

[Shri L. Jogeswar Singh]

Bill than was originally proposed. Originally, only one hour had been allotted, but we discussed this matter at a meeting with the Home Minister, and now we have been given some four or five hours. So, I would like to express our thanks to you and also to the House for the indulgence shown to us by enabling us to have a detailed discussion of this Bill. I thank you also, Mr. Speaker, for having given us the indulgence of some more time for the discussion of this Bill.

I would like to say to the Home Minister that the political aspirations of the people will not be satisfied by the passing of this Bill. No doubt, it is a good beginning; it is a democratic piece of legislation, and it seeks to associate the people at the lower level of administration. But, I hope and trust that, as the Home Minister has already expressed, this will be improved upon in due course, and some form of responsible government will be possible through these Territorial Councils, as is the position in some of the States in America.

In America, there are certain areas where the population is only 3 lakhs, and yet those States have what are called Territorial Assemblies. If even a small State having a population of 3 lakhs could have a Territorial Assembly, why should States having populations of 5 lakhs, 10 lakhs or 20 lakhs also not have such Assemblies? They are also entitled to have some form of responsible government. I hope that in due course, this Bill will be improved upon, and these Territories will get the same privileges as are enjoyed by other sister States in India. The people of these areas should not be meted out a step-motherly treatment; they should also be treated more or less as of equal status with those in the rest of India.

Our resources are bountiful. We have enough of forest and mineral resources. As soon as these resources are developed, we would not have to depend on the Centre for finance, and

there is no reason why we should not be accorded a status higher than this. I would request the Home Minister to bear this in mind and give some improved status to these Territories in due course.

Pandit G. B. Pant: I think the hon. Members of this House in general and you, Sir, in particular. That is all that I have to say.

Mr. Speaker: I am satisfied that every clause of the Bill has been fully discussed, and, therefore, I have not been obliged to apply the guillotine. In fact, I am happy that we had been able to spare some time for the third reading also.

The question is:

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

The motion was adopted.

BANKING COMPANIES (AMENDMENT) BILL

The Minister of Finance and Iron and Steel (Shri T. T. Krishnamachari): I beg to move:

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

The Bill is designed to introduce certain important amendments, the necessity for which has become evident as a result of the experience gained by the Reserve Bank in the administration of the Banking Companies Act. While the general position of the banking system in India continues to be sound and there has been considerable progress in the matter of securing better standards of operation, it is felt necessary to amend the law in certain respects, in order that the Reserve Bank of India may be able more effectively to bring about an improvement in the management and control of some of the banking companies to eliminate the possibility of serious defects occurring in the matter of advances and investments.

I shall refer briefly to the important clauses of the Bill. Clause 2 deals with the question of checking the payment of excessive remuneration to the top executives of a bank. Section 10 (1) (b) (ii), as existing at present, provides that a banking company shall not employ any person whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company. A doubt has been raised—and a case is pending before the Supreme Court—on the question of interpretation of this clause in which the point involved is whether the existing sub-section prevents a banking company from granting bonus to its staff. So far as it has been gathered, when this provision was passed in 1949, there was no intention of preventing any banking company from granting bonus, if it so decides. It is with a view to removing this doubt that it is proposed to amend this section.

The next provision is with regard to the existing section 10(1)(b)(iii) which provides that a banking company shall not employ any person whose remuneration is, according to the normal standards prevailing in banking business, on a scale disproportionate to the resources of the company. The two criteria that have been provided in the existing section are: normal standards prevailing in banking business, and the resources of the banking company. As the remuneration is particularly linked with the resources of a banking company, objection could not be taken in the case of salaries of higher officers of big banks on the ground that those salaries were a small fraction of their total resources. Besides, the above criteria do not take into consideration whether the remuneration is disproportionately high as compared to the level of emoluments paid by the banking company to other members of the supervisory staff as well as to the general level of wages obtaining in the banking industry. As observed by the Gajendragadkar Commission,

the standards provided in the existing section are not adequate and further criteria are now proposed to be provided in the proposed sub-section (2) of the amended section 10.

Clauses 3 and 4 of the Bill seek to replace and enlarge the existing section 12 of the Banking Companies Act, which deals, among other things, with the voting rights of the shareholders. The existing section 12(iv) provides that the voting rights of any one shareholder should not exceed 5 per cent of the total voting rights of all the shareholders. This provision does not apply to banking companies incorporated before the 15th January, 1937. I am sure that hon. Members who had been in this House at the time when the Banking Companies Act was discussed would remember that even then there was an idea in the minds of some of the hon. Members that companies which were incorporated before 1937 must be brought within the scope of this particular section. There are 45 scheduled and 247 non-scheduled banks incorporated prior to 15th January, 1937. Some of the banks are big banks where concentration of voting rights—I would not like to mention the names of the banks—is in the hands of a few. I think it is right now that when it is generally expected that there should be some kind of control over misuse of voting rights this particular provision should be made generally applicable to all banks.

According to the law as existing at present, there is no provision to prevent a person from holding through nominees the bulk of the share capital of a banking company—even though there is a restriction—thereby having a controlling interest in the management through them. It is, therefore, proposed to amend section 12 so as to introduce a check on nominee holding and, to ascertain the extent of such holding, it is proposed that every chairman, managing director or chief executive officer of a banking company should furnish to

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the Reserve Bank periodical returns giving full particulars of the shares held by them directly or indirectly of any change in their holdings.

In respect of clause 4 in case of banking companies incorporated prior to the 15th January, 1937, as the directorate is on the basis of voting rights without any restrictions, fresh elections will be necessary in cases where there is a concentration of voting rights in the hands of a few persons, that is to say, if this law is passed and it is applied, then the existing position in regard to the nomination of directors and their election will have to be changed in consonance with the law as amended.

Clause 5 of the Bill deals with section 16 of the Act which prohibits a banking company from having as a director any person who is a director of another banking company. It is felt that the scope of this restriction should be widened. It is observed that in the case of certain banks, some of the directors are interested in several other companies which together hold a substantial portion of the share capital of the banks concerned. This idea of concentration of power has been dealt with in another act, namely, the Companies Act. The directors thus acquire an indirect controlling interest in such a banking company. It is, therefore, proposed to amend section 16 so as to prohibit banking companies from having as a director a person who is a director of other companies which together can exercise voting rights in excess of 20 per cent. of the total voting rights of all shareholders of the banking company.

Clause 6 relates to calling for information. During the course of inspection of banking companies, sometimes the banks were unwilling to furnish the information required by the Reserve Bank in respect of parties who had taken advances from the bank on the ground that section 27, as it at

present stands, enables the Reserve Bank to call for information regarding the banking company only but not of those of its customers. The position is somewhat anomalous, if all the information that is necessary is not vouchsafed. In many cases, I suppose, because of certain powers the Reserve Bank possesses, it is able to compel the banks to give the information. But in any event, a statutory provision is certainly necessary in the light of circumstances prevailing now and again, in the case of several banks. It is, therefore, proposed to widen the scope of the section so as to authorise the Reserve Bank to call for information not only relating to the business or affairs of the bank but also the business or affairs with which such banking company is concerned.

Clause 7 of the Bill deals with the existing section 36(1)(a). Under this section, the Reserve Bank may 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. It often happens sometimes in the matter of arranging the affairs of a bank, may be at a particular time when it is not earning a profit, that it declares a dividend from resources which would otherwise provide a cover to its depositors. When a similar contingency occurred, the Reserve Bank was advised by its solicitors that it could issue a direction prohibiting the banking company from entering into a transaction. But suppose it is the declaration of a dividend. That would not be deemed to be entering into a transaction because it is something which the bank does on its own volition without entering into a transaction where another party is concerned. There has been another case where it was found that a particular bank had made an advance which was considered to be bad. Normally the Reserve Bank would call back that advance. The existing provision, it was felt according to

our legal advisers, did not enable the Reserve Bank to do so. In fact, as the law stands at present, the Reserve Bank has no powers to issue any directive which it thinks necessary in the national interest. The proposed section 35A enables the Reserve Bank to issue directions to banking companies in the national interest or to prevent the affairs of any banking company from being conducted in a manner prejudicial to the interests of the banking company, or to secure the proper management of any banking company generally. In fact, this particular amending section was evolved after consultation with our legal advisers.

Under sections 268 and 269 of the Companies Act, which apply also to public banking companies, the appointment or re-appointment of a managing or whole-time director and the first appointment of a managing or whole-time director requires the approval of the Central Government. The existing sections do not apply to the manager or the chief executive officer of a company. They do not also apply to private banking companies. It is desirable that the provisions of these sections should apply to all banking companies, whether public or private, and also to the manager or the chief executive officer of banking companies, and as the administration of the banking companies is with the Reserve Bank and as the Reserve Bank is more competent to consider this question, it has been felt desirable that this power should be vested in the Reserve Bank rather than in the Central Government. Naturally it is expected that the Reserve Bank would act in consultation with the Central Government in a matter of this nature.

Similarly, under sections 310 and 311 of the Companies Act, any amendment providing any increase in the remuneration of a managing or whole-time director can be effected only with the approval of the Central Government. If this power is retained with the Central Government, it would

mean that the appointment or re-appointment of the managing director would have to be approved by the Reserve Bank and the increase in the salary of such persons would have to be done by the Central Government. In order to see that there is only one authority to deal with this matter, it is felt that the power relating to any increase in the remuneration should also be exercised by the Reserve Bank and that the provisions of sections 268, 269, 310 and 311 of the Companies Act should not apply to banking companies.

In regard to clause 8, the position is that under section 36(1)(d)(ii) of the Act, it is provided that the Reserve Bank may, during the course of, or after the completion of any inspection of a banking company under section 35, by order in writing require the company to make, within such time as may be specified in an order so issued, such changes in its management as the Reserve Bank may consider necessary in consequence of the state of affairs disclosed by the inspection. With a view to improving the tone of management or putting a check on the exploitation of the affairs of a banking company by any particular individual or group of individuals, the Reserve Bank has in cases of about 10 banks deputed an officer of the Reserve Bank as an observer with powers to attend but not to take part in the deliberations of the Board. A condition regarding the appointment of observer was imposed in the cases of certain banks—not because of the powers of the Reserve Bank, as I said previously, but by some other powers namely the threat to deschedule a bank or to withdraw a licence. Of course in a few cases it has been possible to appoint an observer and the banks co-operated, with the result that there has been definite and marked improvement in the financial position in many cases. At any rate, there has been a check on further deterioration, but these steps, as I stated earlier, depend entirely on the consent of the bank or the use of a power which ought not normally to be used. Both involve delay, and because of obstructions and

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delay, one has to make the legal position fairly clear. The proposed amendment seeks to empower the Reserve Bank to depute one or more of its officers for this purpose.

Clause 10 deals with the question of making bank officials public officials. In the case of receiving illegal gratification by a bank official, he will be treated for the purpose of law as a public official, and action can be taken in regard to such cases in the same way as action could be taken against a public servant under Chapter IX of the Indian Penal Code.

That more or less brings me to the end of the story.

Having stated the nature of these provisions, I would like to say why there is a justification for this measure. An hon. Member asked me, "Would the heavens fall if you do not introduce the Banking Companies (Amendment) Bill in the present session"? I would like to tell the House that may be that heavens would not fall, but I think if the House does not pass this Bill now in such form as it determines, what would happen is that I would have disclosed more cases of this type during the next five or six months before which I could not bring a Bill of this nature. Certainly the preoccupation with the Budget would keep it busy for two months, and so it would be 7 or 8 months, and during these 7 or 8 months the field is clearly open for such banks, whose actions we seek to restrict by the provisions of this particular Bill, to take such precautions as they wish to take to see that our purposes in view are defeated. I think tactically I would have committed a grave error in showing my hand if I am not going to see that the Bill is enacted into law now. That is one of the primary reasons. You might say, what will happen all along might continue to happen for 8 or 9 months. It is not a proper argument. If it is found that a particular section in the Banking Companies Act which we have introduced needlessly for some

purpose which is not of course relevant or rational, exempts a large number of banking companies from the operation of that particular provision, I think sooner or later we will find that we have done something wrong and we must remedy. In tune with many things that we are doing, putting most of these institutions into proper shape, seeing that abuse is not general or rampant, I think it is necessary when these facts come to light that the particular Act must be amended. In fact, some of these provisions must have been undertaken immediately after the Company Law. Probably in one sense it is quite correct that we have waited for some time. For instance, on the question of fixing of salaries of bank officials or approving the appointments, I do find that from certain copies I get of the correspondence of the Company Law Administration, Government has to approve the appointment of a manager on Rs. 430. Surely the House will recognise that this kind of an exercise of power by Government will be difficult. That is one of the reasons we feel that the Reserve Bank should do it.

Hon. Members may also know that when you are enlarging the powers of the Reserve Bank in regard to fixing of remuneration of an officer of the bank in tune not merely with the resources of the bank but also in tune with the existing conditions, why not fix a limit? I am afraid it would be rather difficult, because the yardstick that we have for fixing would be a difficult yardstick. It may be that in some banks, an exceptional person will have to be taken and maybe he will have to be paid more than the normal. So a figure is not possible to be fixed. Some people might say, let the Government take it as it has taken power in the Companies Act. I think it is much better to leave it to this body.

Another question may be asked by hon. Members: What is the object of clothing the Reserve Bank with this big power? Why not Government take it up? This is a specialised body doing

a specialised type of work. Its concentration of attention is such that it is dedicated to its work, at any rate it ought to be. If the Reserve Bank has any failings, it is up to us to correct those failings because under the Act, Government has powers to set right those defects. If the Reserve Bank does not function properly, we can make a change in the Board. If any officer of the Reserve Bank does not do his work properly, we can have him removed. The Parliament has empowered the Government to do all this. Nevertheless, the concentration that is necessary for this purpose can only be provided by that institution. If the institution is defective, the institution must be corrected. But it would not be right for me to say that I will do everything myself, but I do not think that I have the concentration necessary, except when an emergency arises, as much as the Reserve Bank. We want them to do this. We persuade them to do, we order them to do, we issue a directive for them to do. Considering the fact that the Reserve Bank is in close co-operation with the Government and has to function in close co-operation with the Government, it would not be wrong for me to suggest that the Reserve Bank should be invested with these powers. There might be in a few cases errors of judgment and there might be a few cases of hardship, but these are matters which are remedied by laying down general principles. If hon. Members say that Government should lay down the principles by discussion just by means of a directive where necessary stating that these are the ways in which these powers must be utilised, that can be done. That can be done. But, I think it is fairly safe for us to leave these powers to be exercised by an institution which is concentrating and which ought to concentrate on the main issues before it.

I have said more or less all that I can say to justify a measure of this nature and I leave it to the House to pass such judgment as it wishes to on the proposals that I have placed before it. Sir, I move.

Shri Feroze Gandhi (Pratapgarh Dist.—West cum Rae Bareli Dist.—East): You have our whole-hearted support.

Mr. Speaker: Motion moved:

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

Mr. Speaker: There is notice of a motion for reference to the Select Committee.

Shri N. R. Muniswamy (Wandiwash): May we have an idea of the time allocated?

Mr. Speaker: Five hours for all the stages. Now, there are amendments and fourteen clauses. There are some Government amendments too.

Shri T. T. Krishnamachari: They are formal.

I would like to say one thing. It is entirely for the House and the Chair. We started at 5 p.m. We have an hour today. We can take this up at 12 noon tomorrow and go on till 3-30, when the non-official business intervenes. If I may say so, I would like, if the House co-operates with me and you also permit it, that we can conclude the whole thing by about 3-30 so that I can take it to the other House.

Shri N. C. Chatterjee (Hooghly): It is not possible.

Mr. Speaker: Only half an hour in advance. At 12 noon, something comes and we spend the time. Papers are laid on the Table. I can put off the non-official business by one hour so that we can finish it without curtailing the time. We will sit a little longer.

Shri T. B. Vittal Rao (Khammam): Tomorrow, there is a discussion on U.P.S.C.

Mr. Speaker: Everything would be put off by one hour.

Shri T. B. Vittal Rao: In that case, we will have to sit up to 8 p.m. We are already daily sitting till 7 p.m.

Mr. Speaker: The hon. Member is quite young.

Shri Feroze Gandhi: We can commence at 10 a.m. tomorrow in the morning rather than sit up to 8 or 9 in the night.

Mr. Speaker: It is too early in this cold weather. Moreover, it is for one or two more days. Now, we can have 3½ hours for general discussion, one hour for amendments and clauses and half an hour for the third reading. How many hon. Members are participating—14. Those persons who come tomorrow are *prima facie* not interested. So, fifteen minutes each.

Shri A. M. Thomas (Ernakulam): For me a little more time.

Mr. Speaker: For his, twenty minutes. Now, let us go on.

Shri A. M. Thomas: Sir, I beg to move:

"That the Bill be referred to a Select Committee consisting of—Pandit Thakur Das Bhargava, Shri C. P. Mathew, Shri D. C. Sharma, Shri N. C. Kasliwal, Shri Raghunath Singh, Shri K. P. Tripathi, Shri Radha Raman, Shrimati Tarkeshwari Sinha, Shri Anandchand, Shri C. P. Gidwani, Shri P. T. Thanu Pillai, Shri K. C. Wodeyar, Shri Mulchand Dube, Shri B. Ramachandra Reddi, Shri Tulsidas Kilachand, Shri M. S. Gurupadaswamy, Shri K. K. Basu Shri H. V. Pataskar, Shri A. C. Guha, Shri T. T. Krishnamachari, and the Mover, with instructions to report on the first day of the first week of the next session."

This is a very important piece of legislation. When this Bill was discussed in 1949, the Member who took active interest was the hon. Minister himself and you also, Sir, made a massive and very useful contribution. The discussion took place for 3-4 days. I have moved my amendment to refer this Bill to the Select Committee...

Shri Punnoose (Alleppey): On a point of order, I would like to know whether the hon. Member has taken the permission of all the hon. Members whose names he has mentioned because I find my friend, Shri Basu's name, mentioned there. So many other hon. Members are also there.

Shri A. M. Thomas: Shri Basu is the person.

Shri Punnoose: You have not consulted Mr. Basu and so many others too.

Shri A. M. Thomas: Shri Basu's point of view was this: "Provided I would not be barred from speaking, I have no objection."

Mr. Speaker: That proviso would not be in the resolution. Very well, he has given his consent.

Shri Punnoose: He belongs to the Minister's Party. He may say if he is agreeable or not.

Mr. Speaker: Order, order. Shri Basu consented. So, he must fight with him and not with Shri Thomas.

Shri Punnoose: No, Sir. You would have heard him saying that, provided he is allowed to speak, he has no objection. Is it your desire that hon. Members whose names are mentioned should be allowed to speak?

Mr. Speaker: The point is whether he is agreeable to a reference to Select Committee. The point whether he is going to be called or not is another point. Shri Basu might have easily said: no, I am opposed to this reference to the Select Committee; I am against the principle of the Bill; I want to throw it out. Now, this is an intermediate stage of reference to the Select Committee and a matter of principle. It is not as if I do not at all call the hon. Members. I do call occasionally all the important persons who can speak on this and contribute though they will be necessary for the Select Committee also. I am not sticking on to that. I am allowing each Party to make its own representation and contribution. Shri Basu says he is

willing, provided.... That 'provided' is another matter. One is a matter of principle while the other is a matter of form.

Shri Punnoose: May I point out that reference to the Select Committee does not involve a principle at all because only when something is accepted, it goes to the Select Committee?

Mr. Speaker: Accepting the principle of reference to the Select Committee. (*Interruptions.*)

Shri Punnoose: The House is committed to the principle...

Shri A. M. Thomas: I have no objection to omit Shri Basu.

Mr. Speaker: But, it is Shri Punnoose who objects. Now, let the House not waste the time. (*Interruptions.*) Order, order. The hon. Members need not go on exchanging words across the Table. If Shri Basu is here tomorrow, or if Shri Punnoose or Shri Thomas ascertains his view and if he shows the least disinclination, I will remove his name tomorrow. Let us go on.

Shri A. M. Thomas: I have not intended this motion of mine as a dilatory one at all. My approach to this question is not one of hostility. I feel that some provisions which are given here should find a place in the statute book. But, I am also opposed to some of the provisions of this Bill and at least according to me, they would require modification at the hands of the Select Committee.

17-28 hrs.

[SHRI BARMAN in the Chair]

My approach to this question is based on the very principles that the hon. Finance Minister enunciated when he was a private Member and when he spoke on the Indian Banking Companies Bill. I also subscribe to the views expressed by Shri A. C. Guha when he participated in the discussion at that time on that Bill. There is absolute identity of approach. Of course, that was in the year 1949 when

they were private Members. They are now in responsible positions. I also concede that a period of seven years has passed. So much so from experience, it may be found necessary to make certain changes in the working of the Act.

According to the statement of objects and reasons given in this Bill you will find—items (v) to (vii)—one is "to enable the Reserve Bank to give directions to banking companies in relation to matters of policy or administration affecting the public interest, and to make failure to observe such directions liable to specified penalties"; another is "to render appointments of managing directors, managers or the chief executive officers by whatever name called of banking companies and the terms of their appointments subject to the prior approval of the Reserve Bank"; a third is "to enable the Reserve Bank to depute an observer or observers for purpose of observing and reporting on the conduct of affairs of a banking company". This, according to me, appears to be the worst provision which we can imagine, when we consider an institution like a bank. (*Interruption.*) All the three, according to my friend Pandit Thakur Das Bhargava, are of the same nature.

It may be necessary perhaps, in the light of information which the hon. Minister may not be in a position to place before the House or to make public but which he may be prepared to place before the Select Committee when it discusses *in camera*, to clothe the Reserve Bank with powers of such a vital nature. We have now to take into consideration whether those powers are necessary, or whether the powers which are now vested under the Indian Banking Companies Act are not enough. For instance, under section 21 there is the power of the Reserve Bank to control advances by banking companies. Then in section 35, under the heading "Inspection" certain powers are given—I do not want to take up the time of the House by reading the provisions of the sections. Then under section 36 there are

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further powers and functions of the Reserve Bank—in which, also, there are certain enabling provisions. Then there are the provisions which have been referred to by the hon. Minister, provisions with regard to licensing of banks: provided the banks do not observe correct and proper banking practices and provided the directions of the Reserve Bank are not heeded to, it is open to the Reserve Bank to cancel the licences or refuse to grant the licences. There is that power also. And this power in regard to the licensing of banks which is vested in the Reserve Bank can be exercised in such a way as to develop these banks in the direction in which the Reserve Bank wants these banks to develop. And the hon. Minister stated that this is of very urgent importance and it is absolutely necessary, that within these few months something may happen and without further consideration by Select Committee or by eliciting public opinion the Bill has to be gone into.

But what exactly is the opinion of the Reserve Bank on the working of this Banking Companies Act? I shall just read an extract from their report which is quoted by the *Hindu* of Madras in an editorial under the heading "Curbs on Banks".

According to the Reserve Bank—I am quoting from the *Hindu*—"Where the inspections indicate the need for stricter control over the affairs of the banks concerned, suitable conditions are imposed such as appointment of Banking Advisers, restriction on unsecured advances, gradual reduction in the level of advances, etc. Although in some cases progress has been relatively slow, the banks have generally taken effective and expeditious steps to rectify the defects in their operations. They have come to realise that the inspections help to promote their own stability and the interests of their depositors and have, therefore, offered an increasing measure of co-operation". This is their view. I do not want to take the time of the House by reading the opinion which has been expressed by this very important daily

of the South. But, from this opinion of the Reserve Bank it does not appear that there is such an urgency to clothe the Reserve Bank with such sweeping powers as are sought to be given by this Bill.

Of course, as I said earlier, some banks would have behaved not properly. And I got a few days back a publication by the *National Industry and Finance*, inviting the attention of Members of Parliament to the affairs of a particular bank—whose name I do not want to give here, because I want to deal, as far as possible, with regard to credit institutions in as careful a manner as possible. Of course, some of the facts which have been disclosed in this publication reveal that some powers of the kind are necessary. But even then, I am not satisfied that the present powers vested in the Reserve Bank, if properly utilised, would not get rid of the glaring abuses of the kind that have been mentioned in this pamphlet.

Moreover, there is a Companies Act which we have passed under which the Central Government are vested with very great powers, enormous powers, to control the working of joint stock companies. And you would know that as far as the Banking Companies Act is concerned, what is sought to be regulated is only the banking companies and not private banking at all. That is one of the reasons why I want that this Bill should be referred to a Select Committee in which, of course, the Government representatives....

Shri T. T. Krishnamachari: May I ask the hon. Member what that pamphlet is from which he was quoting?

Shri A. M. Thomas: The Annual Reports of the Reserve Bank have claimed that the general administration of....

Shri T. T. Krishnamachari: That is all right. He was mentioning some other paper.

Shri A. M. Thomas: This is by the *National Industry and Finance*. In that some glaring instances of abuse, which support my hon friend, have been brought to light. I was just arguing that such instances are possible to be met by the provisions of the Companies Act and the provisions of the Banking Companies Act as obtaining at present. And there are provisions which now empower the Central Government to have commissions of enquiry to enquire into the affairs of such institutions which misbehave. And very recently the Central Government has appointed a Commission of Enquiry to enquire into the affairs of certain companies which have become the subject-matter of discussion in this very House, and my friend Shri Feroze Gandhi was responsible to bring it to light.

Shri Feroze Gandhi: You are talking about Commission. The money has gone.

Shri A. M. Thomas: What exactly are the features of this Bill and the nature of the powers sought to be given to the Reserve Bank? Sir, I agree that the Reserve Bank has to be considered to be the guardian of the national finance; it is the bank of banks; and it has got a very notable part to play in the economy of the country. But all the same it is an autonomous body, and when we clothe it with enormous, sweeping powers we must be very careful.

According to clause 2 of the Bill you will find that "if any question arises in any particular case whether the remuneration is excessive within the meaning of sub-clause (iii) of clause (b) of sub-section (1), the decision of the Reserve Bank thereon shall be final for all purposes". Then in clause 4 you will find that "any election held under this section shall not be called in question in any court", so that the jurisdiction of the courts is also ousted. That is, in regard to any election which is being conducted by the officers of the Reserve Bank, the court cannot also enquire into the validity of that meeting. And in regard to

clause 7, I do not know—of course, we can understand the Central Government being vested with such powers to issue directions when the national interests are involved or things like that—but I do not know how an autonomous body is sought to be invested with such powers. And what is the nature of the powers? The provision sought to be made by clause 7 is:

"After section 35 of the principal Act, the following sections shall be inserted, namely:—

'35A. (1) Where the Reserve Bank is satisfied that—

(a) in the national 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; or

(c) to secure the proper management of the banking company generally; it is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the banking companies or the banking company, as the case may be bound to comply with such directions."

So, very vast, undefined and unlimited powers are sought to be given by clause 7. I do not want to go to the extent of saying that the government is trying to have nationalisation through the backdoor or anything like that. But, when such vast powers are given, there is something in that criticism also.

You will also note that there is no power of appeal given to the Central Government with regard to the decisions taken or directions given by the Reserve Bank, under the powers vested by these various clauses. Of course, the hon. Minister may say, if the Reserve Bank misbehaves, there are

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powers vested in the Central Government to issue directions I am aware of those sections. For example there is section 7 and there is also section 30 which authorises the Central Government to supersede the bank. My humble submission is, when you clothe the Reserve Bank with powers, who exactly is the ultimate person who exercises these powers? Of course, an auditor or accountant goes to the bank and just issues directions which he thinks will be in the national interest. It may not be possible for each and every case to be brought before the Central Government, especially in view of the fact that no appeal from any such direction or decision is provided in this Bill.

About the constitution of the Reserve Bank, of course the Government of India would be responsible mainly for the constitution of the Reserve Bank. I went through the debates in 1949 and I was able to note that the hon. Minister himself was very much against the Reserve Bank as constituted then the way in which it was functioning. Of course, the Reserve Bank would have improved a great deal after that by the various amendments effected to the Reserve Bank Act with regard to the extension of agricultural credit and other things. I think the way in which the Reserve Bank behaves at least with regard to certain banks is not tuned to the socialist pattern of society which the Central Government envisage. To vest such a body with enormous powers is not desirable at all.

Clause 8 contains a provision like this:

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

Shri A. C. Guha: While participating in the discussion on the Banking Companies Bill in 1949 said that the best way to scare a bank to create a panic

in it was by providing for inspection by the Reserve Bank on occasions. If it is periodical inspection, it would be viewed as a matter of course. Otherwise, it would be dangerous. Shri Guha was very emphatic on that point. No person would desire to deposit his hard-earned money in a bank to be lost. According to me, the best way to destroy a bank is to appoint an observer. I am respectfully submitting that if an observer has been appointed for any banking institution, it shows that there is something shady with that bank, and no person will deposit in such a bank. I feel that the interest of the credit structure of the country must be kept in view. Of course, abuses have to be removed and checked. I may also submit that I am no banker and I have no interest, except as an ordinary citizen of this country.

Pandit Thakur Das Bhargava: A depositor.

Shri A. M. Thomas: If at all I have got anything it is only prejudice against banks because they are realising usurious rates of interest from me. Dr. John Matthai has also conceded the point of view which has been raised by Shri Guha in his speech that occasional inspection would be bad; it would create panic; all the same because of the fact that there was not adequate staff for the Reserve Bank Shri Guha was then told to reconcile himself to the provision providing for inspections not at regular intervals.

When the Banking Companies Bill was under discussion in 1949 the hon. Minister, when he was a private member.....

Mr. Chairman: The hon. Member should conclude now; he has already taken twenty minutes. There are so many Members who are anxious to speak.

Shri A. M. Thomas: I will take only five or six minutes more.

The question of development of small banks was raised by Shri T. T. Krishnamachari and also by Shri A. C. Guha. They championed the cause of small banks and at page 352 of the proceedings of the Constituent Assembly of India (Legislative) dated the 10th February, 1949.....

Shri N. C. Chatterjee: You are quoting Mr. Guha?

Shri A. M. Thomas: I am quoting Dr. John Matthai who referring to the observations made by Shri T. T. Krishnamachari said:

"For example my hon. friend Mr. Krishnamachari raised the problem of the precise lines on which banking should develop in this country. The particular point that he had in mind was whether we should aim at developing our banking on the lines of big banks with branches all over the country or whether we should attempt to develop it in the direction of what he called unit banks, catering for relatively small local areas. I think that raises a really important problem of banking organisation. My personal view is that we should be prepared to develop our banking organisation in both directions at the same time."

I would say that the Reserve Bank has failed in its duty in properly encouraging small banks.

I have the experience of banks in my own State. Compared with other States Kerala is well served with banks. They are small banks and the real nature of the banks has been referred to in the Report of the Bank Award by Justice Gajendragadkar—

"The banks incorporated in Travancore-Cochin State present peculiar problems of their own while occupying at the same time a very important place in the economy of that part of the country."

These special features which have been conceded by Shri Guha and by Shri Deshmukh the previous Finance Minister, on many occasions have not

been realised even now by the Reserve Bank.

Shri A. C. Guha: The Reserve Bank has already recognised it.

Shri A. M. Thomas: I have seen some of the reports which have been issued by the Reserve Bank after inspection. The main objection raised by them is the advances made against property. If advances against landed property are not permitted in my State it is not possible for the functioning of a bank and it is not possible for any person to get anything from a bank. Advances made against landed property in our State are very safe. Again out of 133 banks functioning there some 33 have now been refused licences. Not a single bank has been given licence by the Reserve Bank, excepting the Travancore Bank which belongs to the Government of Travancore.

So that the Reserve Bank does not approach with sympathy the case of small banks about which my hon. friend the Finance Minister waxed eloquent at the time the Finance Bill was being discussed.

Mr. Chairman: The non-Member should conclude now. He has all along been opposing the Bill. How does he ask for its reference to Select Committee?

Shri A. M. Thomas: We have to take into consideration the fact that in our country the banking habit has not developed much as will be seen from the Reserve Bank's publication "Report on Finance for the private sector." It will indicate that the banking habit has not developed in our country and compared with other countries the percentage of people who resort to banking is very small. You will have also to note the fact that this Committee itself has stated that the necessity of encouraging small banks. The difficulties of the small banks have been narrated in this report. But, then, I do not think these recommendations have been taken note of by the Reserve Bank at all. In view of these facts, I submit that, as I stated at the outset, I

[Shri A. M. Thomas],

am not in wholesale opposition to the Bill. I only say that further reconsideration is necessary with regard to the powers with which we are clothing the Reserve Bank. Of course, if the Government satisfies the Members of the Select Committee of the necessity for taking these powers, the Committee would be disposed to give them. I do not think it will be safe for the House to vest the Reserve Bank with such blanket powers, especially in view of the history of the occasions in which these powers have been exercised by the Reserve Bank.

With these words, I move that this Bill be referred to a Select Committee.

Mr. Chairman: Amendment moved:

"That the Bill be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri C. P. Mathew, Shri D. C. Sharma, Shri N. C. Kasliwal, Shri Raghunath Singh, Shri K. P. Tripathi, Shri Radha Raman, Shrimati Tarkeshwari Sinha, Shri Anandchand, Shri C. P. Gidwani, Shri P. T. Thanu Pillai, Shri K. C. Wodeyar, Shri Mulchand Dube, Shri B. Ramachandra Reddi, Shri Tulsidas Kilachand, Shri M. S. Gurupadaswamy, Shri K. K. Basu, Shri H. V. Pataskar, Shri A. C. Guha, Shri T. T. Krishnamachari, and the Mover, with instructions to report on the first day of the first week of the next session."

Shri M. K. Moitra (Calcutta North-West): In a society which aspires to be socialist, banks should not be regarded as mere institutions for handling money and credit, but they should develop as social institutions. This means that the banks must help the members of the society and not exploit them. If you look into the working of the banks, you will find that a few people through these institutions are exploiting a large mass of members of society. During the last few years, there have been secret reserves in banks and there have

been advances made to directors of banks, the interest charged for which has been far below what is charged generally, and various other things have followed. This is not my allegation. This has been stated in the reports of the Shastri Commission and Sen Commission. These Commissions recommended that the salaries of high executives should be reduced. The very suggestion of the Commission for fixing of a floor interest on advances is a proof of the charge that the promoters of the banks utilised public money for their own use at a negligible interest, a practice detrimental to the interests of the depositors. Therefore, I was surprised when Shri A. M. Thomas, a member of the Party in power rose to move for reference of this Bill to a Select Committee.

If you look at the figures, what do you find. The Reserve Bank report to which Shri A. M. Thomas has referred says that the paid-up capital of the banks in 1953 was Rs. 33·71 crores while the working funds of the banks was Rs. 952·33 crores. That means by utilising 3.5 per cent. of the paid-up capital these banks utilised a working fund of Rs. 952·33 crores and reaped a net profit of Rs. 7·26 crores. This is how these banks work.

It has been said that the directors take care of the interests of depositors. I have said at the very outset that in a society which aspires to be socialist, these banks must develop as social institutions. These banks must encourage small savings and when depositors deposit small savings in these banks they must also feel that their deposits, their savings, are safe in the bank. Small industries must receive help from these banks. But what has been done? As regards depositors' interests served by the bankers, everybody is aware that as much as Rs. 93 crores have been lost by the depositors during the period 1947 to 1951 due to bank failures. Perhaps this is not enough. If you refer to para-

graphs 4 and 20 of the report of the Banking Companies Liquidation Proceedings Committee, you will find there that the committee has recommended for more strictness placed on the management of these banking companies. The report says:

"This failure was due to bankers' bid to get the control of non-banking companies by acquiring their shares at inflated prices, the interlocking of shares between the banks and other companies, the grant of large loans to persons connected with the management of banks without adequate security, extensive window-dressing at the time of preparing balance-sheets and in general a tendency to utilise the bank's funds to the detriment of the interests of depositors."

This is the remark that that committee has made. And during that period 1947 to 1951, 180 banks which had gone into liquidation had caused no loss to their directors who were enjoying their booty and are now moving freely. This is how the interests of the depositors have been looked after by the directors of the banks.

If we look into the working of the banks, what do we find? These banks should encourage development of industry. Now we have taken up a programme under the Second Five Year Plan and it is necessary that development of industries should be encouraged. If you look into the publication of the Reserve Bank you will find that the percentage of banks' advance to industry is only 35, while banks' advance to commerce is 49 per cent. And what does this commerce include? This commerce includes speculation in shares creation of artificial scarcity by storing goods and such other things which will bring profit to the industrialists.

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We have also found that big industrialists have set up big banking corporations to help their own indus-

tries. The outside industries get very little help from them. These industries, in order to obtain sufficient capital for their own enterprises at cheaper rates of interest, run their own banks and each bank today represents more or less a particular group of interests. Public savings are collected through these banks and at a very low interest and are utilised for the particular group of industries at a low charge, thus enabling these industries to operate at a comparatively lesser cost.

It may be recalled here that the United Commercial Bank is linked with the Birla group.

Mr. Chairman: The hon. Member may continue his speech on the next occasion. Now, it is six o'clock, and we shall have to take up the motion by Shri T. B. Vittal Rao for discussion.

Shri Feroze Gandhi: Has it stopped with Birla? Is that all?

MOTION RE. APPOINTMENT OF
HIGH-POWER COMMISSION ON
SAFETY IN COAL MINES.

Shri T. B. Vittal Rao (Khammam):
I beg to move:

"That the question of appointing a High-Power Commission to examine the problem of safety in the coal mines be taken into consideration."

I feel that I owe an explanation to this House for raising this discussion and taking up the valuable time of this House when this House is hard pressed for time. I had raised this issue in the House on several occasions. After the Newton Chikli disaster, where 63 workers drowned owing to inundation in December 1954; we who were working in the trade union movement were very much worried about this. A court of enquiry was appointed. I filed a statement before that court. I gave evidence, and I was cross-examined also. In my statement, submitted