker: Was not this Bill on the Order paper?

Shri M. S. Gurupadaswamy: No, Sir.

Mr. Deputy-Speaker: For the whole week, not in the Order paper?

Shri M. S. Gurupadaswamy: No, Sir.

Shri S. S. More: Besides, Sir, important documents have been mentioned in the Statement of Objects and Reasons. As a matter of fact, I seriously doubt whether they are even available in the Library. We are absolutely handicapped. Unless we want to go through the former procedure of seeing the Bill through without allowing the Members to apply their mind, we have to accept some parts of quotation from the hon. Minister...

Mr. Deputy-Speaker: The hon. Minister read out extracts from a letter from the Chief Justice of Calcutta. Any paper read out in the House must be laid on the Table of the House. Is he willing to place the letter on the Table of the House for the information of other hon. Members?

Shri A. C. Guha: I do not think there is any objection. Anyhow, I should like to consult the Law Minister whether I can place the letter on the Table of the House. There cannot be any objection.

Dr. Lanka Sundaram (Visakhapatnam): May I say, Sir, that the hon. Minister cannot possibly take the position that he will consult the Law Minister whether the paper that he has read out can be placed on the Table or not. The rule is clear.

Shri A. C. Guha: The letter - being that of the Chief Justice of the Calcutta High Court...

Dr. Lanka Sundaram: He should not have read it then.

Shri A. C. Guha: The relevant portions of the letter I have already given; I can give the other portions which are with me now.

Shri S. S. More: With your permission, Sir, in the Statement of Objects and Reasons, the report of a

Committee has been referred to. It is stated:

"The Reserve Bank, the State Governments and the various High Courts were consulted on the recommendations of this Committee and the present Bill is based on the recommendations of the Committee and the suggestions of the authorities consulted."

So, my submission is that this Bill is being rushed through. It was not on the ordinary Agenda of the House. They have secured a certain priority and that priority has been awarded at our cost, as a matter of fact,

If you will be kind enough to look into some of the provisions, you will see they are so drastic that normal criminal provisions are upset, the Evidence Act is being upset.

An Hon. Member: And everybody is being upset.

Shri S. S. More: We are all upset, as a matter of fact, because some of the documents are not circulated to us. I can appreciate the anxiety of the Minister and the Government for the small depositors, as a matter of fact, but we are also depositors of the confidence of the people, and as such, we must do fair justice to the people. We are proceeding with a blank mind as is usual with the Government.

Dr. Lanka Sundaram: May I make a supplementary statement on this? You would recall two days ago you were in the Business Advisory Committee when we were told these Ordinances would come up for discussion from Monday next. And the Order Paper is telescoped now and this is the position. And almost every hon. Member thought the Ancient Monuments Bill would be discussed. We have actually had no time to go into the provisions of this Bill.

Mr. Deputy-Speaker: I might suggest one course. Has a copy of whatever papers have been referred to in the Committee's Report been placed on the Table of the House, or is a copy available in the library?

Some Hon. Members: No.

Shri A. C. Guha: The Committee's Report, I think, is already available in the library.

Shri V. B. Gandhi (Bombay City—North): I got one, Sir.

Shri A. C. Guha: It has been available for some months.

Mr. Deputy-Speaker: So far as the other matters are concerned, the Resolution will commence at 4 O'clock. We have barely half an hour, less than half an hour. Let us go on with the discussion.

Shri S. S. More: The Committee's Report may be there, but subsequent to the Committee's Report, certain other important authorities were consulted, and these weighty consultations have become the foundation of this Bill. It is not only based on the Committee's Report. So, it is no use...

Mr. Deputy-Speaker: If there are any other opinions received on which the provisions of the Bill have been based and if they can be made available to the Members of the House, they may be circulated to hon. Members either wholly or by way of extracts before we meet on Monday so that it might be useful. The hon. Minister might consider it.

Shri A. C. Guha: We have consulted the Reserve Bank and the High Courts. These are the other authorities. As regards the Reserve Bank, it is a departmental matter. I do not know how it can come before the House.

Shri S. S. More: Why not?

Shri Sinhasan Singh (Gorakhpur Distt.—South): There is the High Courts' opinion also.

Shri A. C. Guha: The Chief Justice of the High Court was consulted. We personally went to Calcutta to discuss this matter with the Chief Justice of the High Court. Shri D. N. Mitra was the Chairman of the Committee, and I personally also consulted the Chief Minister of West Bengal.

Shri S. S. More: Does the Minister contend that they are all confidential documents, departmental documents?

Mr. Deputy-Speaker: It is all personal consultation and there is no record of all that.

Shri S. S. More: Since they have found a reference in the Statement of Objects and Reasons, they have become the property of this House. And that is a point on which I should like to seek your ruling.

Mr. Deputy-Speaker: The discussion may go on. If there are oral discussions, we cannot have a record of them.

Shri A. C. Guha: These are mostly oral discussions. We personally went to Calcutta. The Secretary of the Finance Ministry and myself personally went to Calcutta and consulted the officers of the Department, Shri D. N. Mitra who was the Chairman, and also the Chief Justice. These are oral discussions, and I had some communication with the Chief Justice. These letters I think I may be able to place on the Table of the House.

Mr. Deputy-Speaker: I feel that whenever there is a Report or any other matter which has been the basis of a Bill or any provision of a Bill, the House must have an opportunity to look into them if they are referred to in the Statement of Objects and Reasons.

There is nothing to clap for. It is for this reason, that the House may have an opportunity to know on what material they have come to a conclusion. The material or opinions may be wrong or may be right, and the House will have an opportunity, if they are wrong, to correct them.

Except oral statements and oral discussions for which there cannot be any record and any other confidential papers for which the House has no right to call upon any Minister, extracts or originals of whatever records are referred to, in so far as they are relevant for the purpose of this Bill, must be placed on the Table of the House. If the Committee's Report is available in the library, it is enough. Any other matters which are referred to in the Statement of Objects and Reasons or by the hon. Minister, any documents to the extent that that document is relied upon, must be placed on the Table of the House. That is the general rule. I am not laying down any new rule. Whatever material is not available now which the hon. Minister is willing to circulate or has referred to here, should be circulated by extracts or otherwise to Members before we meet next on Monday. I shall only remind hon. Members of the Rule:

"If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest:

Provided further that where a Minister gives in his own words a summary or gist of such despatch or State paper it shall not be necessary to lay the relevant papers on the Table."

He might say: "I had a discussion. This is the subject."

Shri M. S. Gurupadaswamy: But he read out from the letter and it should be considered public now.

Dr. Lanka Sundaram: May I draw your attention to one sentence in the Statement of Objects and Reasons?

"The Reserve Bank, the State Governments and the various

High Courts were consulted on the recommendations of the Committee and the suggestions of the authorities consulted."

The Minister of Finance (Shri C. D. Deshmukh): I accept the ruling. I accept the principle involved that if we say that the Bill is based on the recommendations or suggestions made by certain public authorities, then the House is entitled to have copies of such communications as we may have received from them. Overriding this question is that of public interest which I do not think it will be necessary for us to raise here.

Mr. Deputy-Speaker: Mr. Gurupadaswamy. He may be brief as a number of other hon. Members want to speak.

Shri M. S. Gurupadaswamy: If we look into the recent history of Indian banks, we will see—and even the hon. Minister will corroborate—that a very large number of banks were liquidated after the Second World War, and after partition. On this occasion though we are dealing with liquidation proceedings and some relief to be given to the small depositors, is it not worth while at this stage to examine the causes—the root causes—behind these various crashes? I feel that there is something chronically wrong in our banking system and banking policy pursued by the Government. And it is quite relevant even on this occasion, when we are discussing this Bill, to advert to this problem and to examine briefly at least some of the grave drawbacks which are found in the banking system in India. It is particularly interesting to note that banks have failed and collapsed, after the war and after partition, during the days of independence. They remind us of the rule by our own Congress people. It shows that under the Congress regime, there have been more bank crashes, than during the British regime. What is wrong with the Congress regime or with the policy pursued by them? I plead that there must be something fundamentally bad.

[Shri M. S. Gurupadaswamy]

The main reason seems to me that encouragement was given to various enterprisers, and very many capitalists to start banking companies of their own, without giving much attention or thought to the basic principles which should underlie a banking concern. There has been too much of a growth of mushroom banking in the country, after we got independence. And our Government have not made any serious attempts to check the growth of these mushroom banks. That is why we see that from 1947 to 1951, nearly 118 banks have collapsed. That is a very big number. It is particularly interesting that these banks have collapsed in particular select areas, like Punjab, Bengal, Madras etc. I do not know why in other areas, this disease has not affected the banks, and why only in these areas, the banks have failed. There must obviously be something bad in them. I want a detailed inquiry into the whole question, as to why banks have failed only in select areas, and not throughout the country—of course, I do not wish it to happen throughout the country. What are the reasons for such a huge failure, within such a short time? We were told by the hon. Minister just now that the total amount involved in all these cases, comes to about Rs. 92 crores, which is a fairly large amount for a poor country like ours.

While discussing the motion for referring the Bill to a Select Committee, I only wish to say that this is a vital Bill, wherein very many important changes have been contemplated, which will affect the other laws in the land as well. But as I said sufficient time has not been given for this Bill. We have now taken up the Bill in a hurry for discussion, and I would say that a week's time or ten days may be given to the Select Committee to present their report to the House. There is no difficulty in this, because the Ordinance was issued only on the 24th October

1953, and I think there is enough time for the Select Committee to go into the provisions of the Bill, and make their report. I do not know why the hon. Minister is a little bit hesitant in accepting my amendment. Of course, since he has not expressed it in explicit terms that he is not going to accept my amendment, I still hope that he will accept it, and I hope he will be goaded by the House to accept it.

Sir, this measure contemplates changing very many provisions in the parent Act, particularly the one dealing with liquidators. Before going to other matters I want to make one or two observations on this particular aspect. We are aware how these private liquidators are making huge amounts. Now it is not necessary to start a business, it is not even necessary to start any bank or joint stock company, it is just enough to become liquidator of a crashing bank, if one wants to become a very big capitalist. In fact, many people have become big capitalists that way, and I think it is very tempting to become a liquidator nowadays. So, the amendment that is being contemplated in the present Bill is really a commendable one. I am sure it will improve the situation, though it will not solve the problem completely. It will improve the situation in this way, viz. that if a fixed commission is fixed for the official liquidator appointed by the High Court, and if sufficient supervision and check is exercised, it is quite possible to prevent the liquidators from amassing too much of wealth by this means. Thus, the situation may improve, though the problem may not be fully solved, because we are not sure whether even the official liquidators will be as honest as we think.

About the directors, I have come to the conclusion almost that some of them seem to be organised swindlers of society. I am making this very strong statement, because I have been associated with certain banks—

not as a director,—and I have been following their activities closely in a number of ways. The Directors collide very often with the officers of the bank, and misuse their position for overdrafts and such other things. If any one makes a representation about any case of injustice the Directors will not take cognisance of them. Neither the General Manager nor any other Manager of the Bank would take cognisance of them; and the Directors will come to the rescue of the General Manager or the management, if any complaint is made against the latter. As a result of all this, a lot of harassment is caused to the public as well as to the employees of the banks. These activities are going on even inside the scheduled banks, let alone non-scheduled banks. I think very strict measures should be undertaken to prevent the misuse of their responsibilities, by these Directors. The whole evil in the banking system is due to one fundamental fact, that the banks have been left completely in the hands of private individuals, though some serious attempts have been made...

Mr. Deputy-Speaker: Are we going into the general law of banking now?

Shri M. S. Gurupadaswamy: This is only an effective remedy to quickly dispose of the problem. The Bill contemplates some changes in the provisions relating to liquidators and directors, and therefore I am making these observations on this matter. So, I am not quite irrelevant.

Mr. Deputy-Speaker: The law of banking is such a wide subject, that anything can be talked about directors, liquidators and so on.

Shri M. S. Gurupadaswamy: I am only suggesting a small and sure remedy. I only want to say that the fundamental mistake is that there are no State banks, excepting of course, the Reserve Bank, which stands on a different footing. I only want to draw the attention of the hon. Minister and this House to the question whether this is not the occasion for nationalising the banks.

Mr. Deputy-Speaker: That is irrelevant, for the purposes of this Bill. Many things can be said...

Shri M. S. Gurupadaswamy: I am just providing a solution.

Mr. Deputy-Speaker: When that solution comes up, hon. Members will have sufficient time to talk about it.

Shri M. S. Gurupadaswamy: There is another provision in the Bill regarding expeditious disposal of liquidation proceedings. Of course, we are all agreed that there should be more economy of time and expenditure in these matters. At present, we have been allowing a multiplicity of proceedings, with the result that there has been a lot of delay. It is very necessary therefore that some provision should be made to minimise the time and expenditure involved in these proceedings.

4 P.M.

So in this particular matter, the Bill is decisively far better than the original Act. So we welcome this measure so far as this aspect is concerned.

There is also another important question.

Mr. Deputy-Speaker: If there is anything more, the hon. Member will continue later on. At 4 O'clock we have to take up the Resolution.

Shri M. S. Gurupadaswamy: I will continue, later.

RESOLUTION RE: UNEMPLOYMENT—contd.

Mr. Deputy-Speaker: Now, further discussion of the following Resolution moved by Shri A. K. Gopalan on the 22nd August 1953:

"This House is of opinion that immediate steps be taken to arrest the growth of unemployment in the country and to provide relief for the unemployed."