

**Shri Naushir Bharucha:** I suggest that clauses 9 to 13 may be taken up together because the amendments suggested by them relate to the same subject matter. I am moving my amendments Nos. 4 to 7. They are precisely of the same nature. So all the clauses and the amendments may be taken together and put together to the House.

**Mr. Chairman:** All the amendments relate to the same subject matter. So all these clauses and amendments can be disposed of in a consolidated manner.

**Clauses 9 to 13**

**Shri Naushir Bharucha:** Sir, I beg to move:

- (1) Page 7,—  
omit lines 22 to 29. (4)
- (2) Page 9,—  
omit lines 21 to 28. (5)
- (3) Page 11,—  
omit lines 9 to 16. (6)
- (4) Page 13,—  
omit lines 4 to 11. (7)

I do not want to speak on these amendments because I have made it clear that no useful purpose will be served by merely disclosing the assessment because that is not going to check evasion.

**Mr. Chairman:** The reply has already come from the hon. Minister. So, I shall put all the amendments to the vote of the House. But if the hon. Minister wants to say anything more, I have no objection.

**Dr. B. Gopala Reddi:** I oppose the amendments.

**Mr. Chairman:** Therefore I shall put all the amendments Nos. 4 to 7 to the vote of the House.

*Amendments Nos. 4 to 7 were put and negatived.*

**Mr. Chairman:** The question is:

“That clauses 9 to 13 stand part of the Bill.”

*The motion was adopted.*

*Clauses 9 to 13 were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

**Dr. B. Gopala Reddi:** I beg to move:

“That the Bill as amended be passed.”

**Mr. Chairman:** The question is:

“That the Bill as amended be passed.”

*The motion was adopted.*

15.10 hrs.

**BANKING COMPANIES (AMENDMENT) BILL**

**The Minister of Revenue and Civil Expenditure (Dr. B. Gopala Reddi):** Sir, on behalf of Shri Morarji Desai I beg to move:

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

**Shri Braj Raj Singh (Firozabad):** Sir, may I seek one piece of information? What is the time allotted for this Bill?

**Mr. Chairman:** No time has been allotted.

**Shri Ranga (Tenali):** So there is no time for it?

**Shri Braj Raj Singh:** As much time as you wish.

**Dr. B. Gopala Reddi:** It means that it is a non-controversial measure.

**Shri Braj Raj Singh:** After the crash of the Palai Central Bank?

**Shri Harish Chandra Mathur (Pali):** We will have some nice speeches on this.

**Dr. B. Gopala Reddi:** Sir, the primary purpose of this Bill is to fill a lacuna in the existing law about the disclosure of certain reserves and provisions made by banking companies. Under Section 29 of the Banking Companies Act and the form of the balance sheet and profit and loss account prescribed under it, banking companies are not required to disclose the provisions made by them for bad and doubtful debts and other usual and necessary provisions. The banking companies also have certain reserves which they do not show in their balance sheets. While the law provides for the non-disclosure of these reserves and provisions in the balance sheet and profit and loss account, there is some doubt if similar protection is available in other contingencies such as when the matter is taken before an industrial court or a tribunal. The Bill now before the House seeks to give in such cases protection to the same extent to which it is available so far as the published balance sheet and the profit and loss accounts are concerned.

I do not think it is necessary for me to dilate at any length on the need for this provision. The undisclosed reserves of banks are broadly in the nature of a cushion against abnormal or unexpected losses in advances, investments or other assets and also for meeting unforeseen contingencies. Banking companies have to make such provisions for maintaining their financial stability and for the reasonable protection of their depositors whose money they handle and invest. The reason why these reserves are not disclosed is that fluctuations in them and in particular drawings upon such reserves in lean years will be liable to be misinterpreted by a considerable section of the depositing public who may not fully understand either the purpose of such reserves or the nature of the risks involved in banking business. As I mentioned earlier, the law already provides that such reserves need not be disclosed in the balance sheet or the profit and loss account. If it is in the public interest

that shareholders and the general public should not have information about these reserves, the same considerations would obviously have to apply when applications are made before industrial courts or tribunals for such disclosure. It is for this reason that Government have decided that it would be appropriate to remove any doubt by making a specific provision in the law that the privilege secured in the case of published balance sheet and profit and loss account should also apply where the matter is raised in proceedings before a court or tribunal. I am sure the House will appreciate that we are introducing no new principle of secrecy but merely extending the existing provision implicit in the law by an explicit enactment, so as to place the matter beyond doubt. I may also mention for the information of the House that in other countries also the practice is not to disclose these inner reserves.

While Government are anxious to maintain the secrecy of these reserves, they realise that when any matter relating to these reserves is raised before a tribunal or court dealing with the fixation of wages or bonus, the tribunal should be placed in a position to ascertain whether any amount of these undisclosed provisions was available for being taken into account. For this purpose they consider that the most appropriate agency for furnishing this information to the court or tribunal would be the Reserve Bank. The Bank, as hon. Members know, conducts a periodical inspection of banking companies and is in the best position to say whether any such company has accumulated reserves in excess of its reasonable requirements, which could be made available for other purposes. Provision has accordingly been made in the Bill for the Reserve Bank, on a reference from the authority before whom proceedings may be pending, giving a certificate stating the amount which that authority may take into account out of undisclosed reserves or provisions. In giving the certificate, the duty has been cast on the Re-

[Dr. B. Gopala Reddi]

serve Bank to take into account principles of sound banking and all relevant considerations. The certificate would, in effect, be the judgment of an expert and outside authority which would be of assistance to the court or tribunal considering the matter.

The House will notice that while the provisions in sub-clause (1) of the proposed new section in the Banking Companies Act cover the Reserve Bank, it is not proposed to specify in sub-clause (2) any authority for giving a certificate in respect of its reserves. This stems from the special position of the Reserve Bank as the Central bank of the country. It does not do any commercial business and is primarily the currency authority of the country and a bankers' bank. Its income and profits are not comparable with those of commercial banks and the purposes for which information regarding undisclosed reserves may be required in the case of commercial banks will not arise in the case of the Reserve Bank.

Sir, I move.

**Mr. Chairman:** Motion moved:

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

**Shri Ranga:** Mr. Chairman, what the hon. Minister has said makes it perfectly clear that here in the Reserve Bank of India we have an institution with atrophied limbs, overweighed with too many powers, and sought to be empowered very much also by this Bill, but which is unable to protect the interests of the public. It is unable to discharge its functions and its duties, and because the people have come to put so much faith in its ability to protect their interests and also because of the fact that it happens to be the main agency, and expert agency, on which the Government of India, relies, the people have come to suffer terribly.

The recent failure of the Palai Bank

underlines what I have said and also withdraws the only sanction that there can be behind this particular Bill.

What is it that the Reserve Bank of India has done in order to protect the interests of the depositors? All the people have put their moneys in various ways in this bank. What is it that the Government of India themselves have done in order to help, assist and inspire the Reserve Bank of India to see that these lakhs and lakhs of people who have put their moneys in the Palai Bank are protected? Only yesterday one of our colleagues in Parliament said to me that he had himself put ten thousand rupee only three months ago in current deposit, and he put it in this bank in preference to the State Bank of India. What I asked him 'why', he said, "because this bank was giving interest on current deposits also". So I said, "well, you wanted to have a share in the loot, the bank naturally could not pay you and also the other people that much of the loot and so it has gone to pieces". Then he said, "what is the earthly use of this bank being treated as a scheduled bank?" The Reserve Bank has declared it to be a scheduled bank. Therefore, surely, the Government has given, through the Reserve Bank of India a kind of an assurance to the people that whatever may be the activities of this particular bank, the deposits and other investments made in the bank would be completely safe. Then he said, "Would I get my money back or not? Possibly I would not get it, we do not know. Then what is to happen to me?" And he went on worrying himself. If that is the position in the case of a Member of Parliament, and an experienced Member of Parliament, it can easily be imagined what might be the position of the ordinary depositors in this bank, as well as in various other banks also. I dare say this question is going to be taken up for detailed and serious consideration in this House on a separate occasion. I think

I haave said enough to make it clear that the Reserve Bank of India has failed in its duty. So has the Government of India.

If it is argued, on the other hand, by the hon. Minister that it is because of the want of such powers as are now asked for that the Reserve Bank of India has failed in this particular regard, we would have no objection to give these additional powers also in order to make all the banks disclose the information that they ask for in regard to the various reserve funds that they build up and so on. Surely, I would have expected the hon. Minister and the Government to come forward on this occasion when this particular question which is most relevant has come up so soon after this incident has taken place, and say how the Reserve Bank has been discharging its duty towards the banking system as a whole in this country and how in its efforts to protect the interests of the depositors and the general public, it has found it necessary to ask for these additional powers also for obtaining information from the banks. Then, there would have been some justification for a Bill like this, and justification also for the Government to ask this House to agree with them. They seem to be taking their responsibility in such a light-hearted manner that they are treating each one of these things in a compartmentalised fashion: Palai Bank is another matter; some Member would ask for some information or for a two hour discussion; on that occasion, we would try to take the House into confidence and give information; this is after all only a small Bill with only a limited objective before us and therefore let us treat it in this detached secretarial fashion. I do not think it is really proper to treat the House in this fashion. I do not blame my hon. friend individually. It is the approach of the Government.

**Dr. B. Gopala Reddi:** You mean the Reserve Bank.

**Shri Ranga:** The Reserve Bank of India, the Palai Bank, and on top of them as coping stone, the Government of India which itself is a paralysed body as it appears to be. I would like, in this connection, to make an earnest appeal to the hon. Minister and through him to the whole of the Government to take emergent steps to assure all these lakhs and lakhs of depositors in that particular bank that their deposits would not be lost, that everything possible would be done in order to realise these sticky investments to which the hon. Finance Minister had made reference only yesterday and try their best to put this bank on its feet and help all these people to get back the amount of their deposits, their investments, and funds that have been placed in various other ways in the activities of this particular bank. Having said this, I would also like them to assure the general public under what circumstances they can accept the classification made by the Reserve Bank of India and the Government of India as a Scheduled Bank as a kind of guarantee for the investments and participation in the other transactions of the banking system of our country. Otherwise, what is likely to happen is, this classification that is given is being accepted by the people as a kind of guarantee and they will place all their resources at the disposal of these banks and afterwards, they are likely to burn their fingers very badly.

**Shri Narasimhan (Krishnagiri):** Sir, I want to join Shri Ranga . . .

**Mr. Chairman:** At the very outset, I should like to say that the particular problem relating to this bank is not directly in issue here. It only arises incidentally in so far as the Reserve Bank comes in here. The question is whether the Reserve Bank should be invested with these powers. Directly these issues do not arise. Incidentally they arise. I have allowed Shri Ranga to deal with it fully. I would expect hon. Members not to take too much time over the question. After all, it arises only incidentally.

**Shri Narasimhan:** I am referring to the same type, but another matter.

**Mr. Chairman:** That is relevant to the extent whether you are going to give these powers to the Reserve Bank. To directly discuss the affairs of the bank and to make an appeal that this thing should be done or that is outside the scope of this Bill though I have allowed Shri Ranga. This is an important question. Everybody is expecting this. It is in the mind of everybody. Those persons who have been injured by the collapse of the bank are really persons who do think that they should be helped. I want to make this appeal also. Shri Ranga has made an appeal. This appeal should be taken as an appeal on behalf of all. At the same time, we should not think that in this Bill we can discuss all these matters or make them very much relevant. They are relevant incidentally.

**Shri Narasimhan:** That is not my purpose. Shri Ranga referred to the Palai Bank. I refer to something else about the Reserve Bank. Since the Bill is based on full trust in the Reserve Bank, we should just know a little about the Reserve Bank itself. I want to make it clear that the Reserve Bank should also function properly is expected in all these matters. There was a case of counterfeiting of notes in the south. It was alleged that there was large-scale counterfeiting of notes. What happened was, all people got worried even in regard to regular notes. Notes which were legal tender could not fetch the promised money for a month or so throughout the southern area. There was some such situation there. A lot of suffering was caused to people, traders, businessmen, etc. For a long time, the Reserve Bank kept quiet about it. It did not issue any statement. People suffered in silence. This kind of cold negligence or attitude of unconcern is not expected of such a high authority. They do their job, no doubt. They are doing their work properly. Still, on occasions, they

seem to fail. I hope on such occasions, they won't fail.

**Shri Punnoose (Ambalapuzha):** May I ask one question? Does the hon. Member know that even now there are notes about which the Reserve Bank is not quite clear whether they are genuine or false?

**Shri Narasimhan:** It may be so. Therefore, I expect the Reserve Bank to be more alive to its responsibilities. Not that I criticise them. These statutory institutions have a tendency to become a kind of machinery without any drive. This should be avoided. Whatever functions are allotted to them by the various statutes and the very statute creating the bank itself should be constantly performed. Even the Government should give constant directions and but in where they are expected to but in. For instance, it is said that the Bank is expected to do periodical investigations in respect of reserves and profits. If they are able to do investigations into profits, they should do investigation in respect of losses and liabilities. While the banks are now advised to disclose reserves, there should be a provision about the opposite of reserves also being made known to the public, or at least the Reserve Bank coming to know of that. I repeat that such of the authorities on which we place such thorough reliance should be alive to their task and not allow such small or big incidents as have been mentioned to take place or even big cases.

**Dr. B. Gopala Reddi:** Do you support the Bill?

**Shri Narasimhan:** I do support the Bill?

**Mr. Chairman:** Shri Aurobindo Ghosal.

**Shri Prabhat Kar:** I have been standing . . .

**Mr. Chairman:** Let him stand. That is no occasion for complaint. He sent his name first of all before this Bill began. There is some discretion in

the Chair to whom to call. I stood six times. I was not called. But, that is no occasion for complaint. I have to see that all Members get a chance. It is not that he will not be given a chance. The question is whether he should come first. It is a thing that should be left to the Chair.

**Shri Prabhat Kar:** May I only inform you, Sir, that this particular amendment is directed against the employees whom I have the proud privilege to represent?

**Mr. Chairman:** I do not say that the hon. Member will not make very relevant or very important remarks which should be heard by the House and by the Minister. At the same time, to insist that I should call him first and not that gentleman is not fair. Shri Aurobindo Ghosal.

**Shri Aurobindo Ghosal (Uluberia):** Sir, this simple provision will do a great mischief from another point of view, that is, in regard to the bonus of the employees. Bonus is still *ex gratia* payment according to the legal formula. But, except in the case of customary bonus, bonus in the case of others should have been extracted from the company if profits can be shown to the Industrial courts. When the question of bonus is raised, the question of profit also comes in. The Full Bench formula of the Supreme Court for determining bonus includes also the reserves. Nowadays banking companies have not one but several kinds of reserves like rehabilitation reserve, reserve for bad debts, reserve for taxes etc. Their tactics is to conceal their profits under these different heads of reserves. The employees are affected by this in this way that they will not be able to get any chance in industrial courts to prove that a large amount of the profit has been concealed under different heads of reserves.

This is an important point. There are several cases in which it has been found that the reserves declared by the companies are not really reserves but profits concealed in the name of reserves. So, I request the hon. Minister to consider that this provision

will create difficulties for the employees in getting the bonus they are entitled to.

Much of the speculative business is conducted with the money of the banks, and they also derive a large amount of income from it. For that purpose, the banks have for long been wanting a provision like this. If this amendment is made, the banks will be given a handle to conceal their profits under different heads of reserves.

Of course, there is a provision about the Reserve Bank giving a certificate, but that is not adequate to help the industrial tribunals to get the real picture of the profit and reserves to determine the bonus. I therefore request the hon. Minister not to allow the companies to conceal their profits under different heads.

**Shri Prabhat Kar (Hooghly):** I rise to oppose the Bill that has been moved by the hon. Minister, but I have not tabled any amendment because that would be for the deletion of the whole provision before the House and would therefore be out of order. But I would request the hon. Minister, after listening to me, to think in terms of withdrawing the Bill.

I oppose this Bill for two reasons. With the passage of this Bill, industrial disputes in the banking industry dealing with the wages of bank employees will be reduced to a farce, because, henceforth the exact position of the banking companies will not be available to the adjudicator or even the judiciary which will have to decide the paying capacity of the bank and what the employees are entitled to get.

It is a tragedy that this Bill has been brought at a time when the industrial dispute in the banking industry regarding revision of the wage structure is pending before the national tribunal. After appointing the national tribunal, Government has thought it fit to tie its hands so that it is not in a position to go into the working of the banking industry to find out whether there is a case for a wage revision.

[Shri Prabhat Kar]

It is another tragedy—it may be purely a coincidence, a peculiar coincidence—that when the Palai Central Bank has gone into liquidation because of the mismanagement of the board of directors, further powers are being given to boards of directors not to place their secrets before the judiciary. According to the Finance Minister's statement, from 1951 to 1960 the Palai Central Bank has been carrying on activities which have resulted in a disaster, in the collapse of the bank, and now thousands of depositors and employees numbering about 750 are suffering.

**Shri Punnoose:** Three thousand and odd.

**Shri Prabhat Kar:** At this particular time, further scope is being given to the boards of directors not to tell the judiciary what exactly they are doing behind the screen.

This is the only industry where rights have been given to the board of directors not to show the correct picture to the shareholders, to the public, to the depositors. According to section 29 of the Banking Companies Act as it is in force today and the forms supplied by the Reserve Bank of India, the companies are required to show income less provisions made for bad and doubtful debts and other usual or necessary provisions. That means, if you have an income of Rs. 1 crores, you will be entitled to tell your shareholders that it is only Rs. 75 lakhs, and you are entitled to take away Rs. 25 lakhs from the profit and show it under different heads. One important head is, of course, provision for bad and doubtful debts, but there is also mention of other usual or necessary provisions.

The question is not whether there should be any provision made by the banks for and doubtful debts at all. In para 2 of the Statement of Objects and Reasons, the hon. Finance Minister says:

“As credit institutions dealing primarily with depositors' monies, banks have to make certain special provisions against emergencies or unforeseen contingencies as a matter of financial prudence.”

Nobody complains against that. Surely there must be provision made against unforeseen circumstances. But today also they have that power. Then, why has this amendment been brought in now? The result of this amendment will be that no court or tribunal will have authority to ask for the production of the undisclosed figures with a view to know the exact position of the banking company or industry. I would say that it is very unfair on the part of Government to come out with this legislation at a time when the national tribunal is sitting. I may point out before the House exactly what the tribunals and the judges feel about it. The Labour Appellate Tribunal said in the year 1954, as follows:

“Neither before the Sastry Tribunal nor before us have the banks shown their undisclosed reserves or the profits without these deductions; and since the banks have raised the question of capacity to pay it was for them to make a full disclosure of facts. Banks feel that they now have the form of the Banking Companies Act to shield themselves against an enquiry on this subject; but in so far as we are concerned we consider these undisclosed reserves and these appropriations to be relevant for the purposes of our investigation.”

When you refer a matter for adjudication, if it is found that unless certain facts are placed before the court, it is not possible for the court to go into the matter and do justice to the case, then, naturally, the court will demand for the production of those facts and those documents. It is not possible for them to make out all these things from the balance-sheets. When a court wants certain documents for the pur-

pose of adjudication, with a view to do justice to the points that have been placed before it, then those documents must be supplied to the court so that the court may go into the matter fully.

Now, what are the types of things that can happen in a bank? The tribunal says:

"The Bank of India in one year transferred a sum of Rs. 50 lakhs from undisclosed reserves to the general fund—quite a sizable amount which makes us wonder as to how much more of such undisclosed reserves the Bank of India had."

In one year, if from the secret reserves, a sum of Rs. 50 lakhs is transferred to the general fund, then, it is a matter for guessing as to what the actual amount lying in the undisclosed reserves is. If this information is not given to the person who is adjudicating on the capacity of the bank to pay salaries to its staff, then how will it be possible for such a person to judge properly and adjudicate as to what should be done and what should be paid? It is not as if we are saying that the bank should come out in the open and disclose everything. But here is a special purpose for which these facts are required, because the banks are often raising the question of their capacity to pay. When the national tribunal is sitting over the question today, it is necessary that the documents should be supplied to them.

It may be stated that the Reserve Bank will give the certificate. If the tribunal wants, it can ask from the Reserve Bank for the certificate, and the Reserve Bank will give a certificate taking into consideration the relevant circumstances concerning the banking company and principles of sound banking. Thus, they will give a certificate saying exactly what ought to be taken into consideration while deciding the particular issue in a particular unit of the banking industry.

So far as the certificate by the Reserve Bank is concerned, I would

only request the House to consider this thing. How is it possible for the Reserve Bank to know exactly what is happening in a particular unit of the banking industry? Before the failure of the Palai Central Bank, very recently, there was the failure of the Lakshmi Bank. You will be surprised to know that for the last fifteen years, there was a shortage of cash of the order of Rs. 35 lakhs in that bank. There have been three inspections by the Reserve Bank of India, but that could not be found out. Then, there was a quarrel between the general manager and the chief accountant; the chief accountant resigned, and he went to the Reserve Bank and gave all these facts. Then, it was found out, and then the bank went into liquidation. In these circumstances, do you think that with the present apparatus of the Reserve Bank of India, a certificate given by the Reserve Bank in regard to funds in the undisclosed reserves can be taken into consideration? The Reserve Bank of India is not actually in a position to go into all that is happening in the different units in the banking industry.

It is also dangerous from the point of view of the depositors. If at no time the undisclosed reserves are going to be disclosed even before the highest judiciary, then how do you think that it will safeguard the interests of the depositors? It has been suggested that these provisions have been made in the interests of the depositors. In the interests of the depositors the Palai Central Bank during all these years did not disclose the provision that they had made in the undisclosed reserves. In spite of that, the Palai Central Bank went into liquidation. The Reserve Bank went on checking the provision that had been made, and yet it is being found today that things have gone to such an extent that today it may not be possible for the depositors to get back their money even to the tune of 30 per cent.

It is very essential, therefore, to take into consideration, before passing this Bill, whether by passing it we are not further jeopardising the interests



[Shri Prabhat Kar]

of the depositors, shareholders and the employees.

At this particular moment, because there is a national tribunal sitting over this issue of the wages of the employees, it may very well be said that it is at the behest of the employers that this particular Bill has been brought forward. But Parliament will have to consider whether to safeguard the interests of the shareholders, the depositors and the employees as a whole, such powers should be given whereby no judiciary shall be entitled to ask for the production of those documents.

The Madras High Court has said in its judgment:

“ . . . I am satisfied that before an order calling upon the bank to produce a document is made, the tribunal should first come to the conclusion that the information contained in the document is necessary for disposing of fairly the question involved in the reference.”.

When this is the feeling of the judiciary that it should be disclosed, because the matter referred to them cannot be decided unless these allocations are disclosed, then it will be quite unfair to bind the hands of the judiciary and take all steps to see that no fair deal is given to the employees.

I may point out to you that the banks feel that these undisclosed reserves should not be disclosed either to the shareholders or to the depositors etc.; they feel that these should be disclosed only to the Reserve Bank and to the auditors, because then they can come forward with the argument that all these things are audited.

As for auditors, you know, Sir, that every business house has got a special auditor. About auditors, I may just quote the words of Shri Morarji Desai himself when he was the Minister of Commerce and Industry.

This was what he said in 1957 while delivering his inaugural address at the conference of the chartered accountants. He said:

“There are many things which may be considered wrong but which may be legal. I myself would certainly expect that you would not show a way to bring a wrong expenditure under a legal form.”.

Then, he pointed out what generally people thought about the auditors, and said:

“But people like myself who would not like to attribute motives would say that you are perhaps not careful as you should be in such matters or you are not allowed to be as careful as you should be by the cleverness of the people whose conscience-keepers you are. “If respect is to be earned, it is necessary to create a confidence in all concerned that the skill with which you can clothe accounts will not be utilised for covering up a wrong expenditure in a very legal form”.

The auditing of the firm and the auditors' note is no guarantee that all that has been stated over there is the correct thing. I have quoted the hon. Finance Minister to show how these things are done and what is the value that can be attached to them. The Reserve Bank's certificate cannot be taken to represent exactly the picture in the banking industry. It is not our claim that all these things should be shown in the balance sheet; it is not our claim that there should be publicity given to it. But if it is found by the judiciary that without the disclosure of these facts, the issue cannot be decided, in that case the bank concerned should be asked to produce it.

I would only like to point out that the Reserve Bank's checking apparatus cannot be relied upon to give the correct position. We know about the Lakshmi Bank and now the Palai

Central Bank. I would point out that in respect of the Mundhra Deal, he had dealings with a foreign exchange bank. During this period, there was checking by the Reserve Bank. In spite of it, the men who helped Mundhra were allowed to leave this country and no steps could be taken against the bank because of the manipulation that it made.

The Reserve Bank is not in a position to know. I know the difficulties. I know the ingenuity with which the bankers manipulate. I am not making any charge against the Reserve Bank, because it is helpless in this matter. Under such circumstances, any certificate that the Reserve Bank will give will not be valid. Now, instead of asking the bank concerned to produce the information, it is suggested that the Reserve Bank should give a certificate. As I have already said; it is not possible for the Reserve Bank to know exactly what is happening in the particular banking institution. It will be unfair on the part of Government to allow the board of directors to further conceal the facts and deprive the employees of their due at a time when the issue is before the national tribunal. They may be debarred from taking up this issue because the bankers have already taken up the issue of their incapacity to pay. Therefore, this question will again be brought up, but this time, the bankers will come and say, 'Here is the law passed by Parliament. You have got no authority to ask for any information. If you want anything, you can go and ask the Reserve Bank'.

Then again, the Reserve Bank is also a party before the national tribunal. It is also an employer. So it is interested in finding out how the workers should be deprived of their legitimate claims. This amounts to a party to the dispute giving a certificate to the effect that whatever another co-party has stated is the correct thing. I think this is also unfair.

You, Sir, are a very old lawyer. You know exactly how in the judi-

ciary these things should be treated. Do you expect that a party to the dispute—one of the employers—will give a certificate saying that the other employer is not in a position to pay, and that that will be taken as final? Is it a fair proposition at this moment? Is it a fair proposition which you expect from the Government? Can you allow these things to go on?

I would appeal to the hon. Minister that at this moment, when we are finding that the present law, of the Reserve Bank and the Banking Companies Act, is not at all suitable to cope with the ingenuity of the board of directors to manipulate accounts, as a result of which we have seen immediately the failure of the Palai Central Bank—and perhaps we do not know what is going to happen—instead of bringing this Bill, really a comprehensive Bill should be brought forward amending the Banking Companies Act and tightening up the procedure so that the picture that we see today in Connaught Circus where thousands of small depositors stand and go on weeping and the picture that is published in the Press, may not be repeated. It is not by this sort of amendment that that object can be achieved. By this amendment, Government are going to further help those persons who want to dodge the depositors, shareholders and also the employees. I would again appeal to the hon. Minister to re-think, particularly in these circumstances, when the national tribunal is pending and when we have immediately seen the failure of the Palai Central Bank, and withdraw this particular amending Bill and come forward with a comprehensive Bill amending the Banking Companies Act so that we can tighten up other measures in order that what is happening today may not happen again. This is my earnest request to the hon. Finance Minister. As I have said, this Bill will be quite unfair to the employees because this provision is meant directly against them with the result that they may not be given a fair deal in the hands of the judiciary, although the judiciary may be

[Shri Prabhat Kar]

inclined to grant them exactly what they should get.

**Dr. B. Gopala Reddi:** This Bill was brought forward with a specific purpose but hon. Members have surveyed the activities of the Reserve Bank in a wide measure, from the counterfeit notes of Coimbatore to the collapse of the Palai Bank and the failure of the Reserve Bank. If any lesson is to be drawn from the failure of the Palai Bank, it is this that there is an imperative necessity for all the banks, Scheduled and non Scheduled, licensed and unlicensed, to build up not only ostensible reserves which they can show in balance sheet; but also inner reserves to meet times of emergency. At least after the failure of the Palai Bank, the hon. House will give wholehearted support to any measure which will enable all these banks to build up these inner reserves. It is necessary, in the interest of depositors and in the interest of everybody concerned, that these banks should have inner reserves.

With regard to the counterfeit notes, it is not as though the Reserve Bank kept quiet. After all, the information must come in. Before they issue any communique, they must have some information from the CID or whoever it is so that they can tell the public about the likely counterfeit notes that are prevalent in the market. Without any further information, if they simply say that every note is legal tender and it can be exchanged at the State Bank branches and things like that, it will not be giving correct information to the public. So they have got to get the information from their sources. The Reserve Bank also issued a communique assuring the people that the public need not be under any misapprehension that every hundred-rupee note in Madras is counterfeit note emanating from Coimbatore. The Reserve Bank took a little time to get the information. But they assured the public that there need not be any suspicion that every currency note is suspect.

In regard to the Palai Bank also, as the Finance Minister explained in the brief statement he made, it is not the failure of the Reserve Bank at all. They wanted to help the Palai Bank at every turn. They were giving the Bank instructions from time to time, but when the directors refused to carry them out, after all, the inevitable collapse had to come.

**Shri Narasimhan:** Was it not at the cost of the depositors?

**Dr. B. Gopala Reddi:** Otherwise, if it was a long time ago, some other set of depositors would have suffered.

**Shri Prabhat Kar:** What steps have been taken against the directors?

**Dr. B. Gopala Reddi:** That is also a matter on which the Finance Minister assured the House that if there is any misdemeanour on the part of any of them, if they did anything palpably wrong, they would be brought to book.

**Shri Prabhat Kar:** In 1951, the deposits were to the tune of Rs. 2.5 crores. Now these deposits are of the order of Rs. 8.5 crores. If steps had been taken earlier, perhaps Rs. 6 crores of deposits would have been saved.

**Dr. B. Gopala Reddi:** They must be given reasonable chance to rectify themselves, to rehabilitate themselves.

**Mr. Chairman:** It is a separate question. It does not arise here.

**Dr. B. Gopala Reddi:** Therefore, I was saying that these matters that were referred to were not inherent in the amending Bill at all.

Whether these are meant for the public or for the employees, it is not always that the employees should have the first charge on all the profits that the banks make. Certainly, the claims of their clients, the depositors, must have prior consideration. Then when

there is a dispute between the management and the employees, when there is a tribunal sitting the question is whether it is proper for the tribunal to try to know and see how much inner reserves are available so that they could be distributed by way of enhanced emoluments to the staff and things like that.

16 hrs.

**Shri Prabhat Kar:** Where is the question of the distribution of inner reserves? No tribunal has suggested the distribution of inner reserves. It is the capacity of the bank. It is not a question of the distribution of the inner reserves. Nobody has suggested that and no claim has been made for that.

**Dr. B. Gopala Reddi:** Then why do you want to know how much is the inner reserve? Because you want to show to the tribunal that there is some money available and just to cheat the employees and not give them bonus they are trying to build up inner reserves.

**Shri Prabhat Kar:** Leave aside the question of bonus; even the salaries are not paid.

**Dr. B. Gopala Reddi:** The tribunal will certainly go into the question of the profitability and profit-making of the bank and the capacity to pay the bonus etc.

**Shri Prabhat Kar:** Who is to decide?

**Dr. B. Gopala Reddi:** After all, even the previous position was that it used to be made known to the officer in charge of the tribunal, the presiding officer; but he could not give it out to the public nor utilise it in the judgment and things like that. It was a very irksome position which some of the presiding officers of tribunals did not like; and they themselves suggested an amendment of the Banking

Companies Act. But that is a different matter.

Here we say, something is being built up and the Reserve Bank will give a certificate whenever it is demanded. It is obligatory on the part of the Reserve Bank because they are in possession of every information.

**Shri Narasimhan:** Will they be published?

**Dr. B. Gopala Reddi:** The Reserve Bank will give the certificate, a certificate whether they have enough or more and, if more, how much more. All that information would be available to the tribunal. But beyond that, no further information will be available to the tribunal. A provision like that is really necessary to enable the banks to build up inner reserves. Otherwise, at every stage, when the employees go on a strike or give notice of a strike, the tribunal will be enquiring how much is the reserve and things like that and try to utilise that information which will not be in the interests of the banking institutions at all.

**Shri Prabhat Kar:** Till now no tribunal has insisted on that.

**Dr. B. Gopala Reddi:** Auditor's certificate cannot be relied upon like that. Here it is not a question of the auditor or the employee and the management and things of that sort. The Reserve Bank of India is a central body which is making periodical inspections of the banks. It has a large inspectorate and they are not in the employment of the banks.

**Shri Prabhat Kar:** They are parties to the dispute.

**Dr. B. Gopala Reddi:** They conduct periodical inspections and they are in a position to certify what exactly is the inner reserve, whether it is enough or not or whether it is in excess, and if so, how much in excess and how much of that is available for distribution as bonus. This position

[Dr. B. Gopala Reddi]

must be satisfactory and nothing more need be given to the tribunal. To say that the Reserve Bank is a party is not correct. The Reserve Bank has always been generous to its employees. It pays its employees more than the Government of India and more than any other institution in India and it always sees that its staff is given the necessary emoluments. (*Interruption*). They are given necessary accommodation; in big cities there are big plans for housing. It is no use blaming the Reserve Bank and doubting its capacity to give that certificate. It is a bankers' bank and it is an institution which can give a certificate whether any particular bank has got the inner reserves and some excess or not. The Reserve Bank must be taken as experts.

After all, what even the president of the tribunal can do? He may be a judicial man; but he has not got that expert knowledge to go into all the assets and liabilities of the bank. But, here, the Reserve Bank has got a large inspectorate and they are in possession of the facts. Therefore, the certificate of the Reserve Bank must, certainly, be accepted as expert advice. It will help the tribunal to come to a correct conclusion. Otherwise, a layman—or even a judicial man—who is not well-versed in matters of banking and all that may not be able to get at the truth. If the banks want to cheat the Reserve Bank they can cheat the tribunal too. If the Reserve Bank could not be given all the information then what will the tribunal get? This is a necessary thing and it will enable the banks to build up inner reserves. The information may not be available to the tribunal in all its complete form—for distribution of bonus and things like that.

Therefore, I move.

**Shri Prabhat Kar:** This provision is already there. This was the practice. It is not a new provision that is being made.

**Dr. B. Gopala Reddi:** Nothing new is being made.

**The Minister of Finance (Shri Morarji Desai):** The provision is only being made clear in order that my hon. friends who are in the Opposition may not raise this sort of issue and create doubt. The doubt is being removed.

**Shri Prabhat Kar:** It is the judge sitting in court.

**Shri Morarji Desai:** All right.

**Shri Prabhat Kar:** He has the right to interpret and interpret properly.

**Shri Morarji Desai:** He interprets law and does not make law.

**Mr. Chairman:** The question is:

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

*The motion was adopted.*

**Mr. Chairman:** We will now take up clause-by-clause consideration. There is an amendment of Shri Raghubir Sahai. He is absent.

Now, the question is:

“That clauses 1, 2, the Enacting Formula and Title stand part of the Bill.”

*The motion was adopted.*

*Clauses 1, 2, the Enacting Formula and Title were added to the Bill.*

**Dr. B. Gopala Reddi:** Sir, I beg to move that the Bill be passed.

**Mr. Chairman:** The question is:

“That the Bill be passed.”

*The motion was adopted.*