

[Dr. R. B. Gour.] instance about the Cooch-Bihar Bank and the Manipur Bank. Unfortunate- I ly, I have none. But I have got some experience when certain departments of the State Bank of Hyderabad were taken over by the Reserve Bank. Only one thing I want to ask and that is, what he is going to do with the leave reserves that I accumulated during my service in the bank that is now being acquired. Will he allow me to avail of that leave on the new salary terms that are going to be given by the State Bank of India? That is all I want to ask.

DR. B. GOPALA REDDI: Before he signs the new terms, he may take the leave and then enjoy the leave and once he signs, he comes under the terms of the State Bank.

DR. R. B. GOUR: Before signing, who will give me the cash?

MR. DEPUTY CHAIRMAN: The question is:

SHRI H. P. SAKSENA (Uttar Pradesh) : Sir, I also want to take part in the Third Reading stage. I want to speak for a couple of minutes.

MR. DEPUTY CHAIRMAN: I am putting it to vote. He wanted some clarification and I allowed it.

SHRI H. P. SAKSENA: This is the Third Reading stage. If you permit me, I would like to speak.

MR. DEPUTY CHAIRMAN: No, please. The question is:

"That the Bill be passed."

The motion was adopted.

THE BANKING COMPANIES (AMENDMENT) BILL, 1959

THE MINISTER OF REVENUE AND
CIVIL EXPENDITURE (DR. B. GOPALA
REDDI) : Mr. Deputy Chairman, I move:

"That the Bill further to amend the Banking Companies Act, 1949, as passed by the Lok Sabha, be taken into consideration."

The Bill as amended by the Joint Committee was passed by the Lok Sabha on the 12th August, 1959, without any modification. The amendments made by the Joint Committee have been explained in detail in their report and I, therefore, propose to confine my remarks to a few points, which may be of some interest.

The first major change made by the Committee is in clause 6 of the Bill which proposes to amend section 10 of the Banking Companies Act.

The existing provisions relating to the disqualification of directors, etc. are not considered sufficient in the case of banking companies which, mainly deal with depositors' money. Section 10 of the principal Act is therefore being amended so as to empower the Reserve Bank to remove any chairman or director or manager or chief executive officer of a banking company, if that person has been found by any tribunal or any authority (not being a criminal court) to have contravened the provisions of any law, and the Reserve Bank is satisfied that the association of that person with the banking company is undesirable. With a view to satisfying the ends of natural justice, it has also been provided that this disqualification will operate for a period of five years and that wherever possible, the person concerned will be given an opportunity of making a representation.

The other important modification which has been made by the Committee is in clause 10 of the Bill. This clause, as originally drafted, merely enabled a banking company to pay dividends on its shares, without writing off the depreciation, if any, in the value of its investments in approved securities. The Committee have amplified the clause so as to permit banks to pay dividends without writing off the depreciation, if any, in the value of their investments lit-

shares, debentures and bonds or the losses on account of bad debts, an adequate provision is made therefore to give satisfaction of the auditors.

This modification, I should perhaps add, do not involve any substantial change in policy, and the intention is not to confer any additional powers on banking companies, enabling them to liberalise their dividend policy. The object which is in view is merely to remove the lacunae and ambiguities in the existing section of the principal Act and to regularise the practice which is already being followed by the banking companies.

I shall now deal very briefly with the main points raised in the minute of dissent. With regard to clause 6 which amends section 10, it has been stated that the chief executive officer of a banking company should not be allowed to be the director of companies registered under section 25 of the Companies Act, 1956, as such companies also earn profits, though these profits are not distributed as dividends.

The apprehensions on which the minute of dissent has been based are, I think, unfounded. It is our intention, as it has been so far, that the chief executive officer of a banking company should devote his full time and energy to the affairs of that company. But it would be undesirable to deny to institutions like Chambers of Commerce, the Institute of Bankers, or other incorporated bodies of this kind, the benefit of the knowledge and experience which banking executives may happen to possess. As matters now stand, there have been several cases in which we have had to grant suitable exemptions. Government have been advised—and the House, I am sure, will agree—that exemptions from any of the provisions of the Act cannot be granted on a permanent basis. The proposed amendment to clause 6 is, therefore, desirable.

A3 regards the question of placing a ceiling on bank dividends and the prohibition of bonus shares, I hope the House will agree that this question cannot be dealt with casually and without taking into account the adverse repercussions of any hasty or ill-considered decisions. I do not also think that this is the appropriate time or occasion for us to consider these wider issues, and I shall, therefore, merely content myself by pointing out, what I think the House already knows, that these suggestions are beyond the scope of the present Bill.

It has been suggested in the minute of dissent that banks should not be wound up, and that the Reserve Bank should have powers compulsorily to amalgamate those banking institutions which are not working satisfactorily. As far as the merits of this proposal are concerned, there is, I think, hardly any room for disagreement. Government and the Reserve Bank of India have always been anxious to find constructive solutions to the difficulties which are facing the less fortunate banks, and a perusal of the last annual report on the trend and progress of banking will indicate that bank amalgamations or schemes for the transfer of business are by no means infrequent.

As regards the specific question whether the Banking Companies Act should be amended so as to empower the Reserve Bank to compel two or more banking companies to amalgamate, this suggestion has been considered by us on several occasions in the past, and we have come to the conclusion that a statutory power of this kind, enabling the Reserve Bank to impose certain solutions on unwilling parties, will be impracticable and in view of the recent developments may also be unnecessary.

I do not want to say anything further at this stage. The proposals made in this Bill are based on more than ten years' experience relating to the administration of the Banking Companies Act. The amendments are

[Dr. B. Gupta Reddi.] for the purpose of facilitating the administration of that Act, and I would commend this motion for the consideration of the House.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill further to amend the Banking Companies Act, 1949, as passed by the Lok Sabha, be taken into consideration."

DR. R. B. GOUR (Andhra Pradesh): Mr. Deputy Chairman, now here again I will have to join issue with the hon. Minister when he has said something about the points raised by the minutes of dissent signed by me also amongst others. At the very outset, I should like to correct a printing mistake that has crept into the minute of dissent. There, on page (vii) of the Report of the Joint Committee, it is mentioned—

"Sub-clause (2) of Clause 6 seeks to allow the Contractor of any Banking Company."

No, it is not 'the Contractor of any Banking Company', it is 'the Director of any Banking Company'. Instead of the word 'Contractor', it should be 'Director'. In line 12 also it should be 'Director' instead of 'Contractor'. It is not 'Contractor of any bank registered under Sec. 25.' It is 'Director of any bank registered under Section 25.' Why I am clarifying this is people will think—particularly, my hon. friend, Shri Amolakh Chand will think—that I am obsessed by contractors that instead of directors, I have mentioned 'contractors' in my minute of dissent.

SHRI AMOLAKH CHAND (Uttar Pradesh): In your mind, there is no difference between a contractor and a director.

DR. R. B. GOUR: Here, Sir, the explanation given by the hon. Minister about the note of dissent that has been written is very innocent. But j

the amendment is not so innocent. He thinks that a member of the Chamber of Commerce or a member of the Institute of Bankers or such innocent organisations—these directors—must not be handicapped from becoming directors of a banking company. This is like saying, what will happen to that old widow of Barabanki village if a Land Reforms Bill is introduced in the U.P. It amounts to that sort of thing. Somebody in the Institute of Bankers—or maybe in the Chamber of Commerce—has some old widow in his mind, and he does not want that that old widow must be handicapped. Nobody on this side could be charged of possessing less intelligence than that possessed by the hon. Minister there that we would like directors of such organisations to be barred from becoming directors of the company. Here what you seek to propose through this amendment is that directors of companies coming under section 25 of the Company Law will not be barred from becoming directors of a banking company. That is more important. What is this? What is Section 25 of the Company Law? Section 25 of the Company Law does not mean only the Institute of Bankers and Chambers of Commerce. Section 25 means;—

"(a) a limited company for promoting commerce, art, science, religion, charity or any other useful object, and

(b) intends to apply its profits, if any, or any other income in promoting its objects, and of prohibiting the payment of any dividend to its members."

Now, here is a company established under Section 25 of the Companies Act which is for the purpose of promoting all these and which will have funds at its disposal. Those profits will be invested. Profits will accrue to the company by the utilisation of those funds. Or there will be income otherwise than profits on the money it has, that income or that profit has to be earned, and then it has to be spent for the purposes of art, culture,

promotion of commerce and all that. Therefore here is a company under Section 25 which is controlling certain funds and those funds are ploughed into certain business and that business is bringing in income to this company and that income is sought to be dispersed. Why do you want a director of such a company which is j controlling huge funds to come in? We know what is happening to the charitable institutions in our country today. Let us conceive all that is happening in the so-called charitable trusts under the name of Chambers of Commerce or the Institute of Bankers. 1 The hon. Minister has tried to brush aside the points raised in the minute of dissent. This director, if he gets locked up in a banking institution, obviously will utilise those funds in the bank. Obviously, if this bank goes into liquidation, with it the charitable institution also goes because the charitable institution also gets locked up with this, and therefore it has to sink or swim with this bank. Why is it that you want that a person who is charitable enough to become a director of such a charitable trust should become the executive officer or a director of a bank? Therefore, your amendment is not merely for the Chambers of Commerce or the Institute of Bankers. Already you have taken powers not to exclude certain individuals from becoming directors in a banking company because you think that if there is a company or an institution like the Institute of Bankers which does not control funds, the directors of such an institution should not be barred from becoming a director of a banking company. You get powers under the Banking Companies Act to exempt them.

MB. DEPUTY CHAIRMAN: You may continue after lunch.

The House stands adjourned till 2.30 P.M.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at naif past two of the clock, TBK VICE-CHAIRMAN (PANDIT S. S. N. TANKHA) in the Chair.

DR. R. B. GOUR: Mr. Vice-Chairman, I was speaking about sub-clause (2) of clause 6, which seeks to amend section 10 of the original Act—if I am not wrong—and allow directors of companies established under section 25 of the company law, to become directors of banking institutions. Now, Sir, I was telling the House that these companies also—established under section 25 of the company law—transact business, have to come into the business market. It is not such an innocent association of persons like the chambers of commerce or the Institute of Bankers, who do not control funds, which are meant to be ploughed back into business. Now therefore, they should not be permitted to become directors of banking institutions, because in that case such a charitable trust will get locked with a particular banking company, and the chances of corruption or fraud will be increased. Therefore we opposed it. The hon. Minister stated that it was confined to a particular thing, that the particular amendment that he is proposing in this Bill would only help such persons and that those who are in the chamber of commerce or in the Institute of Bankers should not be denied an opportunity to become directors of banking institutions. Well, on the face of it the objective might have been so innocent, but actually the amendment does not confine itself to promoting only such persons to become directors of the banking institutions. In fact the hon. Minister's amendment is opening the flood-gates of all charitable trusts and institutions, the directors of all charitable trusts to become directors of banking companies—which will be undesirable both for the trust as well as the banking company. We know, for example, that many charitable trusts are in a serious condition; I mean, in fact there is a demand in the country that

[Dr. R. B. Gour.] these charitable trusts must not be allowed to remain what they are and that more and more State control will have to be imposed on the administration of these trusts, etc. So therefore this interlocking of charitable trusts or the companies that are being floated for charitable purposes under section 25 of the company law should not be allowed to get locked with private banking institutions in the country.

Then, Sir, there is another provision in the Bill which seeks to amend section 15 of the principal Act; it is clause 10 of the Bill. Now, Sir, clause 10 read with—I suppose—clause 3 of the Bill would give retrospective effect to clause 10, and clause 10 seeks to widen the scope for distribution of bonus shares. Now this is a very retrograde step that the Government proposes to take in relation to banking companies. Now, Sir, banking companies are not ordinary factories or business concerns of that type. Ten persons can come together to float a company and organise a factory. The bulk of their capital investment comes from this company, but when you compare this company with a banking institution, Sir, there the directors and the actual shareholders of the bank own hardly 2 to 3 per cent of the funds that go to form the working funds of the bank. Now more than 90 per cent of the funds that banks operate on accrue to the bank from the general depositors. Then again, Sir, there is the peculiar position of the banks. It is a few directors to the exclusion of the bulk of the shareholders, and then the huge majority of depositors. Now you are allowing an increased scope for the banking institutions to give more bonus shares, to distribute more bonus shares. We know that distribution of bonus shares in a particular banking company in this country was taken up, was found as something which was illegal. Now through this amendment you are legalising even that illegal act that was committed in the past, even before the amendment was |

I conceived. Therefore the very principle of allowing more scope for distribution of more profits is not correct. j After all, the profits accrue to the banking Company from the funds that are available to the banking company, and the overwhelming majority of funds comes from the depositors. Now I think banking institutions should not be allowed in this way to cash in I on other people's deposits. You are distributing profits to the directors and shareholders when the real people who have given you the profits, whose money has given you the profits are the overwhelming mass of depositors. Now on what principle, on what moral grounds does the Government come and say that banking companies must be allowed to distribute more profits? Obviously, deposits have increased in j the various banking companies during the last few years and therefore there is the temptation on the part of the banks, on the part of the directors and the shareholders to appropriate much of the profits that are accruing to themselves because more funds are available to them from more deposits. Now why do you want to encourage it? Moreover, there is another point. If the profits were not distributed in a banking company, they go to form the working funds of the bank. Therefore you will have more funds available at your disposal for developmental activity, for the investment activity of the banks. Therefore even from the point of view of ordinary business you need not allow this increased scope for distribution of profits, because no bank is suffering because of any curb on distribution of profits; every bank has improved its position during the last few years; the business of the banks has expanded and their profits have increased, even ordinarily. What is the underlying idea in allowing banking institutions to expand their scope for earning more profits, and for distributing the profits? They are not collapsing because of no provision of this type, and at the same time they have no moral authority, no moral claim on the profits so earned on—as I said—other people's money. So the distribution

m& profits and bonus shares and that with retrospective effect, Sir, is something which, I think, this House must not agree to. The hon. Minister for Revenue and Civil Expenditure who is so keen to get more money and also equally keen to spend less must be the first person to say that the earnings of the banks that have come to the banks in such a manner should not be spent away in distribution in the name of bonus shares and profits. Now I cannot understand, Sir, the basis for such an amendment. Particularly this amendment is coming when the demand is arising that the business policies of the banking companies are coming directly in clash with the objectives of the Plan; when you want more and more investment in the public sector, and when the banks want more and more money by speculative advances, there is a clash coming up. In fact, the demand of the situation is that you expand the public sector in banking whereas you want further expansion in private banking through these bonus shares to be distributed. Therefore, this provision is a very serious provision, and I humbly appeal to the House not to accept it, not to accede to it.

Then, Sir, you are providing for the winding up of a banking company. This is a very serious point. Sir, the Reserve Bank of India is in the picture when a particular banking company seeks permission to establish itself. Since you have got to promote banking, you have to give the licence. As such, the Reserve Bank of India has to satisfy itself that a banking company could be established. That is the first step. Then, every time the Reserve Bank of India inspects the banking concern. And, what do you do? You give so many advices to the banking concern. You point out its advances policy, you point out its recovery practice and you point out its entire business. Now, a banking company is statutorily bound to implement the advices of the Reserve Bank. What happens? These Inspection Reports of the Reserve Bank of India are

not made available to anybody excepting the Board of Directors; they know these Reports. They are not available to the shareholders who have got to discuss everything concerning what the Board of Directors have done in the Annual General Body meeting. They do not know what the Reserve Bank has advised. They have no basis to control their own Directors as to whether the advice of the Reserve Bank of India is being carried out or not, whether the Board of Directors is behaving properly according to the advice of the Reserve Bank of India. Suddenly one fine morning they are told that the bank is going into liquidation and, therefore, it should be wound up.

Now, Sir, the Reserve Bank of India and the Board of Directors were closed together all the time. The Inspection Reports of the Reserve Bank of India are made available to the Board of Directors who do not act according to the former's advice. For the acts of omissions and commissions of the Board of Directors you are victimizing all the shareholders, you are victimizing all the depositors. Therefore, you cannot say that you are not responsible for all that. You cannot say that the Reserve Bank of India, that you, are not responsible for the bad business of the bank. The Government cannot say that they are not responsible for that. And, Sir, this august House also, having passed all these Acts, cannot shirk this responsibility. So, Sir, the depositors and the share- holders shall have to be protected in all such circumstances. This is a very simple case. In such a situation why don't you accept the responsibility that, since these banks are not functioning according to the advice of the Reserve Bank of India you amalgamate these banks? You will have to accept certain responsibility. And that responsibility is that you cannot allow the employees to go to dogs. You cannot allow the depositors to lose their money. You cannot allow the shareholders to suffer just because the Board of

[Dr. R. B. Gour.] Directors have committed certain crimes. Such banks must be amalgamated. There should be no other course left. But, that is one thing that the Government resists—the question of amalgamation of these banks with the State Bank of India.

Why do they resist? the Government says that they cannot amalgamate all these banks though they are going into liquidation. This is the argument that we heard in the case of textile mills also. Mr. Kanungo told us that they cannot take over all these ramshackle mills. But in the interest of the society, in the interest of production you are now—at least from what I understand from the declarations and speeches of the Minister of Commerce and Industry—trying to take over some of the textile mills. So, certain imperative, social interests are compelling you to take to certain measures. Obviously, the number of banks which have been so seriously insolvent, as you concede in this particular amendment, will not be very large. The liabilities of such banks are not going to be very big. It is not difficult for the State Bank or the Reserve Bank—either separately or taken together—to absorb this shock, if at all it is called a shock. I have deposited my money in a particular bank because the Reserve Bank supervises this bank. If the Banking Companies Act is not there, if the supervision of the Reserve Bank is not there, obviously the depositors would not go to these banks.

DR. B. GOPALA REDDI: Even prior to 1949, when the Banking Companies Act came, there were deposits in various banks.

DR. R. B. GOUR: But today if you make your reports known, these depositors would not go to these banks. You are keeping them secret. Suppose the Bank of Hyderabad is on the verge of liquidation. I do not know that as a depositor. The shareholder does not know that. What is happening to your reports nobody knows. Nobody knows what your Inspection Reports are and whether they are implemented

by the Board of Directors, and one fine morning, like a bolt from the blue, it is announced that the bank is going to be wound up. You have to take the responsibility for such banks. How you do not accept the social responsibility in relation to these banks, I do not know. Therefore, Sir, our proposal has been that you must accept the question of amalgamation of such banks. You cannot allow >the employees, the shareholders and the depositors to suffer just because the Board of Directors have not implemented the relevant advices given by the Reserve Bank of India through its Inspection Reports. You will have to accept that responsibility because the Reserve Bank of India is your institution. It has certain moral obligation in relation to the functioning of the bank. Therefore, Sir, these three provisions are very specific and very serious ones and of a retrograde character.

There is another fourth provision in Clause 6 (i) (b). I do not know why that provision is introduced. It says:

"any commission to any broker (including guarantee broker), cashier contractor, clearing and forwarding agent . . ." etc. etc.

This is sought to be excluded in relation to the payment clause of the Banking Companies Act. Now, why is this institution of cashier-contractor being given a statutory recognition? Sir, so far as we in this House coming from the South are concerned, we have no such institution. Therefore, the very word sometimes may not be understandable to hon. Members coming from the south. In certain banks in northern India this obnoxious institution of cashier-contractor exists. Sir, if I am right, my friend, who is as ancient as this House itself, will tell us that such an institution probably existed in the banks of the East India Company. By "my friend" I mean Dr. Ramaswamy Mudaliar. My point is this. A particular businessman, who is working as a businessman, is considered a cashier-contractor. He

tells the bank: "I guarantee operational losses". So, the bank, just because this particular businessman guarantees operational losses, undertakes to employ in the Cash Department employees of his choice.

What is the practice? Suppose there is an operational loss. Now, whether the institution of cashier-contractor is there or not operational losses may be there. And wherever there is an operational loss H is recovered from the employees of the Cash Department, whether the cashier-contractor is there or not. Now, when this is the practice why do you want this middleman, "Mr. Businessman", to be a cashier-contractor? Just to guarantee operational loss when the loss is actually recovered from the employees! In practice this institution is playing certain havoc. And what is that havoc? Firstly, because he is the cashier-contractor and because the employees of his choice have been employed by the bank, he has got full control both over the employees and the advances policy of the bank. He has got influence over the bank; he has got influence over the Board of Directors of the bank. Now, Sir, this influence works in a particular manner. Firstly, I am told that he charges or there may be some temptation to charge bribes for giving employment in the cash department of a particular bank. Then do not forget that the godown-keeper has also to be a nominee of the cashier-contractor, and once a godown-keeper is under his thumb, he can play havoc with his godown. He can take away the material without paying the necessary advance and then come and replace it. So, Sir, actually the institution of cashier-contractor is playing havoc. It is an institution which will encourage and is, in fact, encouraging corruption. Nobody wants this institution. Now, Sir, the only thing for which the bankers want this cashier-contractor is for guaranteeing operational losses, but in many banks this institution of cashier-contractor does not exist. Why then is this institution being given a sta-

tutory recognition? Therefore, Sir, the introduction of this cashier-contractor business in the Bill is another retrograde step that has been proposed here. Therefore, Sir, these four steps we vehemently oppose, and we want the House not to be carried away by the fact that it is a Communist Member who is raising all these points. Let the House judge these things on their merits and in the interest of the health of the banking institutions and also in the interest of the proper business of the banking companies.

True, Sir, there are certain provisions which are quite good, and I must congratulate the hon. Minister for those proposals being brought forward here. For example, today, Sir, the Reserve Bank will be empowered to inspect the branches of our banking companies abroad. Well, that is a good provision, although I know that there is a certain amount of opposition to it. I understand from the evidence—I think it is a published document . . .

DR. B. GOPALA REDDI: Yes, it is a published document.

DR. R. B. GOUR: The bankers think: that the Reserve Bank inspecting the branches of Indian Banks abroad will create an obstacle so far as the Indian depositors abroad are concerned. Their fear is and their apprehension is that the Indian depositors in foreign countries will not deposit their amounts in the branches there because the Reserve-Bank inspection might be intended to get information about their income and then charge them income-tax. Well, I cannot understand that. If that could be so simple, if from the bank accounts one could understand to what extent evasion, if any, has taken place, then it would be very simple to work out the actual amount of income-tax due to the exchequer, and we would never write off so many crores of rupees as arrears of income-tax. Within the country also, Sir, these Reserve Bank inspections go on. But I do not understand the inspections of our Reserve Bank having revealed any evasion of

[Dr. R. B. Gour.] income-tax. The bankers, in their memorandum, have complained that such an inspection of the Reserve Bank might create a serious problem for the branches of our banking companies there and the depositors may run away from the banks. In fact, Sir, it will be the other way round. Such an inspection by the Reserve Bank will further instil confidence in the depositors. An inspection by the Reserve Bank is held to see that a particular branch, even though it is not in India, is functioning properly and more and more deposits are attracted to the bank. The Reserve Bank inspection, in a way, is a blessing in disguise for the banks because that would, to that extent, increase the goodwill of the branch. Then, ; Sir, there is probably some apprehension among the bankers, which they have not put in, black and white, that certain dealings of theirs in foreign exchange might be caught if the Reserve Bank inspects these branches abroad. Now, Sir, if there are any such illegal dealings in foreign exchange, then everybody will agree that such dealings should not be allowed and they should be nipped in the bud and caught in time. I do not know if the Reserve Bank inspection will be so tight and all these things will be so good that we can prevent these illegal transactions in foreign exchange. If we can do it, I think that will be good in the interest of our country. Therefore, Sir, so far as that proposition is concerned, it is a welcome provision.

We have also made some provision for inspecting the branches of foreign banks operating in our country. That, I think, is good in the interest of our country, as also in the interest of the banking companies.

Then, Sir, there is some provision to enhance the penalty. Now you will see that the Joint Committee has taken the initiative in enhancing that penalty. That is also good, because we feel that to that extent it will prevent mischief from happening. Then there are other clauses to |

the effect that directors can be prevented from becoming directors for a period of five years or so, if the Reserve Bank so declares, because of their wrong dealings and because of the fraud that they play on the banking companies. Now these are all welcome provisions no doubt because such things have to be prevented in the larger interests of the banking institutions themselves. But at the same time, Sir, there are some provisions that have been included which, as I have pointed out, are of a retrograde character, particularly when more serious steps have got to be taken by the country and by the Government for bringing these institutions more and more under our control. When we speak of nationalisation, suddenly Shri Morarji gets up and says 'No nationalisation'. He has been saying that for a long time now. But for the purpose of capital investment and for the purpose of collecting more and more resources for our Plans some serious steps have got to be taken, especially in our developing economy. We have got to avoid speculative investments, because they are playing havoc with our economy. We know what the curbs of the Reserve Bank are. In spite of those curbs, Sir, speculative

advances are going on. Sir, the Second Five-Year Plan laid down that speculative advances would be prohibited, but the Reserve Bank has only restricted them, and the banks are trying to play havoc with the Reserve Bank's Circular. They are taking the advantage of certain loopholes in order to avoid even those few restrictions. Therefore, Sir, some kind of clash is taking place in regard to the policies of the Bank and those we, in the interest of our own country, want the banking companies to adopt. So, therefore, the alternative is to expand the State sector more and more. But what you have suggested is to give more and more scope for the distribution of their bonus shares, for increasing more and more profits and for distributing those profits. I, however,

Jeel that after the introduction of this cashier-contractor business in this Bill you cannot avoid any bank introducing this gentleman in a particular banking company, even though he does not exist now.

Well, Sir, these are my observations at this stage. While on the one hand, in the Banking Companies (Amendment) Bill, there are certain provisions which are of a very welcome nature, there are other provisions which are of a very retrograde character. We therefore suggest, and very humbly suggest, to the House, Sir, that this matter must be seriously taken up, and the Government should not be allowed to get away with these amendments and play havoc with the banking economy of our country.

3 P.M.

, SHRI ROHIT M. DAVE (Bombay): *Mr. Vice-Chairman*, the hon. Minister, while introducing the Bill, said that the scope of this Bill was very limited and that when we tried to discuss this Bill limited scope should be kept in mind. The limited scope of the Bill is denned in the Statement of Objects and Reasons which has been circulated with the Bill and in that it has been stated:

"It is now proposed, in the light of the experience gained in regard to the administration of the Act, to introduce some amend-"ments, mostly of a non-controversial nature, in order to facilitate the application and enforcement of the Act."

•We are further told:

"Opportunity has also been taken to clarify the position regarding the application of the Act to banking companies which have been prohibited from accepting fresh deposits and are in consequence not functioning normally."

JMR. DEPUTY CHAIRMAN in the Chair]

In the Statement of Objects and Reasons, the scope has been clearly

34 RSD—4

defined. I will therefore not go into the larger question of the policy which should be adopted with reference to the banking companies as such because perhaps the Government is still not quite clear in its mind regarding what they want to do with reference to our banking structure as such. There is no doubt that as one reads the reports of the Reserve Bank from year to year, one feels a sort of helplessness in spite of the fact that large powers have been given to the Reserve Bank to control our banking structure and there is a complaint, though made in cautious and therefore non-colourful language, that in spite of all the controls that the Reserve Bank is trying to impose on the banking structure, some of the loans and advances policies of the banks are not quite in keeping with the interest of the community and the development of our economy. As I said, however, this is a larger question and therefore I would not go into it but when the Government have brought certain amendments, at least with reference to the amendments that have been brought, some thought was necessary to see if some greater control over our banking structure was possible in terms of those amendments and if the amendments were conceived not only in terms of natural justice or in terms of the interest of the depositor but were also examined from the point of view of the interest of the community as a whole and in the interest of our developing economy. My contention is that in spite of the amendments which have been brought in this Bill—and the amendments which could have been examined from this stand point also—the Government are swayed to apply their mind regarding the possible social policy that might be executed or achieved as a result of these amendments. I would like to go with reference to some of the clauses in this Bill only from that point of view.

Firstly, on page 4 of the Bill certain provisions have been made re-

[Shri Rohit M. Dave.] regarding any person holding office anti certain restrictions regarding the persons who hold office in this way. As far as this particular amendment is concerned, the amendment, as it has emanated from the Joint Select Committee, is an improvement on the original amendment and an attempt has been made in this Bill regarding the appointment of the Directors and even ordinary directors and other officers with reference to their character, with reference to their other interests and with reference to their past history but when an amendment of this kind is brought before the Parliament, it was also necessary to lay down certain stricter conditions with reference to the powers of the Directors and the powers and functions of the Board of Directors; with reference to the control of the credit policy, loans and advances policy, of that particular bank so that it may be possible for the Reserve Bank to exercise a stricter control over this credit policy. Anyhow, as I have said, as far as this amendment has come from the Joint Select Committee, it is a definite improvement on the original proposal and to that extent it has been welcomed but it could have been improved still further.

Coming to page 6, there is clause 10. Here again I must admit that some improvement has been made in the Joint Select Committee and the original proposal has, to that extent, been modified but in spite of this modification this particular proposal remains objectionable from, among other things, the reasons which have already been advanced by my friend, Dr. Gour, but there are other more serious reasons and serious objections to this particular proposal. One of them is that when a particular bank is defying its portfolio of investment, it takes into consideration the law as it exists. Now the law is very strict and if the law definitely tells the banking companies that they will not be allowed to distribute any dividend or bonus shares as long as they have

not made adequate provision for the depreciation of their assets, while they are defying their portfolio of investment, they will take care to see that they would invest only in such scrips and in such securities as are not likely to depreciate to an extent whereby the declaration of dividends or issuing of the bonus shares might come to difficulties. But once this loophole is given and once the banking companies know that it will now be possible to declare dividends and issue bonus shares in spite of the fact that they have not made adequate provision for the depreciation of their assets and that they will only have to get this certificate of their auditors, that some provision has been made in this regard, they will not be so careful, they will not be so scrupulous, in their investment policy and they might enter into speculative investments, apart from speculative advances. This is a problem and a danger which has to be guarded against because when the Board of Directors of the banking companies are thinking in terms of their investments, they are naturally divided between two loyalties. On the one-hand they have to take care of the interests of the shareholders to attract investments in their companies and to see that these shareholders get adequate dividends and if possible, even bonus shares. On the other hand, Sir, it is also their responsibility to see that the interests of the depositors are properly safeguarded, and though it is not still recognised, the board of directors also ought to have the responsibility of seeing that their investment policy does not jar with the economic and social policy of the country as a whole. Even if the third consideration is for the time being kept aside, these two considerations themselves may become contradictory at the same time and the board of directors might be tempted to look to the interest of the shareholders more than to the interest of the deposit holders. In order to guard against that perhaps, the original Banking Companies Act had this provision that full depreciation!

should be allowed before any profit or bonus shares are declared.

Then again there is the question of the general depreciation policy of the company as such. It is now found that many companies and the private sector generally, when they want certain exemptions from the income-tax or when they want certain concessions in our direct taxes, always put up claims regarding the depreciations and reserves that they have to keep and these are larger and much taller than what are actually required. The result is that fictitiously one type of depreciation or one type of reserve is supposed to have been provided by the companies, including banking companies, while in actuality their reserves and depreciation reserves have an altogether different complexion. That type of fiction should also be avoided and that can only be done if depreciation is such as is adequate for the particular purpose and such as is conceived to be depreciation not only in our Company Law but also in our taxation. Jaw. It is therefore necessary that more than adequate allowance should be made with reference to the depreciation, especially because a banking company is carrying on business which requires a very high degree of liquidity. That high liquidity can be assured only if such adequate provisions are made. Otherwise, in times of emergency, in times of crisis, the banking company will find itself quite inadequate to the task or to meet the demands of its customers and in that case it will be very difficult for such banking companies to maintain their credit in the community as such. Therefore, even from the point of view of the banking companies themselves, they have to be guarded against the type of temptation to which they might be subjected, when a conflict arises between the interests of the shareholders and the interests of the deposit-holders.

Next on page 8 there is a further ' provision which says that certain j licences have to be given and with

reference to these licences also certain conditions are to be fulfilled. There it has been stated:

"that the company is or wiD be in a position to pay its present or future depositors in full as their claims accrue;"

Here again, the whole policy of giving licences is subjected only to the test of the interest of the depositors. This is one of the provisions which I had in mind when I said that at least when you bring forward a particular amendment, you should try to examine that amendment and if possible, make provisions in that amendment also for the social policy which is now the recognised policy not only of the Government but also of the country as a whole. That particular policy is to see that banks have not only to look to the interests of the depositors but also to the interest of the credit structure of the country as a whole. What generally happens is that normally every bank wants to establish its branches or head-office in areas where credit facilities are ample and the establishing of such new branches only results in a keener competition-It may be that the returns from the banking business in these areas is very large because commercial activities and industrial activities are going on in full swing there. But if the resources of every bank are going to be utilised only in establishing their branches and head-offices in such areas where these returns are very large, there is not going to be any social policy even of the kind that we have with reference to the textile industry, for instance. We do not allow new textile mills to be established in those areas where the textile industry is already strong. This is the declared policy and if that is so even in the case of an industry like the textile industry, I would most humbly submit that in the banking industry it should be more so and when licences are given, not only the interests of the depositors but also the interests of the community as a whole should be borne

LShri Rohit M. Dave.] in mind and it should be seen whether those areas which are not served by the banking institutions today can be served, of course keeping in view the interests of the depositors also and the interests of the shareholders also, Whether those areas can be served or not, that aspect should be kept in mind and in this particular amend- I ment that aspect should have been incorporated if the Government wanted to give localisation of the banking industry its due place in the policy of controlling the banking structure as a whole.

Lastly, Sir, on page 9 there is the question of permission and you find it stated:

"no banking company shall open a new place of business in India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India;"

The same argument applies with reference to this provision also because this also deals with the localisation of the branches and the localisation of banking concerns and if you bear in mind and take into account not only their past history not only the present capacity, but also the need of the community, they might perhaps serve our developing economy much better than otherwise.

There is then the question of winding up of banking companies. As far as this question is concerned, it has two aspects. On the one hand, if these companies are allowed to continue, then the interests of the depositors are at stake and it is certainly the responsibility of the Reserve Bank to see that once they come across a particular weakness in a particular banking concern, they try to protect the interests of the depositors as best as they can by asking for a winding up of the concern.

On the other hand, Sir, there is the question of the interest of the depositors 'in another sense and the interest of the community at large and there need not be any apology in saying that there is the interest of the employees also which are to be taken into account when such winding up proceedings are instituted. Sir, in another connection, the Labour Minister in one of the conferences to which the press was invited made a suggestion that whenever there is any winding up proceedings not only with reference to banking companies but in any company whatsoever, it should be the policy of the Government to see that the interests of maintaining employment and production are kept in view by the High Courts when they issue any orders. Sir, the present situation is that whenever there is any winding up proceedings, the High Courts only look to the interests of the creditors in the banking companies but side by side with the interests of the depositors, there is also the interests of the community. The employment potential has to be kept in view and production, both of commodities as well as of services, has to be kept in view. It may be all right for the Reserve Bank to say that winding up proceedings should start but once winding up proceedings start, the High Courts take into consideration only the interests of the creditors. It is very necessary that the interests of production, the interests of maintaining a particular service and the interests of employment should also be taken into consideration and whenever such orders are passed, they should be passed after taking into consideration all these relevant considerations and not just the interests of the creditors. We are told, Sir, that in the Company Law some change is being considered by the Government. Here actually an amendment has been proposed by the Government. Government had an opportunity of incorporating that policy at least as far as the banking companies are concerned. Here again it is a case in which the Government of India's various departments have their

own policy and have their own thinking. There is no co-ordination. Here j was a golden opportunity wherein the ideas of the Labour Minister could have been incorporated. If these ideas could have been incorporated in the j Bill and could have been given a trial, j we, would have had some experience j to guide us in regard to the general Company Law and this experience would be of immense help to us in properly denning and properly formulating the policy. That particular opportunity has been lost with the result that there is a possibility that if some banking companies do some wrong, the Reserve Bank would just go to the High Court and ask for winding up proceedings to be started. The High Court will take action and the winding up proceedings will take their own natural course and the result would be that the community will be deprived of the banking services which it enjoyed till that time. All these considerations, Sir, point to one fact and that is that whenever such amendments are brought in respect of Acts passed ten years earlier, a lot of consideration is necessary to be given to the matter. In this period naturally, our policy regarding the development of the economy generally, our credit policy and our economic policy have changed radically and if more thought and more consideration could have been given to the amendments from the various aspects mentioned by me, then perhaps we would have had a Bill more acceptable to the House and to the country.

Thank you, Sir.

SHRI P. D. HIMATSINGKA (West Bengal): I have heard with interest the speeches of my hon. friends, Dr. Gour and Mr. Dave, but I have tried to follow the differentiation they were trying to make, 'in the interests of the depositors' and 'in the interests of the shareholders in a bank' but I have not been able to follow the idea. Sir, in a bank, unless the interests of the depositors are protected, the interests of

the shareholders cannot be protected. After all, the shareholders can get any return only when the depositors' money is safe. Therefore, I have not been able to follow how the interests of the depositors can be in conflict with the interests of the shareholders. Unless the bank functions properly, unless money is invested properly and in safe securities, the interests of both will suffer—the interests of the depositors suffer certainly but the interests of the shareholders also will suffer because the shareholders can get back their money, not to speak of dividends, only when all the depositors have been paid in full. Therefore, I have not been able to follow how the interests of these two categories can be different or can be differentiated when legislating regarding the banks.

Similarly, in regard to winding up proceedings also, I have not been able to follow how the courts can look to anything else than the method whereby the assets that are available can be paid to the persons who are entitled thereto. A company generally goes into liquidation when the assets are not sufficient to meet the demands of the creditors in full and necessarily, if the creditors are not paid in full, the shareholders do not get anything. If there is something more, after the payment to the creditors, then only the shareholders come into the picture. Therefore, the High Courts, in such proceedings, have always to look to the interests of the persons who are entitled to payment by way of dividend or return of capital, how best the money can be realised and how best it can be distributed. No other interest can possibly come into the picture.

So far as the employees are concerned, they have their rights under the j Industrial Disputes Act and certainly j those rights—some of them at least—come before the other creditors and the shareholders. The Act provides the extent to which the rights of the employees come as a preferential debt and to that extent they get their,

[Shri P. D. Himatsingka.] money in preference to other persons, including the depositors. Therefore, I have not been able to follow the further change contemplated by my hon. friends regarding winding up proceedings. One thing that should be provided for winding up is speed winding up, cheap winding up. That has been done by the amendment introduced prior to this Bill whereby a separate court liquidator, as he is now called, has been appointed in almost all the presidency towns or in the towns where there are many companies. The result of this has been rather good. Realisations have been expedited and dividends are being distributed. Therefore, I have not been able to follow the criticism that has been levelled against the present Bill.

So far as the powers of inspection of the Reserve Bank are concerned, they were ample before and they are ample even now. The Reserve Bank does inspect banks from time to time by sending its inspectors who look into every detail. They are entitled to ask for all the information that they want and they make a report. As a matter of fact, the complaint sometimes is that some of the inspectors ask for information which they are not entitled to and they try to find out why money has been advanced to A, B or C. Surely, Sir, the directors and the managers of the banks are in a better position to know as to whom money should be advanced. They certainly look to the interests of the bank and the depositors when they make these advances. In certain cases, it has been found that the inspecting officers rather go too far, not in the interests of the depositors or the shareholders, but sometimes they try to look into things which they are not entitled to or that they should not. That is the position so far as inspection is concerned and as a matter of fact when the Reserve Bank gives any direction on the basis of reports of their inspectors, the banks are bound to take steps. If they do not take steps the Reserve Bank's powers

are ample enough to force the banks to carry them out.

Sir, a clause has been introduced in the amending Bill giving powers to the Reserve Bank to ask for the removal of a director, managing director or other executives. Even when this power was not there, the Reserve Bank had been exercising such power indirectly. As a matter of fact, I know of cases where the Reserve Bank took action simply because one executive—an important executive of a bank—had the courage or the temerity to criticise some of the policies of the Governor of the Reserve Bank. They took exception to that and indirectly forced the bank to chuck off that officer. Now that the power has been given expressly, I do not know how far that will be helpful because there is a general complaint that more and more powers are being given to officers and they are being misused. In clause 6 this power is expressly sought to be given and it is very likely to be misused because after all, it is not the hon. Minister who will be exercising this power. This power will be exercised by the Reserve Bank on the report of its inspector. The inspector may make a report and the Reserve Bank will be tempted to take action.

DR. R. B. GOUR: Don't worry. The directors will have particular pulls.

SHRI P. D. HIMATSINGKA: I know Dr. Gour's views and therefore I do not worry about what he says. The power is too excessive and to my mind is likely to give rise to unfair use thereof, unless . . .

DR. R. B. GOUR: Does the hon. Member mean that the crimes they are indulging in are fair?

SHRI P. D. HIMATSINGKA.... proper check is exercised. So far as crime is concerned, certainly if a person does something wrong, proper action should be taken and he should be given the highest penalty that is

provided under the law. If such a person is associated with any bank, I have no doubt that the other persons associated with that bank will see to it that such an undesirable person does not remain in that bank. So such a power to the Reserve Bank was not at all necessary. The Reserve Bank was exercising, can exercise and will be able to exercise such a power even if there were no express provisions of this nature because after all no bank can function without the co-operation and goodwill of the Reserve Bank. The Reserve Bank has such extensive powers at present that it can throttle any bank which is not willing to fall in line with the wishes or the directions of the Reserve Bank. Therefore so far as this power is concerned, I feel that there might be a lot of difficulty but now that it has been passed by the Lok Sabha, I do not think the hon. Minister is going to whittle it down or to amend it.

So far as the other amendments are concerned, I think they are in the right direction and the powers that are sought to be given are very necessary.

DR. B. GOPALA REDDI: Sir, I am glad that opposite views have been expressed on this amending Bill.

DR. R. B. GOUR: You are glad about it?

DR. B. GOPALA REDDI: I am also glad that Dr. Gour is pursuing his points both in the Select Committee and also on the floor of the House. Sir, he has not said anything new which has not been canvassed in the Joint Select Committee. These points were discussed threadbare, were given due consideration and in consultation with the officers of the Reserve Bank who were also present the matter was thrashed out and the preponderant opinion in the Joint Select Committee was what is embodied in the Bill before us. Further, he has appended a minute of dissent which has been

published and that again has been examined by the Secretariat. Every point that he has raised in the minute of dissent has been discussed again and after all these things I am unable to see how I can accept his viewpoint. After all, he is entitled to his view but the Government which has a greater responsibility than a Member of the House or a member of the Joint Select Committee must also pursue its own policy. Therefore all the four points that were raised which he termed as retrograde and reactionary, certainly are not reactionary; they are necessary and as I said the Reserve Bank which is operating the Act with all its experience of ten years of banking administration feels that these provisions are absolutely necessary.

And speaking on this occasion, I do not think that the Reserve Bank has abused its powers. There is no reason to believe that the Reserve Bank has exercised the powers in a very arbitrary manner or in a very discriminatory manner; even with regard to the power of removal of the chairman, director or managing director, I am sure it will not be abused at all. The Reserve Bank, being the bankers' bank, is a very responsible institution and it will not take any decision light-heartedly without going into the pros and cons. Only on rare occasions when there is a conviction or an adjudication, they may come to the opinion that that person's continuance in the bank may not be in the interests of the banking institution.

DR. R. B. GOUR: Suppose they detect a particular fraud committed by a person in the course of their own inspection, will they not be entitled to take action against that person? I think they will be. Suppose in the course of its own inspection the Reserve Bank comes to know that a particular director has committed a fraud—I hope he need not necessarily be convicted by a tribunal or a court—will it not be open to the Reserve Bank to take such action?

DR. B. GOPALA REDDI: They have many powers under section 35 and the powers are wide enough. And now also they are being given more powers, that is, when there is a conviction or an adjudication and if the Reserve Bank feels that the continuance of a person is undesirable in the interests of the banking institution, then they will want to take action. I do not think they had this power previously. They wanted this power and that is being given to them. And I can assure my friend, Mr. Himatsingka, that the powers will not be abused. On the other hand, this has been welcomed by Members like Dr. Gour and also by members of the Select Committee.

With regard to enabling the director to be a director of some other company, it is the desire of the Indian Banks Association. It is on their representation that this enabling provision is being made. I do not think that the director's time will be taken up by being a director of other companies. We do want that concentration must be on the bank which he is serving but there may be occasions, as I said in my speech—it may be the Chamber of Commerce or it may be some bankers' associations,—when he may require exemptions and every time exemption has to be given. It cannot be an indefinite extension. Therefore in the interests of the various associations sometimes on rare occasions—it is not a usual thing—these directors may be permitted to be directors of chambers of commerce or bankers' associations and things like that. It is on their representation that this is being done.

With regard to dividends, this matter was considered at great length by the Joint Select Committee, and I must say that nothing new is being done. There were certain ambiguities in this connection and those ambiguities are now being made quite clear as to whether in certain circumstances they could declare dividends or not. I

We have also seen the banking policy in the United Kingdom. Where there is no actual sale of securities, there is no capitalisation of those losses. They do not make provision for such losses. When there is a loss, of course, they will make provision. Simply because the market is down, every time before they declare a dividend they must be calculating all the losses on all the shares and adequate provision must be made, is a thing which is not necessary. If it is done, it may be a good thing.

We have seen the banking policy in other countries also. Where there is a sale and if there is a loss, they must make provision. But where there is no sale and if it is some other share and some other stock, then the auditor must be satisfied as to whether adequate provision has been made or not. His own auditor—he is a responsible person—if he is making a false statement, there are other provisions under which he can be taken to task. And if his own auditor is satisfied that ample provision has been made, then we permit the bank to make the dividend. Otherwise, it will be impossible for a banking institution to be calculating every day the fluctuations in the share market every time and then say that national losses must be allowed for, must be provided for. It is putting too much of a stringent condition on the banks.

We are not making any liberal provision or anything of the sort. This is what is being done. We are regularising the present practice and we are also removing ambiguities in this direction.

Sir, Dr. Gour says that the Reserve Bank is associated with these banks and at every stage if there is anything going wrong somewhere, the Reserve Bank should take the full responsibility, and that the poor shareholders do not know anything. They elect the directors and thereafter they do not know what is obtaining in the bank. That is not the case . . .

DR. R. B. GOUR: They do not know what the Reserve Bank directors report to the directors.

DR. B. GOPALA REDDI: What the Reserve Bank says or what the other people say or what exactly is happening in the management, the shareholders do not know, according to him . . .

DR. R. B. GOUR: He is expanding it too much. I said that the shareholders are kept absolutely in the dark.

MR. DEPUTY CHAIRMAN: Order, order.

DR. B. GOPALA REDDI: It is the duty of the shareholders to elect the proper type of directors and they must trust them. They must give them full support as long as they are there as the representatives of the shareholders and they must take the prosperity or the vicissitudes of the bank according to the management of those elected directors. They elect the wrong type of directors and then begin complaining later on. Sir, we are living in the days of representative Government. The people also elect their own Government, their own representatives in the Parliament and Assemblies. And once they elect them they are not in the picture for five years. Likewise, the shareholders once they elect their directors do not come into the picture, in the day-to-day administration, until they meet in the general body meeting of shareholders, where they can take the directors to task. The other day I was listening to some speeches in the Industries Advisory Board, where it was said that the directors were taken to task very severely at the shareholders' meeting and they were sometimes afraid of attending the shareholders' meeting. It is not that all the shareholders are dumb animals or anything of that sort. They are all intelligent people. They know how their directors are functioning and they are expected

to elect the right type of directors. Once they are elected, they must give them full support and things like that. If there is anything going wrong, they can get the matter clarified at the general body meeting and, if necessary, take the directors to task. To say that all the reports of the Reserve Bank should be made available to all the shareholders or to the general body and all that, may not be necessary and it is not in the best interests of the banking institution itself.

Sir, when the amalgamation comes, after all the Reserve Bank will resort to liquidation only as a last resort. They will try to explore all avenues and see if they can save the institution. After all, it is not in anybody's interest, neither in the interest of the depositor nor the shareholder nor the general public. If a bank goes into liquidation, there will be a lot of misery coming out of it. So, they will try to explore all possibilities and if they can save the institution by any process, certainly they will try to help it. If there is nothing else and if further delay will only mean loss to the depositor and shareholder, then they must have the power to go to the court and ask for liquidation of the bank. So, only as a last resort will the Reserve Bank go in for it. We cannot blame the Reserve Bank, because it gave the licence, it had its annual inspection and it gave the annual reports. Why do you allow this deterioration in the matter of administration? All because they gave a licence, all because they have the inspection power, all because they have the power of directors, you cannot hold the Reserve Bank responsible for all the advances they make or for any maladministration which the bank got itself into. Therefore, the Reserve Bank cannot be blamed. If necessary, the Reserve Bank must have the power to go before the court and ask for liquidation.

Then, Sir, Dr. Gour was very vehement against these cashier-contractors. It is not as if we are now trying to give statutory recognition to.

[Dr. B. Gopala Reddi.] this institution of cashier-contractors. They are there. They have been employed by various banks and I am told that even the Reserve Bank, in certain places, has got these cashier-contractors. Therefore, we are not doing anything new. We are only re-cognising the institution as it is, taking facts as they are and certain payments are being permitted. In U.P. and Punjab, I am told that this cashier-contractor system is very much prevalent in certain places. Where there are no proper security measures, -where they cannot get proper people, they cannot give a paltry sum of Rs. 150 or Rs. 250 to certain local men. A man with stake, a man who has got some responsibility, some influence, is engaged on a commission basis and he takes the full responsibility for all the operational losses.

DR. R. B. GOUR: Does he pay the bank himself or does he recover it from the employee?

DR. B. GOPALA REDDI: Naturally all the losses cannot be recovered from these poor employees who have put in a deposit of Rs. 500 or Rs. 1000. Sometimes it may be that some big loss may occur and he may not collect all that amount from those people. Their deposit amount, their security amount will not be adequate to meet such losses. Therefore, where we cannot have highly paid officers to undertake all these responsibilities, in certain places they have this contractor system. There is nothing wrong, there is nothing fundamentally wrong in having a contractor. For every little thing we have a contractor. For the supply of paper, pencils, etc., for putting up buildings and things like that, we have contractors. Therefore, in certain places where the banks feel the necessity, we need not object to that system. If it is not there in South India, it is well and good. If it is there in the U.P. and Punjab, we need not decry it and then say this must be liquidated, all of a sudden, within twelve months. After all, cer-

tain practices may be continued if they are not detrimental to the social life of our country. Even about the cashier-contractors, this matter was again discussed at great length. There is not much point and Dr. Gour need not be agitated if his amendment is not likely to be accepted by the Government.

With regard to the social policy, after all there are so many factors which have to be taken into consideration. The Planning Commission, the Government and various Ministries are trying to evolve a co-ordinated policy with regard to our expansion. We are gaining experience from time to time and it is not true to say that there is no co-ordination among the Ministries with regard to these social policies, etc. With regard to branches also, the Reserve Bank has the power to prevent a bank from opening a branch in any particular place. But it cannot force a bank to open a branch where it does not want to open. Suppose it wants to open a branch in Bombay, the Reserve Bank can certainly say that there are so many banks functioning in Bombay and therefore there is no need for it to open a branch there. But they cannot go on saying, 'You better go on and open a branch in Kolhapur' Or some other remote place where the bank does not want to open a branch. After all, the Reserve Bank has got ample powers. Now, they are also gaining experience and all told within the last ten years, we have seen a great improvement in the banking institutions. If we only see what the position was, say, round about 1946 in Bengal and in some parts of South India and compare the position today, certainly all the banking institutions have improved their position and their reserve funds, and the Reserve Bank is exercising their salutary influence on the various banking institutions. And we cannot even localise these banks and say, 'All right. We give you this sphere. You operate only in this. Don't go beyond this.' All that will give them a little narrow-mindedness.

Now, after all the Punjab National Bank cannot go and open its branch in Madurai or Tinnevely. Likewise, the Indian Bank cannot open its branch anywhere in northern India. They must go and be able to compete in a wider field instead of localising every j bank. To say that all the Tamil Districts should be given to one Bank and all the Punjab Districts should be given to another bank, will give them a narrow view of things. Instead, they are permitted to do so, of course where there is a need, and the Reserve Bank will certainly scrutinise all their applications and permit them to open these branches.

The various points that have been raised have been covered, and I once again assure that the Reserve Bank will not abuse their powers which are being taken under this Bill—the power for removing directors and things like that. They will certainly see and take great care before they exercise these powers.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Banking Companies Act, 1949, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clauses 2 to 5 were added to the Bill.

Clause 6—Amendment of section 10

MR. DEPUTY CHAIRMAN: Some amendments have been sent by Dr. Gour. Is there any objection to his moving these amendments?

(No hon. Member dissented)

DR. R. B. GOUR: Sir, I move:

1. "That at page 3, line 24, the word 'cashier-contractor' be deleted".

2. "That at page 3—

(i) in line 28, the word 'or' be deleted; and

(ii) after line 28, the following further proviso be inserted, namely:—

"Provided further that the commission so granted in the case of cashier-contractor shall remain operative for only one year from the enforcement of the Act; or."

3. "That at page 3, lines 34 and 35 be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

DR. R. B. GOUR: Mr. Deputy Chairman, I have given close thought to what the hon. Minister has said just now about the institution of cashier-contractor. Now, of course, his thinking apparatus lies in the Secretariat and I do not have any such thinking apparatus apart from my body. He says that his Secretariat has given thought to it and that he has therefore rejected it.

DR. B. GOPALA REDDI: You are putting a narrow construction. It has been examined in the Secretariat; it has been put to the Minister; we have also considered it. That means, full consideration was given to it, not that merely the Secretariat rejected it.

DR. R. B. GOUR: But you have said so. This is what he has said even now. He is saying the same thing that the Secretariat has advised him that the amendment need not be accepted and he also, as a Minister, is satisfied on the points that have been examined by the Secretariat, that it need not be accepted. My point is that so far the cashier-contractor Aras existing. There was no premium on the commission that a cashier-contractor was receiving. But having introduced the cashier-contractor in his, you are giving a premium to the institution. You are giving it a statutory recognition. In spite of your

.Dr. R. B. Gour]. Banking Companies (Amendment) Bill, the cashier-contractor institution is there. It was a dying institution as such. Now here you are giving it statutory recognition. If your argument holds good, then I can also use the same argument and say, 'Why do you want to introduce them in this Bill? If they are there, let them be there and in course of time, if they vanish, let 'them vanish.' Introducing the system here would mean that some other bank might reintroduce it taking benefit 'of the fact that the Banking Companies Act provides for it. The point is, only the nominees of the cashier-contractor will be taken in by the cash department of the Bank. That is the practice, because he says, 'I will meet the operational losses.' And the return that he is getting is this. The godown keeper is his nominee. Therefore, that is opening the field for j corruption. Now take the employees. Their security of service, their employment itself, is at the sweet will of the cashier-contractor. A bank which has not got the cashier-contractor system in its operations today might introduce the system tomorrow and a bank employee today might become an employee of a contractor and will have handicaps as an . employee. Therefore, why do you want the cashier-contractor? Let him exist in the banks of Punjab and U.P. The non-existence of this gentleman in the Statute Book has not affected the existence of the system in U.P. and Punjab so long. Why do you want this to be introduced? Therefore, that is my point. That point is there and I do not think the hon. Minister's reply has satisfied either me or the House on that score.

Therefore, my second amendment is that, if you think it necessary that this gentleman should be there, then he will be there only for a year from the enforcement of the Act. If you think that for temporary reasons this system should be accepted, then some such thing should be there. Sir, this is the East India Company's system of what used to be called the 'bania system'. Why do you want to conti-

nue that system and recognise it? If you want it, then all right, accept my second amendment and in that case, he will be there only for a year from the date of enforcement of the Act.

DR. B. GOPALA REDDI: We have not had any complaints about the abuse of powers by the cashier-contractors either in the Press or from, anybody.

DR. R. B. GOUR: Because that man exists only in a very few cases; tomorrow there will be many.

DR. B. GOPALA REDDI: We have not had any complaint, and we do not see any reason why we should put a time limit to that after one year he will cease to exist. The banks want him and he is als'o there and no complaint has been received against him. I do not know why he should cry hoarse about this man who is taking some responsibility and incidentally he is getting some commission. He is certainly doing some responsible work, he takes a responsibility and therefore, I am unable to accept that amendment.

DR. R. B. GOUR: Sir, I beg to withdraw my amendment No. 1.

tAmendment (No. 1) was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 3—

(i) in line 28, the word 'or' be deleted; and

(ii) after line 28, the following further proviso be inserted, namely:—

'Provided further that the commission so granted in the case of cashier-contractor shall remain operative for only one year from the enforcement of the Act; or'."

The motion was negatived.

tFor text of amendment see col. 117-118 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 3, lines 34 and 35 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7 to 9 were added to the Bill.

Clause 10—Amendment of Section 15

MR. DEPUTY CHAIRMAN: Dr. Gour, your amendment No. 4 is negatived. It is out of order.

DR. R. B. GOUR: Is that a negative amendment? I can vote against the clause. But the intention of the amendment is that I want to speak on the clause.

Sir, clause 10 is about the bonus shares. I do not know why the hon. Minister has not met my arguments. At this point I must say that the hon. Minister was saying that we raised this question when the Bill was originally introduced in the House, that the matter was discussed in the Joint Select Committee and then the problem was raised in the minute of the report. Does he therefore by implication mean that we have no right to debate?

MR. B. GOPALA REDDI: It has been given due consideration.

MR. DEPUTY CHAIRMAN: Dr. Gour, if there are any new points, please state them it has been discussed and rediscussed.

4. 1959.

DR. R. B. GOUR: So long as this thing is not conceded, he will go on repeating for it.

MR. DEPUTY CHAIRMAN: Are there any new points?

DR. R. B. GOUR: That is the idea. Otherwise why? The point is that by this amendment here you are legalising all bonus shares, all the excess

profits that they want to appropriate.

Now why? After all, certain concessions about profits have to be given to any company if that company is not faring well, if that is a

sort of incentive for the operation of the business of that company. But

here no banking company has gone into liquidation because a certain incentive with regard to bonus shares and profits is not given to them. What

is the idea? Why was Government impelled to move this amendment? You know that a particular bank had distributed bonus shares and there was a big row over it. Now you are giving retrospective effect to a thing that had been done in the past, which was an illegal thing. In fact this amendment has been brought to ratify what a company could not do, what was not possible for a company to do under the original Banking Companies Act. Now as I told you, Sir, the board of directors and the shareholders of banking companies are being entitled, by this amendment, to take charge of extra profits arising out of a business that they have done on other people's money. As I have told you, more than 90 per cent or 95 per cent of the working funds of a bank come from the depositors, and in fact

the banking companies hold the small savings of the middle-class people,

who have them deposited in the bank. It is with this money that the bank is operating. I can understand the Government of India taking a certain amount of profit, because it is coming from the ordinary people's savings.

DR. B. GOPALA REDDI: We do.

DR. R. B. GOUR: What you are doing is that you pay interest to the banks when you hold certain of their

I deposits. What are you doing now? You are allowing the directors and

I shareholders, who have not brought the money, to appropriate more profits.

[Dr. R. B. GOUT.] There was no economic reason for bringing in such an amendment, not that the banks were collapsing and an incentive had to be given to prop them up. There is no moral ground for putting in such an amendment, because the directors are only operating on other people's money. Lastly, the money is not distributed. It will remain with the banks and will go to further enrich the working funds available with the banks. Why? What compelled you to bring in this amendment? That is the thing. That is why I Sir, I am very seriously opposed to this amendment and I would request the House to throw out this amendment whatever may be the whip.

DR. B. GOPALA REDDI: To throw out this amendment? Why? We are not giving any retrospective effect to anything done with regard to some banks or companies.

DR. R. B. GOUR: Read with clause 3 of the Bill.

DR. B. GOPALA REDDI: There was some little doubt in the interpretation of the old section and we are now making it clear; I mean, it is not as though we did something and now we are trying to give retrospective effect by this amending legislation. No. The matter was a little vague. There was an opinion that they could declare dividends under certain circumstances. There was another view, a legal view, that they could not do it, and things like that. Now we are making it clear, and here again we are only regularising the existing practice; nothing new. Now with regard to the issue of bonus shares and then the limitation of dividends and all that, you cannot unilaterally affect the banking institutions alone, and if it is done, it must be done for all shareholders' companies, for all public companies. Dr. Gour wants to make a distinction only in the case of banks, that they trade on other people's money, that the shareholders' money is only about 3 or 4 per cent and that the depositors' money is 97

per cent of the total working funds and that therefore the shareholders have no legitimate claim over the residuary profits, and things like that. I mean, this is a matter which raises very big issues, whether banks only deal with other people's money, whether there is not their share capital also, the prestige of the promoters and things like that. Does it not count for anything—but only the depositors who come and deposit the money for a little while, for six months or one year? They take their interest and they walk off. They have no further interest; there is no continuing interest for the depositors, whereas in the case of the shareholder he is the first victim if there is liquidation. After all, everybody else is protected, but not the shareholder. After all, the promoters' continuing interest and that of the shareholders are there. All these count. And then, the prestige of the bank is built up on the promoters and the shareholders. The depositor is only a casual man. He comes and walks off after a time. He is like a visitor to the Rajya Sabha or the Lok Sabha. And then, it is a general policy whether all these dividends must be limited, whether there should not be any bonus share anywhere; I mean, it is a matter which must be taken up when the company law itself is taken up, when the bigger issues are taken up. We cannot do anything for the banking institutions alone and discriminate against them. If we are doing it in a general way, well and good; otherwise it will be a sort of discrimination against the banking companies alone. Therefore, I am unable to accept his viewpoint.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill

Clauses 11 to 36 were added to the Bill.

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

DR. B. GOPALA REDDI: I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

DR. R. B. GOUR: Just a few remarks which you will please allow me to make.

SHRI P. D. HIMATSINGKA: Not repeating the same arguments.

DR. R. B. GOUR: I am not repeating the same. I only want to tell the House . . .

Mn. DEPUTY CHAIRMAN: Never vanquished.

DR. R. B. GOUR: No, Sir; we are a permanent House.

DR. B. GOPALA REDDI: No dissolution of this House.

DR. R. B. GOUR: Mr. Deputy Chairman, the hon. Minister has doggedly defended the cause of the vested interests in the banking companies during his remarks in the first reading, second reading and every time. He had some good words to assure my friend, Mr. Himatsingka, that the powers will not be misused. But he has no good words for all those people who will "literally go into liquidation if the bank is wound up, is not amalgamated with other banks, if all the steps that he proposes in the amending Bill are included in the statute. Sir, he very seriously insists that a director of a company established under section 25 of the Companies Act should be allowed to become a director of a banking company. Sir, you will kindly note that in section 53 of the Banking Companies Act, 1949, it gives the Government of India all powers to exempt any banking company from any or all the provisions

of the Act. Now he has felt and he has told the House that the hon., members of the Chamber of Commerce or the hon. members of the Institute of Bankers should not be brought under the axe of the original Act and they should be allowed to become directors of the banking companies. Even today I do not think that the leaders of the chamber of commerce cannot, in any case become directors of banking companies, or that the directors of banking companies, who are members of the chamber of commerce, have no right to become the office-bearers of the chamber of commerce. In fact they are. So, the present Act did not bar these gentlemen from becoming directors of banking companies. You could have used your powers under section 53 of the Banking Companies Act, 1949; you could have exempted banking companies from all of these things. But no. Why do you want a blanket provision that all the companies under section 25 of the company law must be given that protection? Therefore, there may be something fishy about it; there must be something more than innocent in it because you are giving wider powers. How do you think that a particular charitable-trust organised under section 25 of the company law in a particular State—take my own State—will function better because the director of that particular trust also becomes the director of a bank with which the moneys of that particular trust are deposited. Therefore, Sir, when those companies are actually doing business, investing money and drawing profits—and if at all there was any particular case—they should have thought of exempting them under section 53 of the original Act.

Sir, so far as the bonus shares and other things are concerned, the hon. Minister could not satisfy—of course, I can say—at least me. All those forces, which stand for more and more nationalisation of the banking industry in this country, which stand for more and more curbs over the private

LUR. K. B. Gour.]

sector trying to tinker with our financial resources, would bear with me that what the hon. Minister has told the House in defence of the amendments that he is proposing is surely not a path that would lead us to socialism much less help even in curbing the vested interests even to a certain extent. Therefore, at this stage I cannot say much, but I can only expect the hon. Minister and the Government of India to at least now utilise section 53 of the principal Act and see that directors of certain trusts at least, which are under fire, 'or directors about whose *bona fides* questions can be raised, are not allowed to become directors of banking companies. At least now, having strengthened yourself, having fortified yourself with this amendment, when you use section 53 of the principal Act you should see that this amendment, this provision is not misused to interlock charitable companies and banking companies. You may /exempt certain companies or trusts or banking companies from the operation of this provision.

Then, Sir, I would like to seek an assurance at this stage that if on all the four accounts that I have given, further developments point to the fact that the amendments that the Government has proposed are being misused by the banking authorities, in that case, Government would readily come forward and seek amendments in the direction that we suggest, because when I have been insisting that these provisions are of a retrograde character and might be made use of by vested interests in banking, I am justified in asking for an assurance from the Government that they would keep a vigilant eye on the operation of these amendments, and if matters are brought to light that these amendments are being misused and they have widened the scope for going away with extra profits, they will readily come forward with suitable amendments to these provisions.

I think, Sir, at this stage I can only seek the assurance that they would take us into confidence on the working of this amended Act and the way the banking companies and the directors and vested interests make use of the amendments.

DR. B. GOPALA REDDI: Sir, I do not know why Dr. Gour is persisting in his objection to a director becoming the director of a charitable trust when his experience would exercise a healthy influence on the trust itself, when he is willing to serve and when his association with it is not to the detriment of the bank itself. After all, it is a very innocuous thing, and it is not such a retrograde step as he imagines. Perhaps, evidently, he has some trusts in his mind and he does not want certain persons to be associated with them. Such cases are few and far between. Moreover, I do not know whether all the allegations against these trusts also are well-founded. We have not gone into the question. There are innumerable trusts—college trusts and hospital trusts and little local trusts—and the association of these directors here will be of great usefulness to the other institution. He won't spend much time there. Once in two or three months he attends the Directors' meeting. It would not work to the detriment of the bank in which he is working. Therefore, we need not take very serious objection to what has been done. The Reserve Bank will certainly keep an eye over that director, whether or not he is spending all his time in the institution from which he is drawing his salary and all that. Certainly, these things will be observed by the Reserve Bank and no abuse will ever take place. The hon. Member can ask questions with regard to various matters, with regard to the working of the banking institutions, and any information that is available with the Government will be readily supplied to him either in a letter or in the Question Hour.

MR. DEPUTY CHAIRMAN: The question is;

"That the Bill be passed." " The motion was adopted.

THE STATE BANK OF INDIA (SUB-SIDIARY BANKS) BILL, 1959

THE MINISTER OF REVENUE AND CIVIL EXPENDITURE (DR. B. GOPALA REDDI): Sir, I beg to move: —

"That the Bill to provide for the formation of certain Government or Government-associated banks as subsidiaries of the State Bank of India and for the constitution, management and control of the subsidiary banks so formed, and for matters connected therewith, or incidental thereto, as passed by the Lok Sabha be taken into consideration."

Sir, it is not necessary for me to make a long speech at this stage in the progress of this Bill. Hon. Members are already familiar with the history of the events leading up to this legislation and I do not, therefore, propose to cover that ground in any great detail. I shall merely remind the House very briefly of the objects which we have had in view in asking for Parliament's permission and authority to reconstitute the banks concerned.

Our approach to this problem has not been doctrinaire. We have not looked upon this question as one involving the nationalisation of the banks. * Certain practical difficulties have, however, arisen, because of the continuance of the unsatisfactory and somewhat anomalous arrangements in regard to these State-associated banks, and we feel that these anomalies should be removed and some degree of rationalisation should be attempted, in the interests of ensuring the rapid and orderly growth of banking facilities throughout the country.

34 R.S.D.—5.

One of the objectives which we have had in view is the introduction of uniform treasury arrangements in the areas which are now being served by these State-associated banks. Of the eight banks with which we are concerned in this Bill, only two, namely, the State Bank of Hyderabad and the Bank of Mysore, are now functioning as the agents of the Reserve Bank of India, for the purposes of handling the business of the Government treasuries and sub-treasuries, at places where the Reserve Bank of India does not itself maintain its offices. The other six banks discharge certain limited functions on behalf of the State Governments concerned, but strictly as a provisional and transitional arrangement. It has always been intended that these temporary arrangements should be brought to an end.

With the reconstitution of the eight Banks as proposed in this Bill, it will be possible to provide for the appointment of all these banks as treasury agents acting as such under the authority of the Reserve Bank and the State Bank of India; and it will be possible thereafter for a number of treasuries and sub-treasuries, which are departmentally-managed today, to be converted into banking treasuries and also for a number of additional currency chests and small coin depots to be established. From the point of view of the Central and the State Governments, this will be conducive to economy and efficiency in the handling of their numerous transactions.

From the point of view of the rest of the banking system as well as of the general public, the reconstitution of the banks concerned as subsidiaries of the State Bank and as treasury agents will mean that a variety of services, which are indispensable for the further growth of banking and the provision of greater credit, particularly to sectors to which credit is not available today, will be easily possible in future. Remittance facilities to the public and to co-operative and