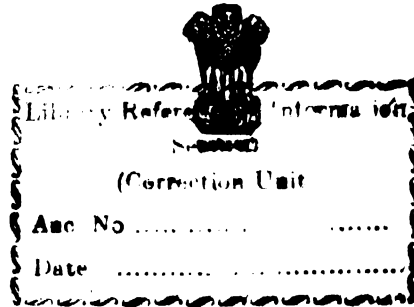


LOK SABHA

**THE INSURANCE (AMENDMENT)
BILL, 1968**

(Report of the Joint Committee)

[Presented on the 11th November, 1968]



**LOK SABHA SECRETARIAT
NEW DELHI**

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**JOINT/SELECT COMMITTEE REPORTS
PRESENTED TO LOK SABHA
DURING - 1968**

Sl. No.	Name	Presented
1.	Salary, Allowances and other Amenities to Members of Parliament - J.C. Report.	7.8.68
2.	Constitution (Amendment) Bill, 1967 By Shri Nath Pai, M.P. - Report J.C.	22.7.68
3.	- do- Statement	
4.	- do- Evidence	
5.	Banking Laws (Amendment) Bill, 1967 Report of Select Committee.	6.5.68
6.	-do- Evidence	
7.	Gold (Control) Bill, 1968 Report of Joint Committee.	13.8.68
8.	Insurance (Amendment) Bill, 1968 Report of the Joint Committee.	11.11.68
9.	-do- Evidence	
10.	Criminal and Election Laws (Amendment) Bill, 1968 - Report of Joint Committee.	2.12.68
11.	Union Territories (Separation of Judicial and Executive Functions) Bill, 1968 (Report of Joint Committee.	10.12.68

LOK SABHA

CORRIGENDA

to

THE REPORT OF THE JOINT COMMITTEE ON THE
INSURANCE (AMENDMENT) BILL, 1968

Report of the Joint Committee

1. Page (vi), line 31, for "insurances"
read "insurance"

Minutes of Dissent

2. Page (xix), line 27, for "without"
read "within"
3. Page (xix), line 37, for "allowd"
read "allowed"
4. Page (xxii), line 16, for "and"
read "an"

Bill as reported by Joint
Committee

5. Page 4, line 40, for "valid"
read "a valid"
6. Page 6, line 2, for "sing e"
read "single"
7. Page 12, lines 25 and 36, delete the
rule.
8. Page 12, line 41, for "(e), (g) and (h)"
read "(e), (g) and (h)"
in
9. Page 17, in marginal heading to clause 16,
Section 33A, for "staffs"
read "staff"

10. Page 25, in marginal heading for sub-section (9), for "1 of 1898"
read "5 of 1898"
11. Page 26, line 26, for "tht"
read "that"
12. Page 29, line 24, for "insure"
read "insurer"
13. Page 32, line 15, for "521"
read "52I"
14. Page 32, line 21, for "521"
read "52I"
15. Page 34, line 22, for "clause"
read "clauses"
16. Page 38, line 12, for "clause (b)"
read "clause (b),"
17. Page 58, add "amendment of section 97"
as marginal heading against Sec. 31.
18. Page 62, line 34, for "premium"
read "premiums"
19. Page 63, line 13, for "labilities"
read "liabilities"
20. Page 65, line 22, for "Shri K.R. Patil"
read "Shri G.R. Patil".
21. Page 69, line 16, for "Shri Ramavatarr Shastri"
read "Shri C.M. Kedaria".
22. Page 70, line 12, for "Ligislative"
read "Legislative"
23. Page 72, line 10, for "MEMBERS"
read "PRESENT".
24. Page 75, line 2, for "Members, Executive Committee
Overseas & Inland"
read "Member, Working Committee, All India
Insurance."
25. Page 89, line 7 from bottom for "this"
read "his".

New Delhi;
the 22nd November, 1968.

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**JOINT COMMITTEE ON THE INSURANCE (AMENDMENT)
BILL, 1968**

COMPOSITION OF THE JOINT COMMITTEE

Pandit D. N. Tiwary—Chairman

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri Shivajirao S. Deshmukh
4. Shri George Fernandes
5. Shri Bimalkanti Ghosh
6. Shri Humayun Kabir
7. Shri Ramavatar Shastri
8. Shri C. M. Kedaria
9. Shri S. S. Kothari
10. Chowdhry Brahm Perakash
11. Shri Jagannath Pahadia
12. Shri K. C. Pant
13. Shri Mrityunjay Prasad
14. Shri K. Rajaram
15. Shri Ram Charan
16. Shri P. Ramamurti
17. Shri V. Narasimha Rao
18. Shri R. Dasaratha Rama Reddy
19. Shri Beni Shanker Sharma
20. Shri N. K. Somani
21. Shri Balgovind Verma
22. Shri Morarji R. Desai

Rajya Sabha

23. Shri M. P. Bhargava
24. Shri Ram Niwas Mirdha
25. Shri Jairamdas Daulatram
26. Shri Sher Khan
27. Shrimati Vidyawati Chaturvedi
28. Chaudhary A. Mohammad
29. Dr. B. N. Antani
30. Shri K. Chandrasekharan
31. Shri Man Singh Varma
32. Shri K. P. Subramania Menon
33. Shri G. R. Patil

LEGISLATIVE COUNSEL

**Shri S. K. Maitra, Joint Secretary, and Legislative Counsel,
Ministry of Law.**

REPRESENTATIVES OF THE MINISTRY

1. **Shri P. Govindan Nair, Secretary, Ministry of Finance,
(Department of Revenue and Insurance).**
2. **Shri A. Rajagopalan, O.S.D. & Joint Secretary, Ministry
of Finance (Department of Revenue and Insurance).**
3. **Shri C. S. Anantapadmanabhan, Director (Insurance),
Ministry of Finance (Department of Revenue and In-
surance).**
4. **Dr. Raj K. Nigam, Deputy Secretary, Ministry of Finance
(Department of Revenue and Insurance).**

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

REPORT OF THE JOINT COMMITTEE

1. The Chairman of the Joint Committee to which the Bill* further to amend the Insurance Act, 1938 so as to provide for the extension of social control over insurers carrying on general insurance business and for matters connected therewith or incidental thereto and also to amend the Payment of Bonus Act, 1965, was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced on 8th April, 1968 in Lok Sabha. The motion for reference of the Bill to a Joint Committee was moved in Lok Sabha by Shri K. C. Pant, Minister of State in the Ministry of Finance on the 13th August, 1968 and was adopted on the same day. (Appendix—I)

3. Rajya Sabha discussed the motion on the 31st August, 1968 and concurred in the motion on the same day. (Appendix—II).

4. The message from Rajya Sabha was published in the Lok Sabha Bulletin, Part II, dated the 2nd September, 1968.

5. The Committee held five sittings in all.

6. The first sitting of the Committee was held on the 2nd September, 1968 to draw up their future programme of work. The Committee at this sitting decided to hear oral evidence from the Associations/individuals etc. desirous of presenting their views before the Committee and to issue a Press Communique inviting memoranda for the purpose. The Chairman was authorised to decide after examining the memoranda submitted by the Associations/individuals as to which of them should be called upon to give oral evidence before the Committee.

7. 26 memoranda|representations etc., on the Bill were received by the Committee from different Associations|individuals. (Appendix—III)

8. At their second and third sittings held on 25th and 26th October, 1968, the Committee heard the evidence given by nine associations (Appendix—IV)

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 8th April, 1968.

9. The Committee have decided that the evidence given before them should be printed and laid on the Tables of both the Houses *in extenso*.

10. The Committee considered the Bill clause-by-clause at their fourth sitting held on the 27th October, 1968.

11. The Committee considered and adopted the Report on the 8th November, 1968.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Clause 2.*—This clause has been amended to provide for the cancellation of registration of an insurer for the contravention of the provisions of section 64VA in the same manner as for other causes, and to bring the cancellation of registration made in pursuance of the provisions of section 33 within the scope of sub-section (5) of section 3.

14. *Clause 3.*—This clause, as it existed, proposed to increase the fee for the annual renewal of registration of insurers in order to meet the additional costs of the Controller's Office on account of the proposed new measures. In order to base the levy of fees on the gross premium written direct in India, so that the burden of the fees falls more equitably on all insurers, the clause has been amended and the words "including consideration for annuities, if any, less re-insurances", being redundant, have been deleted. Since insurers carrying on only re-insurance business do not have any direct premium, a proviso has also been added to the effect that in their case the renewal fee shall be based on the facultative re-insurance premiums accepted in India.

15. *Clause 4.*—Clause 4 of the Bill, as introduced, provides for the application of section 6A of the Insurance Act, 1938 to insurers carrying on general insurance business.

Sub-section (7) of Section 6A provides that where the total paid up holding of any person in the shares of an insurance company exceeds ten per cent of its paid up capital (or five per cent if the shareholder is a banking company or investment company) such person shall dispose of the excess holding within three years from the commencement of the Insurance (Amendment) Act, 1968 or such further period not exceeding two years as may be allowed to him by the Central Government. But in the present state of the Stock Exchange market it is extremely difficult to sell insurance

shares. In view of the restriction on voting rights imposed under sub-section (6), the Committee feel that there is no need to require the person to dispose of the excess shares held by him. The clause has, therefore, been amended to make it clear that sub-sections (7), (8) and (9) will not apply in the case of insurers carrying on general insurance business.

The explanation to section 6A makes a distinction between the holdings of a person in the shares of a public limited company and in the shares of a private limited company. The Committee feel that, after the enactment of that section, greater controls have been imposed on private limited companies and as such the distinction between the holdings in the shares of public and private companies need not be maintained. A new explanation has, therefore, been added to remove the distinction in its application to insurers carrying on general insurance business.

16. *Clause 6.*—The Committee feel that the increase of the deposit to rupees twenty lakhs in all cases would cause undue hardship to small insurers. Hence the clause has been so amended as to require a deposit of only ten lakhs of rupees in the case of insurers whose gross premium income does not exceed rupees one crore in any year. But where the gross premium income of an insurer exceeds rupees one crore for the first time, he would be required to make the deposit of an additional sum of rupees ten lakhs in addition to the balance of the deposit due from him. In view of the increase in the amount of the deposit, the time for making the deposit has been extended to five years. The Committee feel that the increased deposit is likely to entail considerable hardship to mutual aid associations which confine their activities to their own members. As in such cases the maximum amount of benefit that can be paid to a policy-holder in a year is likely to be small, it is not necessary to insist on a very high deposit. The clause has, therefore, been amended to reduce the amount of the deposit to a sum of not less than rupees 1½ lakhs in the case of mutual insurers carrying on only special classes of insurance business. Clause (c) of Explanation has been amended to clarify that Group working need be confined to business in India only.

It has been clarified in sub-section (IC) that an insurer who was a member of a group of insurers which has ceased to be a group, shall make up the full deposit as he would have had to make if he were an individual insurer unless he joins a new group within six months. A new sub-section (IE) has been added to permit insurers working as a group to have common officers which is at present prohibited by section 32A of the Act.

In the proposed sub-section (5) an addition has been made to enable registration for additional classes of insurance business so as to facilitate formation of groups.

Other amendments made in this clause are of a formal or consequential nature.

17. *Clause 11.*—Section 27A of the Act defines approved investments as investments which satisfy certain criteria of soundness, one of the criteria being dividend-paying record for at least five years or for at least five out of six or seven years immediately preceding.

Proposed Section 27B seeks to make the provisions of section 27A applicable to general insurance with necessary modifications. The Committee feel that the qualifying dividend-paying period for the purpose of judging and screening the investment by insurers carrying on general insurance business should be reduced since the investment of these funds is not exactly on the same footing as in the case of life insurance funds. References in section 27A to longer periods have, therefore, been reduced to three years immediately preceding or for at least three out of the four or five years immediately preceding.

Clause (m) of section 27A(1) of the Act relating to mortgages of immovable property stipulates that if the property mortgaged is lease-hold property, the outstanding term should not be less than 30 years. In view of the fact that mortgages by general insurance companies are usually of short durations, the Committee feel that mortgages on properties having lesser outstanding lease periods may also be permitted. Clause (m) of section 27A(1) of the Act, as applied by section 27B, to general insurers has been amended to reduce the period from thirty years to fifteen years.

In clause (a) of sub-section (1) of section 27B in the Bill, "(s)" is a mis-print for "(r)". This has been corrected.

In sub-section (3) the words "being a company" have been omitted, so as to make it clear that the sub-section applies to co-operative societies also. Clause (ii) under sub-section (3) requires the unanimous consent of all the directors present and eligible to vote, for making investments under that sub-section. The Committee feel that since it is difficult for the directors appointed by Government under section 34C to give their consent to any investment, the provisions with regard to the consent of all the directors need not be insisted upon and that the purpose of the provision would be served if a provision is made to the effect that any particular

investment may be made if it is not objected to by the directors appointed by the Government. This clause has, therefore, been suitably amended.

Sub-section (5) of the proposed section 27B restricts the investment in the shares of another company to ten per cent of its subscribed share capital but the proviso to this sub-section provides for exemption from this provision of any investment, made with the prior consent of the Controller by an insurer being a company with a view to forming a subsidiary company carrying on insurance business. In order to permit companies to form specialised insurance companies or to permit insurance companies to continue their investments already made in other insurance companies, the Committee feel that the proviso should be extended to exempt any investments made by an insurance company in the shares of another insurance company without the other insurance company necessarily being made a subsidiary, provided that the other insurance company is incorporated in India and is carrying on business in India. The proviso has, therefore, been suitably amended.

The proviso to sub-section (10) permits an insurer to exclude, while computing the assets kept in deposit with a banking company, the premiums collected by that insurer during the preceding thirty days. The Committee feel that the period of thirty days is too short and should be extended to sixty days. Further, in the day-to-day working of general insurance companies large amounts are to be occasionally paid into a bank for meeting claims liability. Also reinsurance recoveries of large amounts of claims are occasionally received and credited to the Bank account for short periods. Such operations might lead to breach of sub-section (10) and hence the Committee feel that suitable exemption for thirty days at a time should be given to meet such contingencies. The proviso has accordingly been suitably amended.

Insurers are occasionally required to pay very large amounts by way of claims without waiting for reinsurance recoveries and to meet such demands they may have to create a charge on the assets to avoid realisation of large investments at short notice. Further, some banks and finance corporations require maintenance of security deposits with a contingent charge in their favour before accepting policies of insurance companies. Sub-section (11) has, therefore, been extended to allow this to be done.

The other amendments made in the section are of a formal or consequential nature.

18. *Clause 16.*—Sub-section (2) of section 34E in the Bill, as introduced, has been made into a separate section (numbered as section 33A) so as to remove any possible doubt as to the power of the Central Government or the Controller to appoint staff for the scrutiny of returns etc.

The Committee feel that whenever the Controller proposes to issue a direction to an insurer in particular, such insurer should be given a reasonable opportunity of being heard. A proviso has accordingly been added to section 34.

The Committee feel that section 34A should cover only managing director, full-time director and principal officer, and no other officers because part-time directors are appointed and re-appointed in the routine course and it would not be practicable to take prior approval of the Controller in their cases. Further, power for Controller to approve appointment, re-appointment or termination of services of other officers might create practical difficulties.

The provisions of clauses (a) and (b) of sub-section (1) and the Explanation thereunder have, therefore, been amended to exclude reference to part-time directors and to secretary, accountant or underwriter. The reference to secretary, accountant or underwriter appearing in sub-section (3) of section 34A has also been omitted.

In sub-section (3) of section 34A, amendments have been made to clarify that the provisions apply to re-appointment also.

The Committee feel that the powers sought to be conferred by section 34B on the Controller should only extend to the removal of directors and chief executive officer and should not extend to other officers. Necessary amendments have accordingly been made.

Since a general provision for appeals has been made by clause 37, sub-section (3) of section 34B has been deleted.

An addition has been made in section 34C to bring the wording in line with that of section 34 by including the words 'public interest'.

Sub-section (2) of section 34E has been deleted consequent to the insertion of section 33A earlier.

Sub-section (2) of section 34G has been deleted consequent to the insertion, by clause 37, of a new section making general provision for appeal to the Central Government.

Section 34-H, has been amended so as to cover an investigation under section 33(1).

19. *Clause 17.*—The Committee are of the view that the burden of an insolvent company should not be imposed on solvent company so as to impair its solvency. It has, therefore, been provided that no scheme for amalgamation of an insurance company shall be made unless the insurance company with which it is proposed to be amalgamated has given its written consent to the proposal for such amalgamation. Hence a proviso has been added to the section to make the intention clear.

20. *Clause 18.*—Originally this clause sought to reduce the rate of agents' commission in respect of fire insurance business from a flat 15 per cent. of premium to 10 per cent. on the first Rs. 50,000 of premium on any single policy, 5 per cent. on the next Rs. 1,00,000 and nil thereafter.

The Committee feel that the rate of commission should be computed on a flat rate basis and not on a slab basis. Further, the Committee also feel that the agents' commission should be reduced to a flat five per cent. of the premium in respect of fire and marine insurance business and to ten per cent. of the premium in respect of miscellaneous insurance business.

The clause has been re-cast accordingly.

21. *Clause 19.*—Some non-Indian insurance companies operating in India control their general insurance business in the adjoining countries through their Indian offices. The Committee feel that it would be just and equitable to exclude expenses incurred in India in respect of business written in those countries from the computation of expenses of management of these companies for the purpose of section 40C.

The clause has been amended accordingly.

22. *Clause 22.*—Proposed sections 52H to 52M empower the Central Government to acquire the business of an insurer on payment of compensation. The proposed section 52J provides for payment of compensation direct to the shareholders of the acquired insurer. The Committee are of the view that where the insurance business of a company is acquired, there is no reason why the company should not have the right to transact other business. The compensation, according to the Committee should, therefore, be payable to the company and not to the shareholders. It would be for the shareholders of the company either to take the company into liquidation and thereafter to distribute the compensation or allow the company to continue some other business for their benefit.

Section 52 I and 52 J and the Eighth Schedule have, therefore, been suitably amended so as to provide for payment of compensation to the insurer instead of the shareholders.

Consequently, the Committee have also inserted a new section 52 N making a provision for dissolution of an insurer who has distributed the compensation to his shareholders.

The other amendments in the clause are consequential or verbal in character.

23. *Clause 29.—Proposed section 64UA.* In sub-clauses (c) and (d) of sub-section (1), the numbers of representatives of Indian and foreign insurers on the Advisory Committee have been changed to ten and four respectively so as to give proportionate representation on the Advisory Committee to Indian and foreign insurers on the basis of the volume of their direct business in India.

The amendments made in sub-section (2) brings the provision in line with clause (b) of sub-section (1) of this section.

*Proposed section 64 UB.—*Sub-section (3) of this section has been amended to clarify that the Advisory Committee and the Regional Committees could constitute sub-Committees.

*Proposed section 64 UC.—*Section 64UC relates to the power of the Tariff Advisory Committee to control and regulate the rates, advantages, terms and conditions that may be offered by the insurers. Proviso to sub-section (1) of that section vests powers in the Advisory Committee to permit, with the approval of the Central Government, any insurer to offer rates of premium different from those fixed by it. The Committee feel that the power to grant exemption from the tariffs should vest in the Controller and not in the Advisory Committee, since no Advisory Committee composed of representatives of insurers could be expected to concur, let alone advise, the Controller to grant any exemptions to other insurers. Further the exemption should cover not only the 'rates of premium' but also terms, advantages and conditions so as to be in line with the wording in other places in the Act.

The proviso to sub-section (1) has been amended accordingly.

The Committee desire that the method of punishment for breaches of tariff should be quick and that there should be provision for fines etc. and also a provision that an insurer should correct his rates etc. when called upon to do so and collect the required additional premium. The Committee, therefore, have added a proviso to sub-section (5) to the effect that if the insurer removes the contravention by recovery of the deficiency in the premium or if this is not practicable modifies or cancels the contract, the Controller may compound the offence on payment to the Advisory Committee of a fine decided by him in consultation with that Committee.

Proposed section 64 UD.—The amendment in sub-section (3) is verbal.

Proposed section 64 UE.—A clarification has been made in sub-section (2) to authorise officers of an insurer other than a principal officer also to certify information supplied to the Advisory Committee if the Advisory Committee has so agreed in advance.

Proposed section 64 UG.—The amendment made in sub-section (1) is verbal in character.

Proposed section 64 UJ.—Sub-section (2) of section 64 UJ provides that each Regional Committee shall consist of not more than seven persons elected by insurers carrying on general insurance business in the region. In order to give a broader base, this sub-section has been amended to provide that of the seven persons not more than five shall be elected by the insurers and not more than two shall be nominated by the Controller.

Since the Tariff Advisory Committee would frame regulations under section 64UB(3) for constituting sub-committees, it is not necessary to make provision for prescribing this by rules. Hence the words "in the prescribed manner" have been deleted.

Proposed section 64 UK.—Proposed section 64 UK, as introduced, empowered the Tariff Advisory Committee to levy such fees, not exceeding one-third of one per cent. of the premium income, net of re-insurances, of the insurer, as may be specified.

In order to distribute the burden more equitably on insurers it is desirable that the fees should relate to gross direct Indian premium. It is also felt that as is the practice at present, there should be differential fees for different classes of business so that equity can be preserved, but the upper limit of one-third of one per cent now provided for in the Bill would suffice only if uniform rates are fixed for all classes.

Sub-section (1) of this section has, therefore, been amended so as to base the fee on the gross direct premium written in India and to increase the maximum rate of fee from one third of one per cent to one per cent of the gross premium written direct in India and in the case of purely reinsures to one per cent of facultative reinsurances accepted in India inasmuch as purely reinsurers have no direct premium income.

The Tariff Committee and the Regional Committees have at present organisations for claim prevention and claim minimising such as cargo tracing, fire salvage operations, inspections of risks etc. for which special charges are levied. In order to enable the proposed

Tariff Advisory Committee and its Regional Committees to continue these services, the Committee have inserted a new sub-section, after sub-section (1), empowering the Advisory Committee to collect, in addition to the fees mentioned in sub-section (1), reasonable fees and charges to cover the cost of specific services rendered.

Proposed section 64 UM.—Section 64 UM as it originally existed provided for the preparation and maintenance by the Controller, of a list of approved surveyors and loss assessors. The Committee feel that it would be better to have a system of licensing for surveyors and loss assessors. The sub-section has, therefore, been substituted by a new sub-section which provides for the issue and renewal of licences by the Controller on payment of fees. The proposed sub-section also specifies the qualifications to be possessed by the applicants and further provides for incidental matters including provision for cancellation of the licence in certain circumstances.

In sub-section (2) it has been clarified that only losses which occur in India are covered by that sub-section.

A proviso has been added to sub-section (2) to clarify that the right of an insurer to pay or settle a claim at a figure considered by him to be appropriate is not taken away or abridged.

Sub-section (5) has been deleted consequential to the proposed amendment to clause 37 whereby a new section to make a general provision for appeal is proposed to be added.

Two new sub-sections [sub-section (6) & sub-section (10)] have been added to the section. The first one would enable an insurer to employ a person other than an approved surveyor or loss assessor if the cost of employment of an approved surveyor or loss assessor would be disproportionate to the amount of the claim. The second is to empower the Central Government to notify the categories of claims (where it is not customary or practicable to appoint professional surveyors or loss assessors) to which the provisions of section 64 UM shall not apply.

Sub-sections (7) and (8) of section 64 VA in the Bill have been converted into a new section, namely, 64-V, with a few verbal changes. The Explanation under sub-section (7) has been reworded.

Section 64VA.—In view of the reduction which has been made by the Committee in the amount of the deposit which is required to be made by smaller insurers, the minimum solvency margin of rupees twenty lakhs has been reduced to five lakhs of rupees for cooperative societies and ten lakhs for other insurers. Further, since with a solvency margin requirement of 20 per cent of net premium, insurers

having a very large premium income would be deemed insolvent even though they are financially very strong, the solvency margin has been reduced to 10 per cent. on net premium income in excess of Rs. 5 crores.

Sub-section (3) of section 64VA has been deleted consequent to the insertion of provision for cancellation of registration under clause 2 of the Bill. In its place a new sub-section on the lines of sub-section (5) of section 28 of the Act has been inserted to empower the Controller to call for information to verify compliance with the provisions relating to solvency margin even as on any date at which the balance sheet of the Company is not available.

Sub-section (5) has been re-drafted in view of the change in the requirement with regard to minimum solvency margin. Further, three provisos have been added to sub-section (5) so as to make provision for the continuance of the business of the insurers on the cessation of a group and to allow time to the insurers to attain the required solvency margin.

Sub-section (6) has been amended to provide for the lower solvency margin being fixed in special cases by notification and not by rules. An amendment has also been made to bring the wording in line with a corresponding amendment under clause 6.

The other amendments in this clause are of a formal or consequential in nature.

24. *Clause 34.*—A printing error has been corrected.

25. *Clause 35.*—The clause has been amended with a view to providing that only whole-time Chairman and whole-time director and others mentioned in this section should be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

26. *Clause 36.*—A consequential amendment has been made.

27. *Clause 37.*—This clause, *inter alia* seeks to apply the main provisions of the amending Bill to the general insurances business carried on by the Life Insurance Corporation of India, State Governments or other Government Companies.

The following further sections of the Act have been made applicable to the Life Insurance Corporation of India, namely, section 3A (Renewal of Registration), section 40C (Limitation on expenses of management), section 44 A (Power to call for information as a corollary to application of section 40C), section 101A (Compulsory reinsurance with approved insurers), proposed new section 110D (Disallowing compensation for the operation of some of the newly

added provisions), proposed new sections 110G (Consultative Committee) and 110H (Appeal to the Central Government).

All the changes proposed in section 110E have also been made in section 110F relating to State Governments and in addition two further sections have been made applicable, namely, section 3 of the Act (relating to registration without which section 3A relating to renewal of registration will have no meaning) and section 40A which limits agents' commission.

The words 'the Central Government or' occurring in section 110F have been deleted so as to exclude schemes of insurance operated by the Central Government.

Since the Bill seeks to confer very wide powers on the Controller, the Committee feel that the Controller should, before exercising any power, consult a Consultative Committee. The Committee feel that the provision for consultation with a Consultative Committee would operate as an effective check on the arbitrary exercise of the powers by the Controller. Hence a new section, namely, section 110G has been inserted, providing for the constitution of a Consultative Committee and requiring the Controller to consult such Committee before exercising any of the powers conferred by the sections mentioned in the new section.

Since wide powers have been conferred on the Controller, the Committee feel that a general provision for appeal to the Central Government against the orders of the Controller should be provided. Hence a new section, namely, section 110H has been inserted.

28. *Clause 38.*—An amendment of a formal nature has been made.

29. *Clause 39.*—An addition has been made to clarify that the cost of employees exclusively employed on survey or loss assessment work should be debited to claims.

30. *Clause 40.*—The Committee feel that sub-para (i) in Part II of the Eighth Schedule which provides that in the case of policies in force, the total liabilities shall be taken at a figure not less than 50 per cent. of the premiums, less reinsurances received during the preceding twelve months is not specific and have, therefore, substituted a new sub-para specifying the method of computation as specified in the Seventh Schedule of the Act in connection with liquidation.

The other amendments to this clause are of a formal or consequential in nature.

31. During the course of discussion of clause 14 an assurance was given by the Government that clauses 14 and 41 would not be brought into force until the Payment of Bonus Act, 1965 was suitably amended in relation to the employees of the insurance companies carrying on general insurance business.

32. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
8th November, 1968.

D. N. TIWARY,
Chairman,
Joint Committee.

MINUTES OF DISSENT

I

I have only two comments to make on the report.

(1) In Clause 6, sub-clause (a) & (b), (lines 10 & 15 of page 4 of the Bill, as reported) wherever the words 'gross premium' occur these may be substituted by the words 'net premium' and consequential amendments may be carried out wherever necessary. The reason for my suggesting this is that many large insurance companies when they re-insure, get re-insurance in return so that the gross premium remains practically unaltered. In the case of smaller companies, the income from the re-insurance is often less than the amount they pay for re-insuring their business. This clause as it stands will not therefore give to smaller insurance companies the relief intended by its enactment.

(2) In clause 37 of the Bill, [proposed section 110-G (1), page 60 of the Bill as reported], it is proposed to constitute a Consultative Committee with the Controller as the Chairman. The Controller has extensive powers, and in any case, the Consultative Committee must pay a great deal of attention to his advice. If he is the Chairman, his position becomes so strong that the Consultative Committee may be reduced to a mere rubber stamp to endorse his views. The analogy with a Select Committee of the Parliament is very relevant in this context. The Minister-in-charge of a Bill is a member of the Select Committee and his views generally prevail. Nevertheless, the Chairman of the Select Committee is invariably a private member which enables other members to make a more constructive contribution to the discussions. For similar reasons the Controller should be a member of the Consultative Committee but not its Chairman. A non-official member elected by the Committee, or even nominated by the Government, would make the discussions more free and beneficial. Subject to these two observations I agree with the report of the Joint Committee.

HUMAYUN KABIR.

NEW DELHI;

8th November, 1968.

(xviii)

II

I feel myself in duty bound to add this note of dissent.

2. The Insurance Act is a pre-Constitution enactment and has already been subjected to 19 amendments, out of which 9 are after the Constitution came into force. Life Insurance has been taken over by the L.I.C. under the L.I.C. Act. There is also a department of general insurance worked by the L.I.C. Under such circumstances general insurance covering fire, marine, motor and other miscellaneous items could have been brought under a general insurance corporation and a specific legislation enacted for the purpose.

3. The objective of social control over general insurance business in the private sector is not likely to be achieved in any fair measure by the implementation of the provisions of this Bill as reported by the Joint Committee. In the actual working of the proposed provisions and the implementation of the provisions relating to restrictions and control there are likely to be many practical difficulties and impediments. The Advisory Committee is not likely to be of any effective worth. The Controller even if he chooses to exercise some of his powers is likely to be very much hampered in his work particularly on account of stay orders that are likely to be issued on Writ Petitions impugning the validity of the Controller's actions.

4. Evidence was taken on the 25th and 26th October, 1968. Government amendments had already been prepared and circulated by that time. On the 27th October the Joint Committee rushed through the examination of the provisions of the Bill and the amendments circulated by Government. The feeling is inescapable that there has been a certain amount of unrealistic, irrational and hurried approach in the finalising of matters. I am not sure without myself as to whether the Committee could or did at all seriously consider the evidence that it permitted to be adduced before itself.

5. The transactions of general insurance done by the L.I.C., general insurance done by mutual concerns and by Co-operative concerns and by organisations in the private sector including foreign-owned and over-seas located companies have all been treated on the same par under the Insurance Act and in the proposed amending Bill. While general insurance done by any agency should be treated in similar manner, it has to be noticed that in the case of over-seas located Companies, large amounts of profits are allowed to be ploughed out of the country. This is a drain for the nation. The headquarters of all these over-seas Companies operating in this country in the sector of general insurance are located outside this

country. All the members of the Board of Directors of such Companies are foreign personnel. The general body meetings are always held in the headquarters country, so that there is no possibility of any Indian policy-holder or member being enabled to participate in the general body meetings which usually elect Directors, etc. The large amount of profits of these over-seas companies are practically entirely due to the insurance facilities afforded being resorted to by Indian nationals. Under such circumstances special provisions appear necessary in regard to over-seas companies whether they be mutual or general.

6. Certain restrictions and disqualifications in regard to agents could be thought of for being incorporated in the statute. No relation or friend or ex-employee of Directors and of top executives of insurance companies should be appointed as agents.

K. CHANDRASEKHARAN.

NEW DELHI;
8th November, 1968.

III

For several years now there has been a persistent demand voiced by several sections of our people for nationalisation of general insurance in the country. The demand has found support in the ranks of the Government party too, and the All India Congress Committee had formally endorsed it. The present amendment Bill is the result of all this pressure built up in the country to nationalise this vital sector of our economy. However, in my view, the Bill now proposed does not in any way meet the aspirations of the people or of the employees of the insurance companies. This Bill will not even be able to curb the many corrupt practices in which most general insurance companies indulge in, and to which pointed reference has been made by the Finance Ministers and other Government spokesmen in Parliament and outside. At best, the Bill gives a new lease of life to these general insurance companies to continue with their undesirable activities.

2. In my view, it is necessary in public interest to immediately nationalise the general insurance business, though whether the co-operative sector could be exempted from the scope of nationalisation is a matter for further debate.

GEORGE FERNANDES.

NEW DELHI;
8th November, 1968.

IV

I regret to have to append the following Minute of Dissent to the report of the Joint Committee of Parliament on the Insurance (Amendment) Bill, 1968.

2. I cannot agree with the majority of the Committee whose views according to me will not further the aim of expanding the general insurance business in our country.

3. The Bill was introduced with an objective to rectify many ills prevalent in the Industry. But I am sorry to say that this objective will not be achieved by the present Bill. On the contrary it will hamper the growth and expansion of business in the country in general and the rural areas in particular.

4. The Bill has provided top heavy administration by giving the Controller unlimited powers. He can do whatever he likes. He will always be at the service of the vested interest and the money sharks. He can't do any justice to the insured persons.

5. The Bill has not provided any curb on the non-Indian Insurance Companies with regard to the profits which they take away to their countries. By this way they are draining away our wealth to the foreign countries.

6. In my opinion the only panacea of all ills prevalent in the general insurance industry is to nationalise it without any further delay. It will check hoarding of black money, malpractices, dishonest behaviour by the employees etc.

7. Nationalisation of the general insurance industry has become the national issue. Only the money sharks and their stooges are opposing this all-pervading demand. To oppose nationalisation means surrendering the interests of the common man to those of the monopolists and vested interests.

8. It may be recalled that the author of the Bill Shri Morarji Desai, Deputy Prime Minister and Finance Minister, who was also the Finance Minister at that time made a statement on the floor of the Parliament some time in the year 1962 that the question of nationalising general insurance business was under active consideration of the Government of India and that in case the private insurers continued to behave in the fashion they were then doing the Government would not hesitate to nationalise the business. The Congress Working Committee which is the parent organisation of Shri Morarji

(contd)

Bhai also passed a resolution on 12th May, 1967 recommending to the government of India to work out a scheme to bring general insurance under public sector. This resolution of the Congress Working Committee for the first time raised hopes in the minds of the Indian people including the general insurance employees that their cherished goal may now be achieved in the near future. But the present Bill moved by Shri Desai has belied all hopes of the Indian people and has strengthened the stranglehold of the monopolists over this sector of business.

9. It is only after nationalisation, life insurance has been spread in all the corners of the country. The private sector could not even dream of entering the areas where L.I.C. is now doing substantial business.

10. The industry being operated by the private insurers is allowing a drain of huge amount of foreign exchange every year. This creates and adverse impact on the balance of payments of our country.

11. I am convinced that by this Bill we can't achieve our objective. No amount of control or regulation would be able to eliminate the existing malpractices in the industry. The only way open is to nationalise the entire General Insurance industry and to set up a separate Corporation for the purpose.

RAMAVATAR SHASTRI.

NEW DELHI;

9th November, 1968.

▼

The main object as given out in the preamble of the Bill is to provide for the extension of Social Control over Insurers carrying on general insurance business and for matters connected therewith or incidental thereto. But, nowhere, either in this Bill or in any other enactment "SOCIAL CONTROL" has been properly defined. The concept of "Social Control" as such is still in a nebulous state and in practice works out nothing more than extension of bureaucratic control, the results whereof have not been very happy as yet. In our opinion "Social Control" should not be bracketted with "bureaucratic control".

While on one hand we are talking against concentration of economic power in single hands, on the other hand we are promoting such measures which would go a great way in concentrating the economic power in single individuals or group of individuals which is against all democratic principles. In the original Bill, immense, alarmingly wide and sweeping powers were given to the Controller of Insurance and we have no hesitation in stating that such absolute powers would have degenerated any man in that office until and unless he was a man of exceptionally high moral character, which we are constrained to observe is a rarity in the present set up of things.

We are, therefore, glad that the Deputy Prime Minister has been good enough to accept many of our suggestions in this regard specially the concept of an Advisory Board which is designed to guide and advise the Controller in important matters. But we are sorry to note that in section 110-G(1) instead of Advisory Board, a Consultative Committee has been visualised, the Chairman whereof will be the Controller himself. In advocating the idea of an Advisory Board our intention was that the powers designed to control the business should be institutionalised and not vested in any one officer. In other words, the Board should be a powerful independent body consisting of men of high integrity both from the Government and the trade which would guide the Controller in all important matters relating to the insurance trade quite independently. But what sort of advice and guidance a Consultative Committee could give to the Controller,

who himself happens to be its Chairman. We would therefore suggest that instead of giving this body the nomenclature of "Consultative Committee", it should be called an "Advisory Board of Insurance Trade", the Chairman whereof should not be the Controller. Of course, the Controller could and should be a member of the same. We hope the Government will see its way in accepting this proposal which will make the execution of the Act more equitable and just.

We are glad that in accepting our proposal for reduction of the Statutory deposit and Solvency Margin, the Government has removed from public mind the anticipated apprehension that in keeping the limit of statutory deposit and solvency margin at such a high figure, they were indirectly going to perpetuate the control of capitalists over the Industry and were squeezing out the small scale operators. However, the said deposit and margin should be related to "NET" premium rather than "GROSS" premium income of the insurers as there is a gulf of difference between the two.

NEW DELHI;
9th November, 1968.

BENI SHANKER SHARMA
MAN SINGH VARMA

VI

This Bill will not prevent the diversion of funds and the various misuses prevalent in the general insurance business. I am firmly of the opinion that only nationalisation of general insurance will be able to prevent these abuses and enable proper investment of the funds made available through the premium.

NEW DELHI;
9th November, 1968.

P. RAMAMURTI

THE INSURANCE (AMENDMENT) BILL, 1968

(AS REPORTED BY THE JOINT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

A

BILL

further to amend the Insurance Act, 1938, so as to provide for the extension of social control over insurers carrying on general insurance business and for matters connected therewith or incidental thereto, and also to amend the Payment of Bonus Act, 1965.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Insurance (Amendment) Act, 1968. Short title and commencement.
- 5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for different provisions of this Act.

Amend-
ment of
section 3.

2. In section 3 of the Insurance Act, 1938 (hereinafter referred to as the principal Act),— * * * 4 of 1938.

(a) in sub-section (4),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or”;

(ii) in clause (d), the words “a class of” shall be omitted;

(iii) after clause (e), the following shall be inserted, namely:—

“or

(ee) if the Central Government so directs under sub-section (4) of section 33,”;

(b) in sub-section (5),—

(i) after the word, brackets and letter “clause (a),”, the word, brackets and letters “clause (aa),” shall be inserted;

(ii) after the word, brackets and letter “clause (e),”, the word, brackets and letters “clause (ee),” shall be inserted;

(c) in sub-section (5C),—

(i) after the word, brackets and letter “clause (a),”, the word, brackets and letters “clause (aa),” shall be inserted;

(ii) after the words and figures “or section 98”, the words, figures and letters “or complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities” shall be inserted.

Amend-
ment of
section 3A.

3. In section 3A of the principal Act, in sub-section (2), for the words “which shall not exceed one thousand rupees for each class of insurance business, but may vary according to the volume of business done by the insurer in India in each class of insurance business to which the registration relates”, the following shall be substituted, namely:—

“which may vary according to the total gross premium written direct in India, during the year preceding the year in which the application is required to be made under this section, * * * * *

by the insurer in the class of insurance business * * to which the registration relates but shall not—

(i) exceed one-fourth of one per cent. of such premium income,

(ii) be less, in any case, than five hundred rupees for each class of insurance business:

Provided that in the case of an insurer carrying on solely re-insurance business, the provisions of this sub-section shall apply with the modification that instead of the total gross premium written direct in India, the total premiums in respect of facultative re-insurances accepted by him in India shall be taken into account.”

4. In section 6A of the principal Act,—

(a) after sub-section (10), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 6A.

“(11) The provisions of this section, except those of sub-sections (7), (8) and (9), shall, on and from the commencement of the Insurance (Amendment) Act, 1968, also apply to insurers carrying on general insurance business subject to the following modifications, namely:—

(i) that references in sub-sections (1), (3), (5) and (6) to the Insurance (Amendment) Act, 1950, shall be construed as references to the Insurance (Amendment) Act, 1968; and

(ii) references in sub-section (10) to sub-sections (7) and (8) shall be omitted.”;

(b) the *Explanation* shall be re-numbered as *Explanation 1* thereof and, after *Explanation 1*, as so re-numbered, the following shall be inserted, namely:—

Explanation 2.—The provisions of *Explanation 1* shall, in their application, after the commencement of the Insurance (Amendment) Act, 1968, to insurers carrying on general insurance business, be subject to the modification that for sub-clauses (a) and (b) of clause (ii) thereof, the following shall be substituted, namely:—

“(a) by a company of which such person is a member holding more than ten per cent. of the paid-up share capital, or”.

Amend-
ment of
section
6B.

5. In section 6B of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The provisions of this section shall, on and from the commencement of the Insurance (Amendment) Act, 1968, also apply to insurers carrying on general insurance business.”

5

Amend-
ment of
section 7.

6. In section 7 of the principal Act,—

(a) in sub-section (1),—

(i) for clauses (a) to (i), the following clauses shall be substituted, namely:—

“(a) where his total gross premium written direct in India in respect of general insurance business in any calendar year commencing after the 31st day of December, 1967, did not exceed rupees one crore, a sum of rupees ten lakhs,

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(b) where his total gross premium written direct in India in respect of general insurance business during any calendar year referred to in clause (a) exceeded rupees one crore, a sum of rupees twenty lakhs:”;

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(ii) in the proviso, for the words “ten thousand rupees”, the words “one hundred thousand rupees” shall be substituted;

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(iii) after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that in respect of an insurer not having a share capital and carrying on only such insurance business as in the opinion of the Central Government is not carried on ordinarily by insurers under separate policies, the Central Government may, by notification in the Official Gazette, order that the provisions of this sub-section shall apply to such insurer with the modification that instead of the sum of rupees twenty lakhs or rupees ten lakhs, as the case may be, the deposit to be made by such insurer shall be such amount, being not less than one hundred and fifty thousand rupees, as may be specified in the said order.”;

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(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

‘(1A) (i) An insurer, who holds immediately before the commencement of the Insurance (Amendment) Act, 1968, a valid certificate of registration in respect of any class of

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insurance business and who has deposited and kept deposited a sum which is less than the sum required to be deposited under sub-section (1) may make deposit of the sum which is equal to the difference between the sum already deposited and kept deposited and the sum required to be deposited under sub-section (1), in not more than five instalments, of which—

(a) the first shall be not less than one-fifth of the said sum and shall be paid before the expiry of one year from such commencement,

(b) the second shall be not less than one-fourth of the balance left after making the deposit under clause (a) and shall be paid before the expiry of two years from such commencement,

(c) the third shall be not less than one-third of the balance left after making the deposit under clauses (a) and (b) and shall be paid before the expiry of three years from such commencement, *

(d) the fourth shall be not less than one-half of the residue and shall be paid before the expiry of four years from such commencement, and

(e) the balance shall be paid before the expiry of five years from such commencement.

(ii) An insurer referred to in clause (a) of sub-section (1), the total gross premium written direct by whom in India in any calendar year in respect of general insurance business exceeds for the first time rupees one crore, shall make deposit of the sum which is equal to the difference between the sum already deposited and kept deposited by him, as at the end of such calendar year, and the sum of rupees twenty lakhs, in not more than five equal annual instalments, the first of which shall be made on or before the 31st day of December of the year immediately following the year in which the total gross premium written direct by him in India exceeded rupees one crore, and nothing in clause (i) of this sub-section shall apply to such insurer after the end of the calendar year during which the gross premium written direct by him in India exceeded rupees one crore.

(1B) Notwithstanding anything contained in sub-section (1), it shall be sufficient compliance with the provisions of sub-section (1) in the case of a group of insurers operating in India as a group (hereafter in this Act referred to as a "group") if the total amount of the deposit

made by all the insurers in the group is not less than the amount which the group, if considered to be a single insurer, would have been required to deposit under sub-section (1):

Provided that the deposit made by each insurer in the group is not less than that proportion of the total deposit 5 required to be made under this sub-section as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy.

Explanation.—For the purposes of this section and section 64VA, a group shall be deemed to be operating as 10 such in India if the following conditions are fulfilled, namely:—

(a) no insurer in the group has commenced carrying on insurance business in India after the commencement of the Insurance (Amendment) Act, 1968; 15

(b) all the insurers in the group are registered for the same class or classes of insurance business;

(c) there is an agreement between all the insurers in the group to function as a group in respect of their business in India, and such agreement provides 20 that the proportionate share of each insurer in the total risk on every policy issued by the group shall be such as may be mentioned therein and that such proportion shall be the same for all policies in all the classes of insurance policies issued by the group; 25

(d) the agreement referred to in clause (c) has been filed with the Controller within thirty days from the date of its execution:

Provided that if the Controller is satisfied that any insurer was prevented by sufficient cause from filing 30 such agreement within the specified time, he may, by order, allow the insurer to file such agreement within a period of thirty days from the date of his order;

(e) every policy issued by the insurers in the group mentions, on the face of the policy, the names 35 of all the members of the group and the proportion of the risk for which each member is liable;

(f) the insurers in the group function with common offices, common officers, not being directors or members of any Board of management, and common 40 staff within India;

(g) all the expenses in India of the insurance business (but excluding expenses solely relating to any Board of management, whether set up for the purpose of managing the insurance business or not,) are shared by the insurers in the group in the proportion in which the risks are shared by and between them.

(1C) When a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India shall, unless he has joined another group within a period of six months from the date of cessation of the previous group and has complied with all the provisions of this section, comply with the requirements of sub-section (1) as if he had not been an insurer in any group at any time and he shall pay, within a period of six months from the date of such cessation * ** , in a lump sum, the amount of the instalments of deposit which he would have been required to make under sub-section (1A) before the date of such cessation * * had he not been an insurer in any group at any time, reduced by the amount of deposit, if any, made by him after the commencement of the Insurance (Amendment) Act, 1968.

(1D) The Central Government may, at its discretion, extend the time for making any deposit or instalment of deposit required to be made by any insurer under the provisions of sub-sections (1), (1A), (1B) and (1C) by a period of not more than six months at a time:

Provided that not more than two extensions shall be given in respect of any deposit or instalment of deposit required to be made by an insurer.

(1E) Where a group of insurers is operating in India as a group, such insurers may, notwithstanding anything contained in section 32A, have common officers and common staff within India.;

(c) in sub-section (2), the words "any class of" and the words "as the deposit for that class of insurance business" shall be omitted;

(d) for sub-sections (3), (4), (5) and (6) the following sub-sections shall be substituted, namely:—

"(3) Where the deposit is to be made by an insurer not carrying on insurance business in India immediately before

the commencement of the Insurance (Amendment) Act, 1968, a deposit of rupees ten lakhs shall be made before the application for registration is made, and the provisions of clause (ii) of sub-section (1A) shall apply to such insurer after his registration as they apply to an insurer specified in clause (a) of sub-section (1). 5

(4) An insurer shall not be registered for any class of insurance business in addition to the class or classes for which he is already registered until the full deposit required under sub-section (1) has been made. 10

(5) Where an insurer who intends to become a member of a group, does not carry on all the classes of insurance business carried on by the other insurers in such group, or, where out of the several insurers who desire to form themselves into a group, any insurer does not carry on all the classes of insurance business carried on by the other insurers who desire to form themselves into the group, such insurer may be registered for that class or those classes of insurance business which is or are carried on by * the other insurers of the group or the proposed group, 15 as the case may be, and where any application for registration is made by any such insurer, the Controller may, notwithstanding anything contained in sub-section (2A) of section 3 or sub-section (4), register such insurer for one or more additional classes of insurance, if the following 25 conditions are fulfilled, namely:—

(a) the Controller is satisfied that registration for the proposed one or more additional classes of insurance business would qualify the insurer to become a member of a group; 30

(b) agreements have been executed by all the insurers in the group or proposed group, as the case may be, and such agreements, in the opinion of the Controller, satisfy the requirements of the Explanation to sub-section (1B); and 35

(c) the insurer has, after the commencement of the Insurance (Amendment) Act, 1968, made deposit of a sum not less than the total of all the instalments of deposit which he would have been required to make after such commencement till the date of his becoming a member of the group, had he been a member of the group from such commencement. 40

(6) The Controller shall cancel the registration made in pursuance of the provisions of sub-section (5), if the insurer referred to therein fails to become, within a period of three months from the date of such registration, a member of the group or proposed group, as the case may be, and, where such registration has been cancelled, the provisions of this Act shall apply to the insurer as if he had not been registered for the class or classes of insurance business in relation to which his registration has been cancelled."

7. For section 9 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 9.

"9. Where an insurer has ceased to carry on in India all classes of insurance business, and his liabilities in India in respect of all classes of insurance business have been satisfied or are otherwise provided for, the court may, on the application of the insurer, order the return to the insurer of the deposit made by him under this Act."

Refund of deposit.

8. In section 10 of the principal Act, in sub-section (1),—

Amendment of section 10.

(i) for the words, brackets, letters and figures "classes specified in clauses (a), (b), (c), and (d) of sub-section (1) of section 7", the words "following classes, namely, life insurance, fire insurance, marine insurance or miscellaneous insurance" shall be substituted;

(ii) for the words, brackets and letter "the class specified in clause (d) of that sub-section", the words "miscellaneous insurance" shall be substituted;

(iii) for the words, brackets and letter "each such sub-class of the class specified in clause (d)", the words "each of such sub-classes of miscellaneous insurance business" shall be substituted;

(iv) in the proviso, for the words, brackets, letter and figures "the class of insurance business specified in clause (d) of sub-section (1) of section 7", the words "miscellaneous insurance business" shall be substituted.

9. In section 11 of the principal Act, in sub-section (1), in clause (b), for the words, brackets, letters and figures "the classes specified in clauses (a), (b) and (c) of sub-section (1) of section 7", the words "the following classes, namely, life insurance, fire insurance or marine insurance" shall be substituted.

Amendment of section 11.

Amend-
ment of
section 21.

10. In section 21 of the principal Act, in sub-section (1), in clause (d), after the words, figures and letter "or section 28A", the words, figures and letters "or section 28B or section 64V" shall be inserted.

Insertion
of new
section
27B.

11. After section 27A of the principal Act, the following section shall be inserted, namely:—

Further
provi-
sions re-
garding
invest-
ments.

"27B. (1) No insurer carrying on general insurance business shall, after the commencement of the Insurance (Amendment) Act, 1968, invest or keep invested any part of his assets otherwise than in any of the following approved investments, namely:—

(a) the investments specified in clauses (a) to (e), (n), (q) and (r) of sub-section (1) of section 27A;

(b) debentures secured by a first charge on any immovable property, plant or equipment of any company which has paid interest in full for the three years immediately preceding or for at least three out of the four or five years immediately preceding on such or similar debentures issued by it;

(c) debentures secured by a first charge on any immovable property, plant or equipment of any company where either the book value or the market value, whichever is less, of such property, plant or equipment is more than twice the value of such debentures;

(d) first debentures secured by a floating charge on all its assets or by a fixed charge on fixed assets and floating charge on all other assets of any company which has paid dividends on its equity shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding the date of the investment;

(e) preference shares of any company which has paid dividends on its equity shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding;

(f) preference shares of any company on which dividends have been paid for the three years immediately preceding or for at least three out of the four or five years immediately preceding and which have priority in payment over all the equity shares of the company in winding up;

5 (g) shares of any company which have been guaranteed by another company, such other company having paid dividends on its equity shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding:

Provided that the total amount of shares of all the companies under guarantee by the guaranteeing company is not in excess of fifty per cent. of the paid-up amount of preference and equity shares of the guaranteeing company;

10 (h) shares of any company on which dividends of not less than four per cent. including bonus have been paid for the three years immediately preceding or for at least three out of the four or five years immediately preceding:

15 (i) first mortgages on immovable property situated in India or in any other country where the insurer is carrying on insurance business:

20 Provided that the property mortgaged is not leasehold property with an outstanding term of less than fifteen years and the value of the property exceeds by one-third, or if it consists of buildings, exceeds by one-half, the mortgage money;

(j) such other investments as the Central Government may, by notification in the Official Gazette, declare to be approved investments for the purposes of this section.

25 (2) Any prescribed assets shall, subject to such conditions, if any, as may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in sub-section (1).

30 (3) Notwithstanding anything contained in sub-section (1), an insurer * * * may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his assets otherwise than in an approved investment specified in sub-section (1), if,—

35 (i) after such investment, the total amounts of all such investments of the insurer do not exceed twenty-five per cent. of his assets, and

40 (ii) the investment is made, or, in the case of any investment already made, the continuance of such investment is with the consent of all the directors, other than the directors appointed under section 34C, present at a meeting and eligible to vote, special notice of which has been given

to all the directors then in India, and all such investments, including investments in which any director is interested, are reported without delay to the Controller with full details of the investments and the extent of the director's interest in any such investment: 5

Provided that the making, or the continuance, of such investment is not objected to by any director appointed under section 34C.

(4) An insurer shall not invest or keep invested any part of his assets in the shares of any one banking company or investment company more than— 10

(a) ten per cent. of his assets, or

(b) two per cent. of the subscribed share capital and debentures of the banking company or investment company concerned, 15

whichever is less.

(5) An insurer shall not invest or keep invested any part of his assets in the shares or debentures of any one company other than a banking company or investment company more than— 20

(a) ten per cent. of his assets, or

(b) ten per cent. of the subscribed share capital and debentures of the company,

whichever is less:

Provided that nothing in this sub-section shall apply to any investment made by an insurer in the shares of any other insurer if such other insurer is a company within the meaning of section 3 of the Companies Act, 1956, and carries on insurance or re-insurance business in India. 25 1 of 1956

(6) An insurer shall not invest or keep invested any part of his assets in the shares or debentures of any private company. 30

(7) Where an investment is in partly paid-up shares, the uncalled liability on such shares shall be added to the amount invested for the purpose of computing the percentages referred to in clause (a) of sub-section (4) and clause (a) of sub-section (5). 35

(8) Notwithstanding anything contained in sub-sections (4) and (5), where new shares are issued to the existing shareholders by a company, the existing shares of which are covered by clause (e) or clause (g) or clause (h) of sub-section (1) and 40

of which an insurer is already a shareholder, the insurer may subscribe to such new shares:

5 Provided that the proportion of new shares subscribed by him does not exceed the proportion which the paid-up amount on the shares held by him immediately before such subscription bears to the total paid-up capital of the company at the time of such subscription.

10 (9) If, on an application submitted to the Controller, he is satisfied that special grounds exist warranting such exemption, he may, for such period, to such extent and in relation to such particular investments and subject to such conditions as may be specified by him in this behalf, exempt an insurer from all or any of the provisions of sub-sections (4), (5) and (8).

15 (10) An insurer shall not keep more than ten per cent. of his assets in fixed deposit or current deposit, or partly in fixed deposit and partly in current deposit, with any one banking company or with any co-operative society registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force and doing banking business:

2 of 1912.

20 Provided that in applying this sub-section to the amount in deposit with a banking company on any day, all the premiums credited during the preceding sixty days, to the account of the insurer with such banking company and the amounts deposited, during the preceding thirty days, by such insurer with that
25 banking company for payment of claims or out of re-insurance recoveries, shall be excluded.

30 (11) All assets shall (except for a part thereof not exceeding one-tenth of the total assets in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies) be held free of any encumbrance, charge, hypothecation or lien.

35 (12) If at any time the Controller considers any one or more of the investments constituting an insurer's assets to be unsuitable or undesirable, he may, after giving the insurer an opportunity of being heard, direct the insurer to realise the investment or investments, and the insurer shall comply with the direction within such time as may be specified in this behalf
40 by the Controller.

(13) Every insurer in existence at the commencement of the Insurance (Amendment) Act, 1968, whose investments or any part

thereof at such commencement do or does not fulfil the requirements of this section, shall, within ninety days from such commencement, submit to the Controller a report specifying all such investments, and, if the Controller is satisfied that it will not be in the interest of the insurer or any class of insurers generally to realise any such investments, he may, by order, direct that the provisions of this section, other than the provisions contained in sub-section (12), shall not apply in relation to any such investments or to any class of investments generally for such period or periods as may be specified in the order. 5 10

(14) Without prejudice to the powers conferred on the Controller by sub-section (12), nothing contained in this section shall be deemed to require any insurer to realise any investment made in conformity with the provisions of sub-section (1) after the commencement of the Insurance (Amendment) Act, 1968, which, after the making thereof, has ceased to be an approved investment within the meaning of this section. 15

(15) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central, Provincial or State Act. 20

(16) In this section, unless the context otherwise requires, "assets" means—

(a) in the case of an insurer carrying on life insurance business in India, all his assets required to be shown under the column "Other Classes of Business" in the balance-sheet in Form A, in Part II of the First Schedule, but excluding any items against the head "Other Accounts (to be specified)"; 25 30

(b) in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, who is not carrying on life insurance business in India, all his assets required to be shown in the balance-sheet in Form A in Part II of the First Schedule but excluding any items against the head "Other Accounts (to be specified)"; and 35

(c) in the case of any other insurer, the assets required to be shown in the statement in Form AA, in Part II of the First Schedule, but excluding office furniture,

but does not include any assets specifically held against any fund or portion thereof in respect of which the Controller is satisfied 40

that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Controller is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.'

5 12. After section 28A of the principal Act, the following section shall be inserted, namely:— **Insertion of new section 28B.**

10 "28B. (1) Every insurer carrying on general insurance business, shall, every year, within thirty-one days from the beginning of the year, submit to the Controller a return in the prescribed form showing as at the 31st day of December of the preceding year the investments made out of his assets referred to in section 27B, and every such return shall be certified by a principal officer of the insurer. **Returns of investments relating to the assets and changes therein.**

15 (2) Every insurer referred to in sub-section (1) shall also submit to the Controller a return in the prescribed form showing all the changes that occurred in the investments aforesaid during each of the quarters ending on the last day of March, June, September and December within thirty-one days from the close of the quarter to which it relates, and every such return shall
20 be certified by a principal officer of the insurer.

25 (3) Every insurer shall submit, along with the returns referred to in sub-sections (1) and (2), a statement, where any part of the assets are in the custody of a banking company, from that company, and in any other case, from the Chairman, two directors and a principal officer, if the insurer is a company, or from a principal officer of the insurer, if the insurer is not a company, specifying the assets, which are subject to a charge and certifying that the other assets are held free of any encumbrance, charge, hypothecation or lien, and every such statement
30 after the first shall also specify the charges created in respect of any of those assets since the date of the statement immediately preceding, and, if any such charges have been liquidated, the date on which they were so liquidated."

35 13. In section 30 of the principal Act, after the word, figures and letter "section 27A", the word, figures and letter " , section 27B" shall be inserted. **Amendment of section 30.**

Amend-
ment of
section
31A.

14. In section 31A of the principal Act, in clause (vii) of the proviso to sub-section (1), the words “, such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case” shall be omitted. 5

Amend-
ment of
section 33.

15. In section 33 of the principal Act,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything to the contrary con- 10
tained in section 235 of the Companies Act, 1956, the Control- 1 of 1956.
ler may, at any time, and shall, on being directed so to do by
the Central Government, cause an inspection to be made by
one or more of his officers of any insurer and his books and
accounts; and the Controller shall supply to the insurer a 15
copy of his report on such inspection.”;

(ii) in sub-section (2), after the words, brackets and figure
“under sub-section (1)”, the words, brackets, figure and letter
“, or inspection under sub-section (1A),” shall be inserted;

(iii) in sub-section (3), after the words, brackets and figure 20
“under sub-section (1)”, the words, brackets, figure and letter
“, or inspection under sub-section (1A)” shall be inserted;

(iv) after sub-section (3), the following sub-section shall
be inserted, namely:—

“(3A) The Controller shall, if he has been directed by 25
the Central Government to cause an inspection to be made,
and may, in any other case, report to the Central Govern-
ment on any inspection made under this section.”;

(v) in sub-section (4), after the words, brackets and figure
“under sub-section (1)”, the words, brackets, figure and letter 30
“or under sub-section (3A)” shall be inserted;

(vi) after sub-section (4), the following sub-sections
and explanation shall be inserted, namely:—

“(4A) The Central Government may, after giving rea-
sonable notice to the insurer, publish the report submitted 35
by the Controller under sub-section (3A) or such portion
thereof as may appear to it to be necessary.

(4B) The Central Government may prescribe the minimum information to be maintained by insurers in their books, the manner in which such information should be maintained, the checks and other verifications to be adopted by insurers in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Controller to discharge satisfactorily his functions under this section.

Explanation.—For the purposes of this section, the expression “insurer” shall include—

(i) in the case of an insurer incorporated outside India, all his branches in India, and

(ii) in the case of an insurer incorporated in India—

(a) all his subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and

(b) all his branches whether situated in India or outside India.’

16. After section 33 of the principal Act, the following headings and sections shall be inserted:—

Insertion of new sections 33A, 34, 34A, 34B, 34C, 34D, 34E, 34F, 34G and 34H.

“APPOINTMENT OF STAFF

33A. The Central Government or the Controller may appoint such staff, and at such places as it or he may consider necessary, for the scrutiny of the returns, statements and information furnished by insurers under this Act and generally to ensure the efficient performance of the functions of the Controller under this Act.

Power to appoint staffs.

POWER TO ISSUE DIRECTIONS

34. (1) Where the Controller is satisfied that—

(a) in the public interest; or

(b) to prevent the affairs of any insurer being conducted in a manner detrimental to the interests of the policyholders or in a manner prejudicial to the interests of the insurer; or

(c) generally to secure the proper management of any insurer,

it is necessary to issue directions to insurers generally or to any insurer in particular, he may, from time to time, issue such directions as he deems fit, and the insurers or the insurer, as

Power of the Controller to issue directions.

the case may be, shall be bound to comply with such directions:

Provided that no such direction shall be issued to any insurer in particular unless such insurer has been given a reasonable opportunity of being heard.

(2) The Controller may, on representation made to him or on his own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction, may impose such conditions as he thinks fit, subject to which the modification or cancellation shall have effect.

CONTROL OVER MANAGEMENT

34A. (1) In the case of an insurer,—

(a) no amendment made after the commencement of the Insurance (Amendment) Act, 1968, of any provision relating to the appointment, re-appointment, termination of appointment or remuneration of a managing or whole-time director, or of a manager or a chief executive officer, by whatever name called, * * * whether that provision be contained in the insurer's memorandum or articles of association, or in an agreement entered into by him, or in any resolution passed by the insurer in general meeting or by his Board of directors shall have effect unless approved by the Controller;

(b) no appointment, re-appointment or termination of appointment, made after the commencement of the Insurance (Amendment) Act, 1968, of a managing or whole-time director, or a manager or a chief executive officer, by whatever name called, * * * shall have effect unless such appointment, re-appointment or termination of appointment is made with the previous approval of the Controller.

Explanation.—For the purposes of this sub-section, any provision conferring any benefit or providing any amenity or perquisite, in whatever form, whether during or after the termination of the term of office of the manager or the chief executive officer, by whatever name called, or a managing or whole-time director, shall be deemed to be a provision relating to his remuneration.

(2) Nothing contained in sections 268 and 269, the proviso to sub-section (3) of section 309, sections 310 and 311, the proviso to section 387, and section 388 (in so far as section 388 makes the provisions of sections 310 and 311 apply in relation to the manager of a company) of the Companies Act, 1956, shall apply to any matter in respect of which the approval of the Controller has to be obtained under sub-section (1).

Amendment of provisions relating to appointments of managing directors, etc., to be subject to previous approval of the Controller.

5 (3) No act done by a person as a managing or whole-time director or a director not liable to retire by rotation or a manager or a chief executive officer, by whatever name called, * * * * shall be deemed to be invalid on the ground that it is subsequently discovered that his appointment or re-appoint-
 10 ment had not taken effect by reason of any of the provisions of this Act; but nothing in this sub-section shall be construed as rendering valid any act done by such person after his appoint-
 15 ment or re-appointment has been shown to the insurer not to have had effect.

34B. (1) Where the Controller is satisfied that in the public interest or for preventing the affairs of an insurer being conducted in a manner detrimental to the interests of the policy-holders or for securing the proper management of any insurer it is necessary so to do, he may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any director or the chief executive officer, by whatever name called, * * * * of the insurer.

Power of Controller to remove managerial persons from office.

20 (2) No order under sub-section (1) shall be made unless the director or chief executive officer * * * concerned has been given a reasonable opportunity of making a representation to the Controller against the proposed order:

25 Provided that if, in the opinion of the Controller, any delay would be detrimental to the interests of the insurer or his policy-holders, he may, at the time of giving the opportunity aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer * * *, shall not, with effect from the date of such order,—

30 (a) act as such director or chief executive officer * * * of the insurer;

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

* * * * *

35 (3) Where any order is made in respect of a director or chief executive officer * * * * of an insurer under sub-section (1), he shall cease to be a director or, as the case may be, chief executive officer * * * of the insurer and shall not, in any way,
 40 whether directly or indirectly, be concerned with, or take part in, the management of any insurer for such period not exceeding five years as may be specified in the order.

(4) If any person in respect of whom an order is made by the Controller under sub-section (1) or under the proviso to sub-section (2) contravenes the provisions of this section, he shall be punishable with fine which may extend to two hundred and fifty rupees for each day during which such contravention continues. 5

(5) Where an order under sub-section (1) has been made, the Controller may, by order in writing, appoint a suitable person in place of the director or chief executive officer * * * who has been removed from his office under that sub-section, with 10 effect from such date as may be specified in the order.

(6) Any person appointed as director or chief executive officer * * * under this section shall,—

(a) hold office during the pleasure of the Controller and subject thereto for a period not exceeding three years or 15 such further periods not exceeding three years at a time as the Controller may specify;

(b) not incur any obligation or liability by reason only of his being a director or chief executive officer * * * or for anything done or omitted to be done 20 in good faith in the execution of the duties of his office or in relation thereto.

(7) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall 25 not be entitled to claim any compensation for the loss or termination of office.

Power of
Controller
to appoint
addi-
tional
direc-
tors.

34C. (1) If the Controller is of opinion that in the public interest or in the interests of an insurer, or his policy-holders it is necessary so to do, he may, from time to time, by order in 30 writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the insurer:

Provided that the number of additional directors so appointed shall not, at any time, exceed five or one-third of the maxi- 35 mum strength fixed for the Board by the articles of association of the insurer, whichever is less.

(2) Any person appointed as additional director in pursuance of this section,—

(a) shall hold office during the pleasure of the Control- 40 ler, and subject thereto for a period not exceeding three

years or such further periods not exceeding three years at a time as the Controller may specify;

(b) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) shall not be required to hold qualification shares of the insurer.

(3) For the purpose of reckoning any proportion of the total number of directors of the insurer, any additional director appointed under this section shall not be taken into account.

34D. Any appointment or removal of a director or chief executive officer * * * in pursuance of section 34B or section 34C shall have effect notwithstanding anything to the contrary contained in the Companies Act, 1956, or any other law for the time being in force or in any contract or any other instrument.

Sections 34B and 34C to override other laws.

34E. * The Controller may,—

Further powers of Controller.

(a) caution or prohibit insurers generally or any insurer in particular against entering into any particular transaction or class of transactions, and generally give advice to any insurer;

(b) at any time, if he is satisfied that in the public interest or in the interests of the insurer or for preventing the affairs of the insurer being conducted in a manner detrimental to the interests of the insurer or his policyholders, it is necessary so to do, by order in writing and on such terms and conditions as may be specified therein,—

(i) require the insurer to call a meeting of his directors for the purpose of considering any matter relating to or arising out of the affairs of the insurer;

(ii) depute one or more of his officers to watch the proceedings at any meeting of the Board of directors of the insurer or of any committee or of any other body constituted by it; require the insurer to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Controller;

(iii) require the Board of directors of the insurer or any committee or any other body constituted by it to give in writing to any officer specified by the Controller in this

behalf at his usual address all notices of, and other communications relating to, any meeting of the Board, committee or other body constituted by it;

(iv) appoint one or more of his officers to observe the manner in which the affairs of the insurer or of his offices or branches are being conducted and make a report thereon; 5

(v) require the insurer to make, within such time as may be specified in the order, such changes in the management as the Controller may consider necessary. 10

* * * * *

Power of
Controller
to
issue
direc-
tions re-
garding
re-insur-
ance trea-
ties, etc.

34F. (1) Without prejudice to the generality of the powers conferred by sub-section (1) of section 34, the Controller may, if he is of opinion that the terms or conditions of any re-insurance treaty or other re-insurance contract entered into by an insurer are not favourable to the insurer or are detrimental to the public interest, he may, by order, require the insurer to make, at the time when the renewal of such treaty or contract becomes next due, such modifications in the terms and conditions of such treaty or contract as he may specify in the order or not to renew such treaty or contract, and, if the insurer fails to comply with such order, he shall be deemed to have failed to comply with the provisions of this Act. 15 20

(2) The Controller may, if he has reason to believe that an insurer is entering into or is likely to enter into re-insurance treaties or other re-insurance contracts which are not favourable to the insurer or are detrimental to the public interest, he may, by order, direct that the insurer shall not enter into such re-insurance treaty or other re-insurance contract unless a copy of such treaty or contract has been furnished to him in advance and the terms and conditions thereof have been approved by him and if the insurer fails to comply with such order he shall be deemed to have failed to comply with the requirements of this Act. 25 30

Power of
Controller
to order
closure of
foreign
branches.

34G. * Without prejudice to the generality of the powers conferred by sub-section (1) of section 34, the controller may, if he has reason to believe that the working of any branch outside India of an insurer being an insurer specified in sub-clause (b) of clause (9) of section 2, is generally resulting in a loss or that 35

the affairs of that branch are being conducted in a manner prejudicial to the interests of the policy-holders or the public interest, he may, after giving an opportunity to the insurer of being heard, direct that the insurer shall cease, within such period, not being less than one year, as may be specified in the order, to carry on insurance business in the country in which such branch is situated and if the insurer fails to comply with such order he shall be deemed to have failed to comply with the provisions of this Act.

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* * * * *

34H. (1) Where the Controller, in consequence of information in his possession, has reason to believe that,—

Search
and
seizure.

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(a) any person who has been required under sub-section (2) of section 33 to produce, or cause to be produced, any books, accounts or other documents in his custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents, or

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(b) any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which will be useful for, or relevant to, an investigation under sub-section (1) of section 33 or an inspection under sub-section (1A) of that section, or

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(c) a contravention of any provision of this Act has been committed or is likely to be committed by an insurer, or

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(d) any claim which is due to be settled by an insurer, has been or is likely to be settled at a figure higher than a reasonable amount, or

(e) any claim which is due to be settled by an insurer, has been or is likely to be rejected or settled at a figure lower than a reasonable amount, or

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(f) any illegal rebate or commission has been paid or is likely to be paid by an insurer, or

(g) any books, accounts, receipts, vouchers, survey reports or other documents, belonging to an insurer are likely to be tampered with, falsified or manufactured,

he may authorise any subordinate officer of his, not lower

in rank than an Assistant Controller of Insurance (hereafter referred to as the authorised officer) to—

(i) enter and search any building or place where he has reason to suspect that such books, accounts or other documents, or any books or papers relating to any claim, re- 5
bate or commission or any receipts, vouchers, reports or other documents are kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not 10
available;

(iii) seize all or any such books, accounts or other documents, found as a result of such search;

(iv) place marks of identification on such books, accounts or other documents or make or cause to be made 15
extracts or copies therefrom.

(2) The authorised officer may requisition the services of any police-officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) and it shall be the duty of every such officer to 20
comply with such requisition.

(3) The authorised officer may, where it is not practicable to seize any such book, account or other document, specified in sub-section (1), serve an order on the person who is in immediate possession or control thereof 25
that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

(4) The authorised officer may, during the course of the 30
search or seizure, examine on oath any person who is found to be in possession or control of any books, accounts or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act. 35

(5) The books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (1) shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the

Reasons for retaining the same are recorded by him in writing and the approval of the Controller for such retention is obtained:

5 Provided that the Controller shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports, or other documents for a period exceeding thirty days after all the proceedings under this Act for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant are completed.

10 (6) The person from whose custody any books, accounts, papers, receipts, vouchers, reports, or other documents are seized under sub-section (1) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

15 (7) If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (1) objects for any reason to the approval given by the Controller under sub-section (5), he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the books, accounts, 20 papers, receipts, vouchers, reports, or other documents.

(8) On receipt of the application under sub-section (7), the Central Government may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

1 of 1898. 25 (9) The provisions of the Code of Criminal Procedure, 1898, relating to searches and seizures shall apply, so far as may be, to every search and seizure made under sub-section (1).

30 (10) The Central Government may make rules in relation to any search or seizure under this section; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer,—

(i) for obtaining ingress into such building or place to be searched where free ingress thereto is not available;

35 (ii) for ensuring safe custody of any books, accounts, papers, receipts, vouchers, reports, or other documents seized under this section.”

Insertion
of new
section
37A.
Power of
Controller
to
prepare
scheme of
amalgama-
tion.

17. After section 37 of the principal Act, the following section shall be inserted, namely:—

“37A. (1) If the Controller is satisfied that—

- (i) in the public interest; or
- (ii) in the interests of the policy-holders; or
- (iii) in order to secure the proper management of an insurer; or
- (iv) in the interests of the insurance business of the country as a whole,

it is necessary so to do, he may prepare a scheme for the amalgamation of that insurer with any other insurer (hereafter referred to in this section as the transferee insurer):

Provided that no such scheme shall be prepared unless the other insurer has given his written consent to the proposal for such amalgamation.

(2) The scheme aforesaid may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, and the liabilities, duties and obligations of the transferee insurer;

(b) the transfer to the transferee insurer of the business, properties, assets and liabilities of the insurer on such terms and conditions as may be specified in the scheme;

(c) any change in the Board of directors, or the appointment of a new Board of directors of the transferee insurer and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and, in the case of appointment of a new Board of directors or of any director, the period for which such appointment shall be made;

(d) the alteration of the memorandum and articles of association of the transferee insurer for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the amalgamation;

(e) subject to the provisions of the scheme, the continuation by or against the transferee insurer, of any actions or proceedings pending against the insurer;

(f) the reduction of the interest or rights which the shareholders, policy-holders and other creditors have in or

against the insurer before the amalgamation to such extent as the Controller considers necessary in the public interest or in the interests of the shareholders, policy-holders and other creditors or for the maintenance of the business of the insurer;

5

(g) the payment in cash or otherwise to policy-holders and other creditors in full satisfaction of their claim,—

(i) in respect of their interest or rights in or against the insurer before the amalgamation; or

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(ii) where their interest or rights aforesaid in or against the insurer has or have been reduced under clause (f), in respect of such interest or rights as so reduced;

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(h) the allotment to the shareholders of the insurer for shares held by them therein before the amalgamation [whether their interest in such shares has been reduced under clause (f) or not] of shares in the transferee insurer and where any shareholders claim payment in cash and not allotment of shares, or where it is not possible to allot shares to any shareholders the payment in cash to those shareholders in full satisfaction of their claim—

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(i) in respect of their interest in shares in the insurer before the amalgamation; or

25

(ii) where such interest has been reduced under clause (f) in respect of their interest in shares as so reduced;

14 of 1947.

30

(i) the continuance of the services of all the employees of the insurer (excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme) in the transferee insurer at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed, immediately before the date of the amalgamation:

35

Provided that the scheme shall contain a provision that the transferee insurer shall pay or grant not later than the expiry of the period of three years, from the date of the amalgamation, to the said employees the same remuneration and the same terms and conditions of service as are applicable to the other employees of corresponding rank or status of the transferee insurer subject to the qualifications

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and experience of the said employees being the same as or equivalent to those of such other employees of the transferee insurer:

Provided further that if in any case any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or are equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee insurer, the doubt or difference shall be referred to the Controller whose decision thereon shall be final; 10

(j) notwithstanding anything contained in clause (i), where any of the employees of the insurer not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme under clause (i) or where any employees of the insurer have by notice in writing given to the insurer or, as the case may be, the transferee insurer at any time before the expiry of one month next following the date on which the scheme is sanctioned by the Central Government, intimated their intention of not becoming employees of the transferee insurer, the payment to such employees of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, gratuity, provident fund or other retirement benefits ordinarily admissible to them under the rules or authorisations of the insurer immediately before the date of the amalgamation; 15 14 of 1947. 20 25

(k) any other terms and conditions for the amalgamation of the insurer;

(l) such incidental, consequential and supplemental matters as are necessary to secure that the amalgamation shall be fully and effectively carried out. 30

(3) (a) A copy of the scheme prepared by the Controller shall be sent in draft to the insurer and also to the transferee insurer and any other insurer concerned in the amalgamation, for suggestions and objections, if any, within such period as the Controller may specify for this purpose. 35

(b) The Controller may make such modifications, if any, in the draft scheme as he may consider necessary in the light of the suggestions and objections received from the insurer and also from the transferee insurer, and any other insurer concerned in the amalgamation and from any shareholder, policy-holder or 40

other creditor of each of those insurers and the transferee insurer.

5 (4) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modification or with such modifications as it may consider necessary; and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf:

10 Provided that different dates may be specified for different provisions of the scheme.

15 (5) The sanction accorded by the Central Government under sub-section (4) shall be conclusive evidence that all the requirements of this section relating to amalgamation have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise) be admitted as evidence to the same extent as the original scheme.

20 (6) The Controller may, in like manner, add to, amend or vary any scheme made under this section.

25 (7) On and from the date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the insurer or, as the case may be, on the transferee insure and any other insurer concerned in the amalgamation and also on all the shareholders, policy-holders and other creditors and employees of each of those insurers and of the transferee insurer, and on any other person having any right or liability in relation to any of those insurers or the transferee insurer.

30 (8) On and from such date as may be specified by the Central Government in this behalf, the properties and assets of the insurer shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the insurer shall, by virtue of and to the extent provided in the scheme, stand transferred to and become the liabilities of, the transferee insurer.

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40 (9) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may by order do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.

(10) Copies of every scheme made under this section and of every order made under sub-section (9) shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or, as the case may be, the order has been made. 5

(11) Nothing in this section shall be deemed to prevent the amalgamation with an insurer by a single scheme of several insurers.

(12) The provisions of this section and of any scheme made under it shall have effect notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time being in force. 10

(13) The provisions of section 37 shall not apply to an amalgamation given effect to under the provisions of this section." 15

Amendment of section 40A.

18. In section 40A of the principal Act, * in sub-section (3),—

(i) for the words, brackets and figures "Insurance (Amendment) Act, 1950", the words, brackets and figures "Insurance (Amendment) Act, 1968" shall be substituted; 20

(ii) for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) where the policy relates to fire or marine insurance, five per cent. of the premium payable on the policy, and 25

* * * * *

"(b) where the policy relates to miscellaneous insurance, ten per cent. of the premium payable on the policy."*

* * * * *

Amendment of section 40C.

19. In section 40C of the principal Act, in clause (b) of the *Explanation*, after the words "in India during the year", the following shall be inserted, namely:— 30

“, but in computing the expenses of management in India the following, and only the following, expenses may be excluded, namely:— 35

(i) in the case of an insurer having his principal place of business in India, a share of head office expenses in respect of general insurance business transacted by him outside

India not exceeding such percentage of his gross direct premium written outside India as may be prescribed,

5 (ii) in the case of an insurer having his principal place of business outside India, a share of the expenses of his office in India in respect of general insurance business transacted by him outside India through his office in India, not exceeding such percentage of his gross direct premium written outside India through his office in India, as may be prescribed;

10 (iii) any expenses debited to profit and loss account relating exclusively to the management of capital, and dealings with shareholders and a proper share of managerial expenses calculated in such manner as may be prescribed, and

15 (iv) any expenses debited to claims in the revenue account in Form F of Part II of the Third Schedule".

20. In section 42 of the principal Act,—

(a) in sub-section (1), for the words "ten rupees", the words "twenty-five rupees" shall be substituted; Amendment of section 42.

20 (b) in sub-section (3), for the words "ten rupees", the words "twenty-five rupees" and for the words "three rupees", the words "ten rupees" shall be substituted;

(c) in the proviso to sub-section (3A), for the words "thirty rupees", the words "seventy-five rupees" shall be substituted.

25 21. Section 48C of the principal Act shall be omitted.

Omission of section 48C.

22. After section 52G of the principal Act, the following heading and sections shall be inserted, namely:—

Insertion of new sections 52H, 52I, 52J, 52K, 52L, 52M and 52N.

ACQUISITION OF THE UNDERTAKINGS OF INSURERS IN CERTAIN CASES

52H. (1) If, upon receipt of a report from the Controller, the Central Government is satisfied that an insurer,—

30 (a) has persistently failed to comply with—

(i) any direction given to him under section 34, section 34F or section 34G, or

Power of Central Government to acquire undertakings

of insur-
ers in
certain
cases.

(ii) any order made under section 34E; or

(b) is being managed in a manner detrimental to the public interest or to the interests of his policy-holders, or shareholders,

and that—

(i) in the public interest, or

(ii) in the interests of the policy-holders or shareholders of such insurer,

it is necessary to acquire the undertaking of such insurer, the Central Government may, by notified order, acquire the undertaking of such insurer (hereafter in this section and in sections 52I, 52J and 52N and in the Eighth Schedule referred to as the acquired insurer) with effect from such date as may be specified in the order (hereafter in this section and in sections 52I and 52J and in the Eighth Schedule referred to as the appointed day):

Provided that no undertaking of an insurer shall be so acquired unless such insurer has been given a reasonable opportunity of showing cause against the proposed action.

Explanation.— For the purposes of this section and of sections 52i to 52N—

(a) “notified order” means an order published in the Official Gazette,

(b) “undertaking”, in relation to an insurer incorporated outside India, means the undertaking of the insurer in India.

(2) Subject to the other provisions contained in this section and in sections 52I to 52M, on the appointed day, * * * * all the assets and liabilities of the undertaking of the acquired insurer shall stand transferred to, and vest in, the Central Government.

(3) The * * * assets and liabilities of the undertaking of the acquired insurer shall be deemed to include all rights, powers, authorities and privileges and all property, whether movable or immovable, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in, or arising out of, such property, as may be in the possession of, or held by, the acquired insurer immediately before the appointed day and all books, accounts and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations, of whatever kind, then existing of the acquired insurer.

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, if it is satisfied that * * * all the assets and liabilities of the undertaking of the acquired insurer should, instead of vesting in the Central Government, 5 or continuing to so vest, vest in a corporation or company, whether established under the scheme made under section 52I or not (hereafter in this section and in sections 52I to 52N and in the Eighth Schedule referred to as the acquiring insurer), * * * by order, direct that the assets and liabilities 10 of the said undertaking, * * * shall vest in the acquiring insurer, either on the publication of the notified order or on such other date as may be specified in this behalf in the direction.

(5) Where the undertaking of the acquired insurer vests in 15 an acquiring insurer under sub-section (4), the acquiring insurer shall, on and from the date of such vesting, be deemed to have become the transferee of the acquired insurer and all the rights and liabilities in relation to the acquired insurer shall, on and from the date of such vesting, be deemed to have been 20 the rights and liabilities of such acquiring insurer.

(6) Unless otherwise expressly provided by or under this section or sections 52I to 52M, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect 25 immediately before the appointed day and to which the acquired insurer is a party or which are in favour of the acquired insurer shall be of as full force and effect against or in favour, of the Central Government or, as the case may be, * the acquiring insurer, and may be enforced or acted upon as fully and effectually as if in the place of the acquired insurer the Central Government or the acquiring insurer had been a party thereto or 30 as if they had been issued in favour of the Central Government or the acquiring insurer, as the case may be.

(7) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, is pending by or against the acquired insurer, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the acquired insurer or of anything contained in this section or in sections 52I to 52M, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or 40 against the Central Government or the acquiring insurer, as the case may be.

Power
of Cen-
tral
Govern-
ment to
make
scheme.

52I. (1) The Central Government may make a scheme for carrying out the purposes of sections 52H and 52J to 52M (both inclusive) in relation to the acquired insurer.

(2) In particular, and without prejudice to the generality of the foregoing power, the said scheme may provide for all or 5
any of the following matters, namely:—

(a) transfer of the undertaking, including the property, assets and liabilities of the acquired insurer to an acquiring insurer, and the capital, constitution, name and office of the acquiring insurer; 10

(b) the constitution of the first Board of management (by whatever name called) of the acquiring insurer and all such matters in connection therewith or incidental thereto as the Central Government may consider to be necessary or expedient; 15

(c) the continuance of the services of all the employees of the acquired insurer (excepting such of them as, not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme) in the Central Government or in the acquiring insurer, as 20
the case may be, on the same terms and conditions, so far as may be, as are specified in clause (i) and (j) of sub-section (2) of section 37A so far as they may apply;

14 of 1947.

(d) the continuance of the rights of any person who, on the appointed day, is entitled to, or is in receipt of, a pen- 25
sion or other superannuation or compassionate allowance or benefit from the acquired insurer or any provident, pension or other fund or any authority administering such fund to be paid by, and to receive from the Central Government or the acquiring insurer, as the case may be, or any provi- 30
dent, pension or other fund or any authority administering such fund; the same pension, allowance or benefit so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises whether he has so observed such conditions, the question shall be deter- 35
mined by the Central Government and the decision of the Central Government thereon shall be final;

(e) the manner of payment to the * * * acquired insurer in full satisfaction of his claim in relation to the compensation payable in accordance with the provisions of 40
section 52J;

(f) the provision, if any, for completing the effectual transfer to the Central Government or the acquiring insurer of any asset or liability which forms part of the undertaking of the acquired insurer in any country outside India;

5 (g) such incidental, consequential and supplemental matters as may be necessary to secure that the transfer of the undertaking, property, assets and liabilities of the acquired insurer to the Central Government or the acquiring insurer, as the case may be, is effectual and complete.

10 (3) The Central Government may, by notification in the Official Gazette, add to, amend or vary any scheme made under this section.

(4) Every scheme made under this section shall be published in the Official Gazette.

15 (5) Copies of every scheme made under this section shall be laid before each House of Parliament as soon as may be after it is made.

20 (6) The provisions of sections 52H and 52J to 52M and of any scheme made under this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act or in any other law or any agreement, award or other instrument for the time being in force.

25 52J. (1) * * * * * The acquired insurer shall be given by the Central Government or the acquiring insurer, as the case may be, such compensation in respect of the transfer of the undertaking of the acquired insurer as is determined in accordance with the principles contained in the Eighth Schedule. Com-
pensa-
tion to
be given
to the
acquir-
ed insur-
er.

30 (2) The amount of compensation to be given in accordance with the principles contained in the Eighth Schedule shall be determined, in the first instance, by the Central Government or the acquiring insurer, as the case may be, in consultation with the Controller, and shall be offered by it to the acquired insurer, in full satisfaction thereof.

35 (3) If the amount of compensation offered in terms of sub-section (2) is not acceptable to * * * the acquired insurer, he may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government in writing to have the matter referred to the Tribunal constituted under section 52K.

40

(4) If before the date notified under sub-section (3) the Central Government does not receive request as provided in that sub-section *, the amount of compensation offered under sub-section (2), or where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all the parties concerned. 5

(5) Where the Central Government does not receive request as provided in sub-section (3), the compensation payable in pursuance of the provisions of this section shall become due for payment on the expiry of one year from the appointed day, and where a reference has been made to the Tribunal under sub-section (3), the amount determined by the Tribunal as compensation shall become due for payment on the expiry of one year from the appointed day or on the date of decision of the Tribunal, whichever is earlier. 10 15

(6) If between the appointed day and the date on which the compensation becomes due in pursuance of sub-section (5), any facts come to light which call for revision of the amount of the compensation, the necessary modification of the amount of the compensation shall be made and the amount of the compensation so determined shall be the compensation payable in pursuance of sub-section (1). 20

(7) There shall also be paid simple interest at the rate of three per cent. per annum on the amount of the compensation for the period from the appointed day to the date on which payment of the compensation becomes due. 25

Constitution
of the
Tribunal.

52K. (1) The Central Government may, for the purposes of sections 52H to 52J, constitute a Tribunal which shall consist of a Chairman and two other members. 30

(2) The Chairman shall be a person who is, or has been, a Judge of a High Court or of the Supreme Court and of the two other members, one shall be a person who, in the opinion of the Central Government, has had experience of matters connected with general insurance and the other shall be a person who is a chartered accountant within the meaning of the Chartered Accountants Act, 1949. 35

38 of 1949.

(3) If, for any reason, a vacancy occurs in the office of the Chairman or any other member of the Tribunal, the Central Government may fill the vacancy by appointing another person there- to in accordance with the provisions of sub-section (2), and any proceeding may be continued before the Tribunal so constituted from the stage at which the vacancy occurred. 40

(4) The Tribunal may, for the purpose of determining any compensation payable under section 52J, choose one or more persons having special knowledge or experience of any relevant matter to assist it in the determination of such compensation.

5 of 1908. 5 52L. (1) The Tribunal shall have the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

Tribunal to have powers of Civil Court.

(a) summoning and enforcing the attendance of any person and examining him on oath;

10 (b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

15 (2) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force, the Tribunal shall not compel the Central Government or the Controller—

20 (a) to produce any books of account, or other documents which the Central Government or the Controller claims to be of a confidential nature;

(b) to make any such books or documents a part of the record of the proceedings before the Tribunal;

(c) to give inspection of any such books or documents to any party before it and to any other person.

25 45 of 1860. 5 of 1898. (3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

30 52M. (1) The Tribunal shall have power to regulate its own procedure.

Procedure of the Tribunal.

(2) The Tribunal may hold the whole or any part of its inquiry *in camera*.

35 (3) Any clerical or arithmetical error in any order of the Tribunal or any error arising therein from any accidental slip or omission may, at any time, be corrected by the Tribunal either of its own motion or on the application of any of the parties.

40 52N. Where any acquired insurer, being a company, has in accordance with the provisions of this Act, collected and distributed any monies paid to him by the Central Government or the acquiring insurer, as the case may be, by way of compensation

Special provisions for the dissolution of

acquired
insurers.

or otherwise, and has also complied with any directions given to him by the Central Government or the acquiring insurer, as the case may be, for the purpose of securing that the ownership of any property or any right is effectively transferred to the Central Government or the acquiring insurer, as the case may be, the Central Government may, on application being made to it in this behalf by such insurer, grant a certificate to the insurer that there is no reason for the continued existence of the insurer, and upon the publication of such certificate, the insurer shall be dissolved.

Amend-
ment of
section 53.

23. In section 53 of the principal Act, in sub-section (2),—

(a) in sub-clause (iii) of clause (b)—

(i) for the words “the returns”, the words “any returns or statements” shall be substituted;

(ii) for the words “company is insolvent”, the words “company is, or is deemed to be, insolvent” shall be substituted;

(b) in sub-clause (iv) of clause (b), after the words “interests of the policy-holders”, the words “or to public interest generally” shall be inserted.

Amend-
ment of
section 58.

24. In section 58 of the principal Act, sub-section (5) shall be omitted.

Amend-
ment
of sec-
tion 64E.

25. In section 64E of the principal Act, the word, “the Tariff Committee and the other Committee thereof” shall be omitted.

Amend-
ment
of sec-
tion 64L.

26. In section 64L of the principal Act, to sub-section (2), the following proviso shall be, and shall be deemed always to have been, added, namely:—

“Provided that if the General Insurance Council thinks fit, it may, by a resolution passed by it, waive the collection of the prescribed fees for any year and where any such resolution has been approved by the Central Government, the Executive Committee of the General Insurance Council shall not collect any fees in relation to that year.”.

Omission
of section.
64O to
64Q.

27. Sections 64O to 64Q of the principal Act shall be omitted.

Amend-
ment
of sec-
tion 64R.

28. In section 64R of the principal Act, in sub-section (2), the words “or the Tariff Committee appointed under section 64O” shall be omitted.

29. After Part IIA of the principal Act, the following Parts shall be inserted, namely:—

Insertion of new Parts IIB and IIC.

'PART IIB

TARIFF ADVISORY COMMITTEE AND CONTROL OF TARIFF RATES

5 64U. (1) With effect from the commencement of the Insurance (Amendment) Act, 1968, there shall be established a Committee, to be called the Tariff Advisory Committee (hereafter in this Part referred to as the Advisory Committee) to control and regulate the rates, advantages, terms and conditions that
10 may be offered by insurers in respect of general insurance business.

Establishment of Tariff Advisory Committee.

(2) The Advisory Committee shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and may, by the said name, sue and be sued.

64UA. (1) The Advisory Committee shall consist of the following members, namely:—

Composition of the Advisory Committee.

20 (a) the Controller of Insurance, *ex officio*, who shall be the Chairman;

(b) a senior officer of the office of the Controller nominated by the Controller, who shall be the Vice-Chairman;

25 (c) not more than ten representatives of Indian insurers, elected (in their individual capacities) by such insurers in such manner, from such areas and from among such insurers or groups of insurers as may be prescribed;

30 (d) not more than four representatives of insurers incorporated or domiciled elsewhere than in India but registered in India, elected (in their individual capacities) by such insurers in such manner, and from among such insurers or groups of insurers as may be prescribed.

(2) The Secretary to the Advisory Committee shall be an officer of the office of the Controller, nominated by the Controller.

35 64UB. (1) The Central Government may make rules to carry out the purposes of this Part.

Power to make rules in respect of matters in this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

40 (a) the functions to be discharged by the Advisory Committee;

(b) the term of office of the members of the Advisory Committee, the procedure for their election and the manner of filling casual vacancies in the Advisory Committee;

(c) the travelling and other allowances payable to the members of the Advisory Committee; 5

(d) the procedure for holding the meetings of the Advisory Committee and for transaction of business thereat.

(3) The Advisory Committee may, with the previous approval of the Central Government, make regulations for all or any of the following matters, namely:— 10

(a) the constitution, powers and duties of Regional Committees and of sub-committees constituted by the Advisory Committee or any Regional Committee;

(b) the method of election of candidates for Regional Committees and sub-committees*, their eligibility, term of office and method of filling casual vacancies; 15

(c) the procedure for convening meetings and transaction of business by Regional Committees and sub-committees*;

(d) the appointment of officers and other employees of the Advisory Committee and of Regional Committees or sub-committees constituted by or under the Advisory Committee or any Regional Committee and the terms and conditions of their service including travelling and other allowances; 25

(e) such other matters pertaining to procedure as are not inconsistent with the provisions of this Act or of rules made thereunder,

and may, from time to time, with the previous approval of the Central Government, add to, amend or vary any such regulations. 30

(4) The regulations made by the Tariff Committee of the General Insurance Council under section 64O as they were in force immediately before the commencement of the Insurance (Amendment) Act, 1968, shall, after such commencement, continue to be in force until rules are made by the Central Government under sub-section (1) and immediately after such rules have come into effect, the regulations aforesaid shall cease to be valid. 35

(5) The Controller of Insurance shall be in direct charge of the establishment of the Advisory Committee and the Secretary of the Advisory Committee shall work under his direction and control. 40

54UC. (1) The Advisory Committee may, from time to time and to the extent it deems expedient, control and regulate the rates, advantages, terms and conditions that may be offered by insurers in respect of any risk or of any class or category of risks, the rates, advantages, terms and conditions of which, in its opinion, it is proper to control and regulate, and any such rates, advantages, terms and conditions shall be binding on all insurers:

Power of
the Advi-
sory Com-
mittee to
regulate
rates, ad-
vantages,
etc.

10 Provided that the Controller may, with the previous approval of the Central Government, permit any insurer to offer, during such period (being not more than two years but which may be extended by periods of not more than two years at a time) and subject to such conditions as may be specified by him, rates, advantages, terms or conditions different from those fixed by the Advisory Committee in respect of any particular category of risks, if he is satisfied that such insurer generally issues policies only to a restricted class of the public or under a restricted category of risks.

20 (2) In fixing, amending or modifying any rates, advantages, terms or conditions, relating to any risk, the Advisory Committee shall try to ensure, as far as possible, that there is no unfair discrimination between risks of essentially the same hazard, and also that consideration is given to past and prospective loss experience:

25 Provided that the Advisory Committee may, at its discretion, make suitable allowances for the degree of credibility to be assigned to the past experience, including allowances for random fluctuations and may also, at its discretion, make suitable allowances for future fluctuations and unforeseen future contingencies, including hazards of conflagration or catastrophe or both.

30 (3) Every decision of the Advisory Committee shall be valid only after and to the extent it is ratified by the Controller, and every such decision shall take effect from the date on which it is so ratified by the Controller, or, if the Controller so orders in any case, from such earlier date as he may specify in the order.

35 (4) The decisions of the Advisory Committee in pursuance of the provisions of this section shall be final.

40 (5) Where an insurer is guilty of breach of any rate, advantage, term or condition fixed by the Advisory Committee, he shall be deemed to have contravened the provisions of this Act:

Provided that instead of proceeding against the insurer for such contravention, the Controller may, if the insurer removes

the contravention by recovering the deficiency in the premium, or where it is not practicable to do so, modifies suitably or cancels the contract of insurance, compound the offence on payment to the Advisory Committee of such fine, not exceeding rupees one thousand, as he may decide in consultation with the Advisory Committee. 5

Transitional provisions.

64UD. (1) Notwithstanding anything contained in this Part, until the names of the members of the Advisory Committee elected for the first time after the commencement of the Insurance (Amendment) Act, 1968, are notified, the Tariff Committee of the General Insurance Council appointed under regulations made under sub-section (2) of section 64O as it was in force immediately before the commencement of the Insurance (Amendment) Act, 1968, and in existence on such commencement (hereafter in this Part referred to as the Tariff Committee) shall continue to function and shall be deemed to be the Advisory Committee duly elected under this Part and the Controller of Insurance shall become the Chairman of that Committee with effect from the commencement of the Insurance (Amendment) Act, 1968, and function as such, and any Chairman of the Tariff Committee holding office immediately before such commencement shall cease to be the Chairman thereof from the date of such commencement but shall continue to be an ordinary member of the Advisory Committee. 10 15 20

(2) Notwithstanding anything contained in this Part, the constitutions of the Regional Councils established under section 64P, as in force immediately before the commencement of the Insurance (Amendment) Act, 1968 (hereafter referred to as the Regional Councils), and of the Sectional Committees formed thereunder, existing immediately before such commencement, shall continue to be in full force and be of full effect until the regulations made by the Advisory Committee for the first time under section 64UB come into effect and as soon as such regulations have come into effect such constitutions shall cease to have effect. 25 30 35

(3) Notwithstanding anything contained in this Part, until the Secretary to the Advisory Committee is nominated under sub-section (2) of section 64UA, the Secretary to the Tariff Committee holding office immediately before the commencement of the Insurance (Amendment) Act, 1968, shall function as the Secretary and shall be deemed to have been duly nominated under this Part. 30

(4) All rates, advantages, terms and conditions fixed by the Tariff Committee or the Regional Councils prior to the com-

5 commencement of the Insurance (Amendment) Act, 1968 and in force immediately before such commencement shall continue, except to such extent as they may be altered, replaced or abolished by the Advisory Committee, to be valid and fully in force as if they were rates, advantages, terms and conditions fixed by the Advisory Committee.

10 64UE. (1) The Advisory Committee may require, by notice in writing, any insurer to supply to it such information or statements, periodical or *ad hoc*, as it may consider necessary to enable it to discharge its functions under this Part and every insurer shall comply with such requirements within such period as may be specified by the Advisory Committee in this behalf, failing which the insurer shall be deemed to have contravened the provisions of this Act.

Power of the Advisory Committee to require information, etc.

15 (2) Any information supplied under this section shall be certified by a principal officer of the insurer or where the Advisory Committee has agreed in advance, by such other officer or officers of the insurer as the principal officer of the insurer may nominate for the purpose and if the notice so requires, also by an auditor.

20 (3) The Controller may, at any time, in writing, depute any subordinate of his, to make a personal inspection of the books of account, ledgers, policy-registers and other books or documents of any insurer to verify the accuracy of any return or statement furnished by him under sub-section (1), or to verify that full particulars have been supplied by him in respect of all policies issued by him, and the insurer shall provide all facilities for such inspection, and make available to such person all the books of account, ledgers, policy-registers and other books or documents of the insurer which might be needed by him for such verification and the person deputed may himself extract from out of the books and records of the insurer such information as may be needed to fill up or complete the returns required to be submitted to the Advisory Committee under this section.

35 (4) The Advisory Committee may, at any time, on the application of an insurer, make arrangements for the inspection of an organisation which is concerned with the inspection of risks, adjustment of losses or fire fighting appliances, and may, whenever necessary, advise insurers about the adequacy of the arrangements for the inspection of risks and adjustment of losses or the suitability of such appliances:

40 Provided that no such inspection shall be made without the written permission of the concerned organisation.

Assets
and
liabili-
ties of
the
Gene-
ral In-
surance
Coun-
cil to
vest in
the Ad-
visory
Com-
mittee.

64UF. (1) On the commencement of the Insurance (Amendment) Act, 1968, all the assets and liabilities of the General Insurance Council appertaining to its Tariff Committee and to its Regional Councils and their Sectional Committees existing on that day shall be transferred to, and vest in, the Advisory Committee. 5

(2) The assets appertaining to the Tariff Committee, the Regional Councils, and their Sectional Committees shall be deemed to include all rights and powers and all property, whether movable or immovable, including, in particular, cash 10 balances, reserve funds, investments, deposits and all other interests and rights in, or arising out of, such property as may be in the possession of the Tariff Committee, Regional Councils and their Sectional Committees and all books of account or documents thereof; and liabilities shall be deemed to include 15 all debts, liabilities and obligations of whatever kind existing and appertaining to the work of the Tariff Committee, the Regional Councils and their Sectional Committees.

(3) Where the General Insurance Council has established a provident or superannuation fund or any other fund for the 20 benefit of the employees of its Tariff Committee or Regional Councils and constituted a trust in respect thereof (hereafter in this section referred to as an existing trust), the monies standing to the credit of any such fund at the commencement of the Insurance (Amendment) Act, 1968, shall, subject to the pro- 25 visions of sub-section (4), stand transferred to, and vest in, on such commencement, the Advisory Committee.

(4) Where any employee of the Tariff Committee, or the Regional Councils, of the General Insurance Council does not become an employee of the Advisory Committee, the monies 30 and other assets appertaining to any fund referred to in sub-section (3) shall be apportioned between the trustees of the fund and the Advisory Committee in the prescribed manner; and in case of any dispute regarding such apportionment, the decision of the Central Government thereon shall be final. 35

(5) The Advisory Committee shall, as soon as may be after the commencement of the Insurance (Amendment) Act, 1968, constitute in respect of the monies and other assets which are transferred to, and vested in, it under sub-section (3), one or more trusts having, as far as practicable, objects similar to the 40 objects of the existing trust.

(6) Where all the monies and other assets belonging to an existing trust are transferred to, and vested, in the Advisory Committee under sub-section (3), the trustees of such trust

shall, on the commencement of the Insurance (Amendment) Act, 1968, be discharged from the trust except as respects things done or omitted to be done by them before such commencement.

5 64UG. (1) Unless otherwise expressly provided by or under this Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the commencement of the Insurance (Amendment) Act, 1968, and to which the Tariff Committee, or any Regional Council is a party or which is in favour of that Committee or that Council, shall be of as full force and effect against or in favour of the Advisory Committee * * * * * and may be enforced or acted upon as fully and effectually as if, instead of the Tariff Committee, or the Regional Council, 10 the Advisory Committee had been a party thereto or as if they had been entered into or issued in favour of the Advisory Committee. 15

Contracts, etc., to be effective by or against the Advisory Committee.

(2) If, at the commencement of the Insurance (Amendment) Act, 1968, any suit, appeal or other legal proceeding of whatever nature is pending by or against the Tariff Committee, or any Regional Council then it shall not abate, be discontinued or in any way be prejudicially affected by reason of the transfer to the Advisory Committee of the assets and liabilities of the Tariff Committee, and the Regional Councils or of anything done under this Act, but the suit, appeal or other proceeding may be 20 continued, prosecuted or enforced by or against the Advisory Committee. 25

30 64UH. (1) Every whole-time employee of the Tariff Committee, or the Regional Councils who was employed by that Committee or those Councils wholly or mainly in connection with its or their statutory duties immediately before the commencement of the Insurance (Amendment) Act, 1968, shall, on and from such commencement, become an employee of the Advisory Committee and shall hold his office in it by the same tenure, at the same remuneration, and upon the same terms and conditions and with 35 the same rates and privileges as to pension, gratuity and other matters as he would have held on such commencement if this Part had not been enacted, and shall continue to do so until his employment under the Advisory Committee is terminated or until his remuneration, terms and conditions, are duly altered by the Advisory Committee: 40

Employees, etc., to continue.

45 Provided that nothing contained in this sub-section shall apply to any employee who has given notice to the Central Government in writing either prior to or within two months from the commencement of the Insurance (Amendment) Act, 1968, intimating his intention of not becoming an employee of the Advisory Committee.

(2) Where the Central Government is satisfied that for the purpose of securing uniformity in the scales of pay, remuneration and other terms and conditions of service applicable to employees of the Tariff Committee, or the Regional Councils, it is necessary so to do, or that a reduction in the remuneration payable or revision of the other terms and conditions of service applicable to employees or any class of them is called for, the Central Government may, notwithstanding anything contained in sub-section (1), or in the Industrial Disputes Act, 1947, or in any other law for the time being in force or in any award, settlement, or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and other terms and conditions of service to such extent and in such manner as it thinks fit; and if the alteration is not acceptable to any employee, the Advisory Committee may terminate his employment by giving him compensation equivalent to three months' remuneration, unless the contract of service with such employee provides for a shorter notice of termination.

14 of 1947.

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to, and shall not affect any pension, gratuity, provident fund money or any other benefit to which the employee may be entitled under his contract of service.

(3) If any question arises as to whether any person was a whole-time employee of the Tariff Committee, or the Regional Council, on the commencement of the Insurance (Amendment) Act, 1968, or as to whether any employee was employed wholly or mainly in connection with the statutory duties of the Tariff Committee, or any Regional Council, immediately before such commencement, the question shall be referred to the Central Government whose decision thereon shall be final.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee of the Tariff Committee, or the Regional Councils, to the Advisory Committee shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, Tribunal or other authority.

14 of 1947.

Duty of person having custody or control of property to deliver such

64UI. (1) Where any property of the Tariff Committee, or the Regional Councils (appertaining to its or their statutory duties) has been transferred to, and vested in, the Advisory Committee, then,—

(a) every person in whose possession, custody or control any such property may be, shall deliver the property to the Advisory Committee forthwith;

45

(b) any person, who, on the commencement of the Insurance (Amendment) Act, 1968, has in his possession, custody or control any books, documents and other papers relating to the Tariff Committee, or the Regional Councils, shall be liable to account for the said books, documents and papers to the Advisory Committee and shall deliver them to the Advisory Committee or to such person as that Committee may direct.

property to the Advisory Committee.

(2) Without prejudice to the provisions contained in this section, it shall be lawful for the Advisory Committee to take all necessary steps for securing possession of all properties which have been transferred to, and vested in, it under this Act.

64UJ. (1) The Advisory Committee may constitute such Regional Committees as and when it deems fit for one or more of the prescribed regions.

Power of the Advisory Committee to constitute Regional Committees.

(2) Each Regional Committee shall consist of not more than seven persons of which not more than five shall be elected by such groups of insurers carrying on general insurance business in the region as may be prescribed and not more than two shall be nominated by the Controller.

(3) For the purpose of enabling it effectively to discharge its duties, any Regional Committee may constitute * * * such sub-committees as it may think fit, whether consisting of members of the Regional Committee or not.

(4) It shall be the duty of every Regional Committee to advise the Advisory Committee on any question connected with the fixation of rates, advantages, terms and conditions for risks in its region which may be referred to it by the Advisory Committee for advice, and in addition, every Regional Committee shall perform such other functions as may be delegated to it by the Advisory Committee by regulations made by it with the previous approval of the Central Government.

(5) Where, in the exercise of any functions delegated to it under this section, any Regional Committee or any sub-committee thereof restrains an insurance agent from procuring or causing to be procured general insurance business in any area, such agent may prefer an appeal to the Central Government against such order within thirty days from the date of service of that order on him and the Central Government may, after giving such agent an opportunity of being heard, pass such orders thereon as it may think fit and the orders made by the Central Government on such appeal shall be final.

(6) Notwithstanding anything contained in this section, every Regional Council and every Sectional or other Committee

of such Regional Council, in existence immediately before the commencement of the Insurance (Amendment) Act, 1968, shall, until it is abolished by the Advisory Committee, be deemed to be a Regional Committee or sub-committee as the case may be, established in accordance with the provisions of this section and shall function as such and shall have all the powers and responsibilities which it had immediately before such commencement, and if the term of any such Council or committee expires before Regional Committees constituted under sub-section (1) and sub-committees constituted under sub-section (3) come into existence, such terms shall be deemed to have been validly extended up to the time when such Regional Committees and sub-committees are established.

Levy of
fees by
the Advi-
sory Com-
mittee.

64UK. (1) Every insurer shall annually before the prescribed date make payment to the Advisory Committee in the prescribed manner of such fees, not exceeding for any year, in the case of an insurer doing only re-insurance business in India, one per cent. of his total premiums in respect of facultative re-insurance accepted by him in India in the preceding year and, in the case of any other insurer, one per cent. of the total gross premium written direct by him in India in the preceding year, as may be specified by the Advisory Committee for the purpose of this Part.

(2) The Advisory Committee may collect, in addition to the fees mentioned in sub-section (1), reasonable fees and charges from any person to cover the cost of any specific services rendered by it.

(3) If an insurer fails to make payment within the prescribed date of any fee required to be paid under sub-section (1) he shall be deemed to have failed to comply with the provisions of this Act.

(4) The Controller may, so long as an application to the Court under sub-section (5D) of section 3 has not been made, revive the registration which might have been cancelled for failure to make payment of the fee required to be made under sub-section (1), if the insurer makes payment of such fee together with such penalty not exceeding the actual amount of fee payable as the Controller may require.

Power
to re-
move
difficul-
ties.

64UL. If any difficulty arises in giving effect to the provisions of this Part, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary

or expedient for the removal of the difficulty:

Provided that no such power shall be exercised after the expiry of a period of four years from the commencement of this Part.

5 64UM. (1) (A) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, unless he holds a valid licence issued to him by the Controller. Licensing
of
surveyors
and loss
assessors.

10 (B) Every person who intends to act as a surveyor or loss assessor after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, shall make an application to the Controller within such time, in such form, in such manner and on payment of such fee, not exceeding rupees two hundred and fifty, as may be prescribed.

15 (C) Every licence issued under this section shall remain in force, unless cancelled earlier, for a period of five years from the date of issue thereof, and may be renewed for a period of five years at a time, on payment of such fee, not exceeding rupees two hundred, as may be prescribed.

20 (D) No licence to act as a surveyor or loss assessor shall be issued unless—

25 (i) the applicant, where he is an individual, satisfies the Controller that he—

(a) has been in practice as a surveyor or loss assessor for a period of not less than seven years immediately preceding the commencement of the Insurance (Amendment) Act, 1968, or

30 (b) holds a degree of a recognized University in any branch of engineering, or

(c) is a fellow or associate member of the Institute of Chartered Accountants of India or the Institute of Cost and Works Accountants of India, or

35 (d) possesses actuarial qualifications or holds a degree or diploma of any recognized University or institute in relation to insurance, or

(e) holds a diploma in insurance granted or recognized by the Government, or

40 (f) possesses such other technical qualification as may be prescribed, and

(g) does not suffer from any of the disqualifications mentioned in sub-section (4) of section 42;

(ii) the applicant, where he is a company or firm, satisfies the Controller that all his directors or partners, as the case may be, possess one or more of the qualifications specified in clause (i) and none of such directors or partners suffer from any of the disqualifications mentioned in sub-section (4) of section 42. 5

(E) Every application for the renewal of the licence shall be made at least thirty days before the expiry of the period of validity thereof. 10

(F) The Controller may, if he is satisfied that any licence issued or renewed under this section has been lost or destroyed, issue a duplicate licence on payment of a fee of rupees five and the duplicate licence so issued shall remain in force for the remainder of the period of validity of the licence in lieu of which it is issued. 15

(G) Without prejudice to the powers conferred by sub-section (7), the Controller, if satisfied that the holder of any licence has made a statement which is false in material particulars with regard to his eligibility for obtaining such licence or has, after the issue or renewal of such licence, acquired any of the disqualifications mentioned in sub-section (4) of section 42 may, after giving a reasonable opportunity to the holder of such licence of being heard, by order cancel such licence and notify such cancellation in the Official Gazette. 20 25

(2) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding twenty thousand rupees in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, shall, unless otherwise directed by the Controller, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor"): 30 35

Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor. 40

(3) The Controller may, at any time, in respect of any claim of the nature referred to in sub-section (2), call for an independent report from any other approved surveyor or loss assessor specified by him and such surveyor or loss assessor shall furnish such report to the Controller within such time as may be specified by the Controller or if no time limit has been specified by him within a reasonable time and the cost of, or incidental to, such report shall be borne by the insurer.

(4) The Controller may, on receipt of a report referred to in sub-section (3), issue such directions as he may consider necessary with regard to the settlement of the claim including any direction to settle a claim at a figure less than, or more than, that at which it is proposed to settle it or it was settled and the insurer shall be bound to comply with such directions:

Provided that where the Controller issues a direction for settling a claim at a figure lower than that at which it has already been settled, the insurer shall be deemed to comply with such direction if he satisfies the Controller that all reasonable steps, with due regard to the question whether the expenditure involved is not disproportionate to the amount required to be recovered, have been taken with due despatch by him:

Provided further that no direction for the payment of a lesser sum shall be made where the amount of the claim has already been paid and the Controller is of opinion that the recovery of the amount paid in excess would cause undue hardship to the insured:

Provided also that nothing in this section shall relieve the insurer from any liability, civil or criminal, to which he would have been subject but for the provisions of this sub-section.

(5) No insurer shall, after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, pay to any person any fee or remuneration for surveying, verifying or reporting on a claim of loss under a policy of insurance unless the person making such survey, verification or report is an approved surveyor or loss assessor.

(6) Where, in the case of a claim of less than twenty thousand rupees in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer may employ any other person (not being a person disqualified for the time being for being employed as a surveyor or loss assessor) for surveying such loss

and may pay such reasonable fee or remuneration to the person so employed as he may think fit.

(7) If the Controller is satisfied that an approved surveyor or loss assessor has been guilty of wilfully making a false statement knowing it to be false or of being knowingly a party to the settlement of a claim in a fraudulent manner, he may, after giving such surveyor or loss assessor an opportunity of being heard, cancel the licence issued to him with effect from such date as may be specified by him and shall notify such cancellation in the Official Gazette.

(8) Any surveyor or loss assessor whose licence has been cancelled shall not be eligible for having a licence to act as a surveyor or loss assessor for a period of three years from the date on which the cancellation is notified in the Official Gazette.

(9) The Controller may in respect of any claim of value of less than twenty thousand rupees on an insurance policy, if the claim has not been or is not proposed to be reported upon by a surveyor or loss assessor, direct that such claim shall be reported upon by an approved surveyor or loss assessor and where the Controller makes such direction, the provisions of sub-sections (3) and (4) shall apply in respect of such claim.

(10) Where, in relation to any class of claims, the Central Government is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a licensed surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order published in the Official Gazette, exempt such class of claims from the operation of this section.

PART IIC

30 SOLVENCY MARGIN, ADVANCE PAYMENT OF PREMIUM AND RESTRICTIONS ON THE OPENING OF A NEW PLACE OF BUSINESS

64V. (1) For the purpose of ascertaining compliance with the provisions of section 64VA,—

(i) assets shall be valued at values not exceeding their market or realisable value and the assets hereafter mentioned shall be excluded to the extent indicated, namely:— 35

(a) agents' balances and outstanding premiums in India, to the extent they are not realised within a period of thirty days;

(b) agents' balances and outstanding premiums outside India, to the extent they are not realisable; 40

Assets and liabilities how to be valued.

(c) sundry debts, to the extent they are not realisable;

(d) advances of an unrealisable character;

(e) furniture, fixtures, dead stock and stationery;

(f) deferred expenses;

(g) profit and loss appropriation account balance and any fictitious assets other than pre-paid expenses;

(ii) a proper value shall be placed on every item of liability and liabilities in respect of share capital, general reserve and other reserves of similar nature not created to meet specific liabilities and investment reserve, reserve for bad and doubtful debts, and depreciation fund shall be excluded and liabilities hereafter mentioned shall be included to the extent indicated, namely:—

(a) provision for dividends declared or recommended, and outstanding dividends in full;

(b) reserves for unexpired risks in respect of—

(i) fire and miscellaneous business, 40 per cent.,

(ii) marine cargo business, 40 per cent., and

(iii) marine hull business, 100 per cent.,

of the premium, net of re-insurances, during the preceding twelve months;

(c) estimated liability in respect of outstanding claims, in full;

(d) amount due to insurance companies carrying on insurance business, in full;

(e) amounts due to sundry creditors, in full;

(f) provision for taxation, in full.

Explanation.—In the case of an insurer whose principal place of business or domicile is outside India, where, in the accounts filed with the public authority of the country in which the insurer is constituted, incorporated or domiciled, in respect of marine insurance business, the provisions for unexpired risks and outstanding claims are not shown separately, the liabilities under items (b) and (c) of clause (ii) in respect of marine insurance business shall be taken together at a figure of not less than the total premium less

re-insurances in respect of that class of business during the preceding twelve months.

(2) Every insurer shall furnish to the Controller with his returns under section 15 or section 16, as the case may be, a statement certified by an auditor, of his assets and liabilities assessed in the manner required by this section as on the 31st day of December of the preceding year. 5

Sufficiency
of assets.

64VA. (1) An insurer shall, at all times, maintain an excess of the value of his assets over the amount of his liabilities of not less than the amount arrived at as follows (hereafter in this section referred to as the "relevant amount"), namely:— 10

(i) in the case of an insurer whose total premium income less re-insurances in respect of general insurance business (hereafter in this sub-section referred to as the "said income") in the preceding twelve months did not exceed five crores of rupees, one-fifth of the said income subject to a minimum of— 15

(a) five lakhs of rupees in the case of an insurer who is a co-operative society registered under the Co-operative Societies Act, 1912 or any other law for the time being in force in any State relating to co-operative societies, or 202 of 1912.

(b) ten lakhs of rupees in the case of any other insurer; and

(ii) in the case of an insurer whose said income in the preceding twelve months exceeded five crores of rupees, the aggregate of one-fifth of the first five crores of rupees of the said income and one-tenth of the amount by which the said income in the preceding twelve months exceeded five crores of rupees: 25 30

Provided that where a number of insurers occupying the status of parent and subsidiary companies prepare, under the laws of the country of origin of the parent company, a consolidated balance-sheet, the provisions of this sub-section shall apply to such of them as are not members of any group as if they constituted a single insurer, subject to the further condition that the relevant amount shall, in no case, be less than a sum equal to,— 35

(i) the number of such insurers multiplied by ten lakhs of rupees, or 40

2 of 1912.

(ii) where all the insurers are co-operative societies registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in any State relating to co-operative societies, the number of such insurers multiplied by five lakhs of rupees:

Provided further that if in respect of any insurer the Central Government is satisfied that either by reason of an unfavourable claim experience or because of a sharp increase in the volume of new business, or for any other reason, compliance with the provisions of this sub-section would cause undue hardship to the insurer, it may direct that for such period and subject to such conditions as it may specify, the provisions of this sub-section shall apply to that insurer with the modification that instead of the proportion of one-fifth, wherever mentioned in this sub-section, such other proportion being not less than one-tenth as may be specified by that Government shall be applicable to that insurer:

Provided also that in the case of an insurer carrying on insurance business at the commencement of the Insurance (Amendment) Act, 1968, it shall be sufficient compliance with the provisions of this sub-section until the 31st December, 1972 or until such subsequent date, not being later than 31st December, 1976, as the Central Government may, at its discretion, allow for any particular insurer, if he progressively brings up the excess of the value of his assets over the amount of his liabilities, in such manner as may be prescribed, to the relevant amount. * * * *

(2) An insurer who does not comply with the provisions of sub-section (1) shall be deemed to be insolvent and may be wound up by the court.

(3) The Controller shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets and liabilities of any insurer or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date and the insurer shall comply with any requisition made in this behalf by the Controller, and if he fails to do so within two months from the receipt of the requisition, he shall be deemed to have made default in complying with the requirements of this section.

(4) The provisions of this section shall not apply to an insurer specified in sub-clause (c) of clause (9) of section 2.

(5) In applying the provisions of sub-section (1) to any insurer, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy: 5

Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India, shall comply with the requirements of sub-section (1) as if he had not been an insurer in a group at any time: 10

Provided further that it shall be sufficient compliance with the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within a period of six months from the date of cessation of the group: 15

Provided also that the Central Government may, on sufficient cause being shown, extend the said period of six months by such further periods as it may think fit, so however that the total period may not in any case exceed one year. 20

(6) The Central Government may, by notification in the Official Gazette, reduce the sum of ten lakhs of rupees or five lakhs of rupees, as the case may be, referred to in sub-section (1) to a lower figure not less than one hundred thousand rupees in respect of a country craft insurer or in respect of an insurer not having a share capital and carrying on only such insurance business as, in the opinion of the Central Government, is not carried on ordinarily by insurers under separate policies. 25

No risk to be assumed unless premium is received in advance.

* * * * * 30
64VB. (1) No insurer shall assume any risk in India in respect of any insurance business on which premium is not ordinarily payable outside India unless and until the premium payable is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed or unless and until deposit of such amount as may be prescribed, is made in advance in the prescribed manner. 35

(2) For the purposes of this section, in the case of risks for which premium can be ascertained in advance, the risk may be assumed not earlier than the date on which the premium has been paid in cash or by cheque to the insurer. 40

Explanation.—Where the premium is tendered by postal money order or cheque sent by post, the risk may be assumed on the date on which the money order is booked or the cheque is posted, as the case may be.

5 (3) Any refund of premium which may become due to an insured on account of the cancellation of a policy or alteration in its terms and conditions or otherwise shall be paid by the insurer directly to the insured by a crossed or order cheque or by postal money order and a proper receipt shall be obtained
10 by the insurer from the insured, and such refund shall in no case be credited to the account of the agent.

(4) Where an insurance agent collects a premium on a policy of insurance on behalf of an insurer, he shall deposit with, or despatch by post to, the insurer, the premium so collected in
15 full without deduction of his commission within twenty-four hours of the collection excluding bank and postal holidays.

(5) The Central Government may, by rules, relax the requirements of sub-section (1) in respect of particular categories of insurance policies.

20 64VC. (1) No insurer shall, after the commencement of the Insurance (Amendment) Act, 1968, 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 without obtaining the prior permission of the Controller. Restrictions on the opening of a new place of business.

25 (2) The Controller may grant permission under sub-section (1) subject to such conditions as he may think fit to impose either generally or with reference to any particular case.

(3) Where, in the opinion of the Controller, an insurer has, at any time, failed to comply with any of the conditions imposed
30 on him under this section, the Controller may, by order in writing and after affording reasonable opportunity to the insurer for showing cause against the action proposed to be taken against him, revoke any permission granted under this section.

35 *Explanation.*—For the purposes of this section, “place of business” includes a branch, sub-branch, inspectorate, organisation office and any other office, by whatever name called.’

30. In section 96 of the principal Act, the words “Mutual Insurance Companies and” shall be omitted. Amendment of section 96.

Amend-
ment of
section 97.

31. In section 97 of the principal Act, for the words and figures "No Mutual Insurance Company incorporated after the 26th day of January, 1937, and no Co-operative Life Insurance Society registered after that date", the words and figures "No Co-operative Life Insurance Society registered after the 26th day of January, 1937" ⁵ shall be substituted.

Amend-
ment of
section 98.

32. In section 98 of the principal Act,—

(a) in sub-section (1), the words "Mutual Insurance Com-
pany and every" shall be omitted;

(b) in sub-section (3), the words "a Mutual Insurance Co
Company and" shall be omitted.

Insertion
of new
section
101C.

33. After section 101B of the principal Act, the following section shall be inserted, namely:—

"101C. The Controller may, at any time,—

Examina-
tion of
re-insur-
ance trea-
ties.

(a) call upon an insurer to submit for his examination ¹⁵
at the principal place of business of the insurer in India
all re-insurance treaties and other re-insurance contracts
entered into by the insurer;

(b) examine any officer of the insurer on oath in rela-
tion to any such document as is referred to in clause (a) ²⁰
above; or

(c) by notice in writing, require any insurer to supply
him with copies of any of the documents referred to in
clause (a), certified by a principal officer of the insurer."

Amend-
ment of
sec-
tion 102.

34. In section 102 of the principal Act, after sub-section (1), ²⁵
the following sub-section shall be inserted, namely:—

"(1A) If any person fails to produce any book, account or
other document or to furnish any statement or information
which, under sub-section (2) of section 33 or under sub-sec-
tion (3) of section 64UE, it is his duty to produce or furnish, or ³⁰
to answer any question relating to the business of an insurer
which he is asked by an officer making an inspection under either
of those sections, he shall be punishable with fine which may

extend to two thousand rupees in respect of each failure and if the failure continues, to a further fine which may extend to one hundred rupees for each day after the first, during which such failure continues.”.

- 5 **35.** After section 107 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 107A.

“107A. Every whole-time Chairman, whole-time director, auditor, liquidator, manager and any other employee of an insurer shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.”. Chairman, etc., to be public servants.

15 of 1860. 10

- 36.** Section 109 of the principal Act shall be re-numbered as sub-section (1) thereof and, after sub-section (1), as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 109.

15 “(2) No court shall take cognizance of any offence punishable under sub-section (4) of section 34B or sub-section (1A) of section 102 except upon complaint in writing made by an officer of the Central Government generally or specially authorised in writing, in this behalf by the Controller, and no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.”. 20

- 37.** After section 110C of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 110D, 110E, 110F, 110G and 110H.

25 “110D. No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions contained in section 34 or section 34A or section 34E or section 37A or by reason of the compliance by an insurer with any order or direction given to him under this Act. Certain claims for compensation barred.

30 **110E.** Notwithstanding anything contained in the Life Insurance Corporation Act, 1956, the provisions of sections 3A, 27B, 28B, 33, 34, clause (a) * of section 34E, 34F, 40C, 44A, 64U to 64UM (both inclusive), 64V, 64VA, 64VB, 64VC, 101A, 101C, 110D, 110G and 110H, shall also apply, so far as may be, to and in relation to the general insurance business carried on by the Life Insurance Corporation of India and the provisions of section 37A Sections 3A, 27B, 28B, 33, etc., to apply to general insurance business of the Life

35

**Insurance
Corporation of
India.**

shall also apply to that Corporation if it becomes an acquiring insurer.

**Provisions
applicable
to State
Governments,
etc.**

110F. The provisions of sections 3, 3A, 27B, 28B, 33, 34, clause (a) * of section 34E, 34F, 40A, 40C, 44A, 64U to 64UM (both inclusive), 64V, 64VA, 64VB, 64VC and 101A, 101C, 110D, 5 110G and 110H shall, notwithstanding any exemption granted under section 118, also apply, so far as may be, to and in relation to the general insurance business carried on by * * a State Government or a Government company as defined in section 617 of the Companies Act, 1956. 10 1 of 1958.

**Constitution of
Consultative
Committee.**

110G. (1) The Central Government shall constitute a Consultative Committee consisting of the Controller (who shall be the Chairman thereof) and not more than four other members having special knowledge and experience of the business of insurance. 15

(2) The term of office of, and the allowances payable to the members of the Consultative Committee, the procedure to be followed by, and the quorum necessary for the transaction of business of, the Consultative Committee and the manner of filling casual vacancies therein shall be such as may be prescribed. 20

(3) Before making any order under sections 34, 34A, 34B, 34C, 34E, 34F, 34G, sub-sections (4) and (7) of section 64UM and section 64VC, the Controller shall consult the Consultative Committee constituted under sub-section (1). 25

Appeals.

110H. (1) Any person aggrieved by any order made by the Controller under sections 34, 34A, 34B, 34C, 34E, 34F, 34G, sub-sections (1), (4) and (7) of section 64UM or section 64VC may, within a period of thirty days from the date of such order prefer an appeal against such order to the Central Government and that Government may, by order, confirm, modify or reverse the order made by the Controller and the order so made by the Central Government shall be final. 30

(2) No claim for compensation shall lie in favour of any person for anything done in pursuance of an order of the Controller so long as such order was effective. 35

(3) The Central Government may, on the application of an appellant, stay, until the decision of the appeal, the operation

of any order made under section 34 or sub-section (5) of section 34B or sub-clause (v) of clause (b) of section 34E.”.

38. In section 116A of the principal Act, in the proviso, for the word, figures and letter “section 28A”, the words, figures and letters “section 28A or section 28B” shall be substituted.

39. For clause (a) under Notes, below Form F of Part II of the Third Schedule, the following shall be substituted, namely:—

“(a) This item must include all expenses directly incurred in relation to assessment of claims of the nature of survey fees, fees for police reports, legal fees, court expenses and other similar charges, but should not include any establishment or administration expenses except in so far as they relate to any employee exclusively employed on survey or assessment of losses.”.

40. After the Seventh Schedule to the principal Act, the following Schedule shall be inserted, namely:—

“THE EIGHTH SCHEDULE

(See section 52J)

PRINCIPLES OF COMPENSATION

The compensation to be given under section 52J shall be an amount equal to the value of the assets of the acquired insurer as on the day immediately before the appointed day, computed in accordance with the provisions of Part I of this Schedule less the total amount of liabilities thereof as on that day, computed in accordance with the provisions of Part II of this Schedule.

PART I

Assets

For the purposes of this Part, “value of assets” means the total of the following:—

(a) the market value of any land or buildings;

(b) the market value of any securities, shares, debentures, bonds and other investments, held by the acquired insurer.

Explanation.—For the purposes of this clause,—

(i) securities of the Central and State Governments [other than the securities specified in sub-clauses (ii) and (iii) of this *Explanation*] maturing for redemption within five years from the appointed day shall be valued at the face value or the market value, whichever is higher;

(ii) securities of the Central Government, such as Post Office Certificates and Treasury Savings Deposit Certificates and any other securities or certificates issued or to be issued under the Small Savings Scheme of the Central Government, shall be valued at their face value or the encashable value as on the appointed day, whichever is higher;

(iii) where the market value of any Government security such as the zamindari abolition bonds or other similar security, in respect of which the principal is payable in instalments, is not ascertainable or is, for any reason, not considered as reflecting the fair value thereof or as otherwise appropriate, the security shall be valued at such an amount as is considered reasonable, having regard to the instalments of principal and interest remaining to be paid, the period during which such instalments are payable, the yield of any security, issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;

(iv) where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, the investment may be valued on the basis of its average market value over any reasonable period;

(v) where the market value of any security, share, debenture, bond or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable, having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;

(c) the total amount of the premium paid by the acquired insurer in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(d) the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings;

(e) the amount of debts due to the insurer, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable;

5 (f) the amount of cash held by the insurer whether in deposit with a bank or otherwise;

(g) the market or realisable value, as may be appropriate, of other assets appearing on the books of the insurer, no value being allowed for capitalised expenses, such as share selling commission, organisational expenses and brokerage, losses incurred and similar other items.

PART II

Liabilities

The total amount of the liabilities of the insurer shall include—

15 (i) reserves for unexpired risks being in respect of each policy, such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid;

20 (ii) the total amount of all other liabilities of the insurer existing on the appointed day, including all contingent liabilities which the Central Government or the acquiring insurer may reasonably be expected to be required to meet out of its own resources on or after the appointed day.

* * * * *

CERTAIN DIVIDENDS NOT TO BE TAKEN INTO ACCOUNT

25 No separate compensation shall be payable for any profits or any dividend in respect of any period immediately preceding the appointed day, for which, in the ordinary course, profits would have been transferred or dividend declared after the appointed day.

30 **41.** In section 32 of the Payment of Bonus Act, 1965, in clause (i), the words "employees employed by any insurer carrying on general insurance business and the" shall be omitted.

Amend-
ment of
Act 21
of 1965.

APPENDIX 1

(Vide para 2 of the Report)

Motion in Lok Sabha for reference of the Bill to Joint Committee.

"That the Bill further to amend the Insurance Act, 1938, so as to provide for the extension of social control over insurers carrying on general insurance business and for matters connected therewith or incidental thereto and also to amend the Payment of Bonus Act, 1965, be referred to a Joint Committee of the Houses consisting of 33 members, 22 from this House, Namely:—

1. Shri K. Suryanarayana
2. Shri Shivajirao S. Deshmukh
3. Shri George Fernandes
4. Shri Bimalkanti Ghosh
5. Shri Humayun Kabir
6. Shri Ramavatar Shastri
7. Shri C. M. Kedarla
8. Shri S. S. Kothari
9. Shri Brahm Prakash
10. Shri Jagannath Pahadia
11. Shri K. C. Pant
12. Shri Mrityunjay Prasad
13. Shri K. Rajaram
14. Shri Ram Charan
15. Shri P. Ramamurti
16. Shri V. Narasimha Rao
17. Shri R. Dasaratha Rama Reddy
18. Shri Beni Shanker Sharma
19. Shri N. K. Somani
20. Pandit D. N. Tiwary
21. Shri Balgovind Verma
22. Shri Morarji R. Desai, and

11 from Rajya Sabha:

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 11 members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(Vide para 3 of the Report)

Motion in Rajya Sabha.

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Insurance Act, 1938, so as to provide for the extension of social control over insurers carrying on general insurance business and for matters connected therewith or incidental thereto and also to amend the Payment of Bonus Act, 1965, and resolves that the following Members of the Rajya Sabha be nominated to serve on the said Joint Committee:

1. Shri M. P. Bhargava
2. Shri Ram Niwas Mirdha
3. Shri Jairamdas Daulatram
4. Shri Sherkhan
5. Shrimati Vidyawati Chaturvedi
6. Chaudhary A. Mohammad
7. Dr. B. N. Antani
8. Shri K. Chandrasekharan
9. Shri Man Singh Varma
10. Shri K. P. Subramania Menon
11. Shri K. R. Patil.”

APPENDIX III

(Vide para 7 of the Report)

Statement showing the names of Associations/Individuals etc. from whom memoranda/representations etc. were received by the Joint Committee

S. No.	From whom received	Action Taken
1	The National Cooperative Union of India, New Delhi.	Circulated to Members and evidence taken on 25-10-68.
2	Federation of Indian Chambers of Commerce & Industry, New Delhi.	Circulated to Members.
3	The Overseas and Inland Insurers' Employees Association, Calcutta.	Circulated to Members and evidence taken on 25-10-68.
4	Shri N. S. Patel, Bombay.	Circulated to Members.
5	The Calcutta Hospital and Nursing Home Benefits Association, Ltd., Calcutta.	Do.
6	The National Employers' Mutual General Insurance Association, New Delhi.	Circulated to Members & evidence taken on 26-10-68.
7	The Indian Insurance Companies Association, Bombay (Representing both Indian and Non-Indian Companies.)	Circulated to Members and evidence taken on 26-10-68.
8	The Institute of Insurance Surveyors and Adjusters Ltd., Bombay.	Circulated to Members and evidence taken on 26-10-68.
9	The Associated Chambers of Commerce and Industry of India, Calcutta.	Circulated to Members.
10	Shri R. N. Pandey, Delhi.	Do.
11	The Indian Merchants Chamber, Bombay.	Circulated to Members and evidence taken on 26-10-68.

S. No.	From whom received	Action taken
12	The Bombay Insurance Brokers' Association, Bombay.	Circulated to Members.
13	Shri Gopi Chand Chopra, Jaipur.	Circulated to Members.
14	The Insurance Surveyors & Loss Assessors Association, New Delhi.	Circulated to Members and evidence taken on 26-10-68.
15	Goa Chamber of Commerce and Industry, Panaji.	Circulated to Members.
16	All India Insurance Employees Association, New Delhi.	Circulated to Members and evidence taken on 26-10-68.
17	The Southern Indian Chamber of Commerce and Industry, Madras.	Circulated to Members.
18	The Vulcan Insurance Co. Ltd., (Staff Union) Bombay.	Circulated to Members and evidence taken on 25-10-68.
19	Northern India Chamber of Commerce and Industry, Chandigarh.	Circulated to Members.
20	Shri R. N. Sharma, Delhi.	Do.
21	Shri Purushottamdas Rathi, Pipariya, Distt. Hoshangabad.	Do.
22	Shri P. L. Jacob, Bombay-71	Do.
23	The Insurance Underwriters' Association of India, Calcutta.	Do.
24	The Bihar Chamber of Commerce, Patna.	Do.
25	The Indian Chamber of Commerce, Calcutta.	Do.
26	Association of Insurance Surveyors (India), Calcutta.	Do.

APPENDIX IV

(Vide para 8 of the Report)

List of parties who gave evidence before the Joint Committee.

S. No.	Name of the Parties	Dates on which evidence was taken
1	The National Cooperative Union of India, New Delhi.	25th October, 1968.
2	The Overseas and Inland Insurers' Employees Association, Calcutta.	25th October, 1968.
3	The All India Insurance Employees Association, General Insurance Sub-committee, New Delhi.	25th October, 1968.
4	The Vulcan Insurance Co. Ltd., (Staff Union), Bombay.	25th October, 1968.
5	The Insurance Surveyors & Loss Assessors Association, New Delhi.	26th October, 1968.
6	The Institute of Insurance Surveyors and Adjusters Ltd., Bombay.	26th October, 1968.
7	The National Employers' Mutual General Insurance Association Ltd., New Delhi.	26th October, 1968.
8	The Indian Insurance Companies Association, Bombay.	26th October, 1968.
9	The Indian Merchants' Chamber, Bombay.	26th October, 1968.

APPENDIX V

Minutes of the sittings of the Joint Committee on the Insurance (Amendment) Bill, 1968.

I

First sitting

The Committee sat on Monday, the 2nd September, 1968 from 11.00 to 11.30 hours.

PRESENT

Pandit D. N. Tiwary—*Chairman*

MEMBERS

Lok Sabha

2. Shri Shivajirao S. Deshmukh
3. Shri K. Suryanarayana
4. Shri George Fernandes
5. Shri Bimalkanti Ghosh
6. Shri Ramavatar Shastri
7. Shri Ramavatarr Shastri
8. Shri S. S. Kothari
9. Shri Jagannath Pahadia
10. Shri K. C. Pant
11. Shri Mrityunjay Prasadi
12. Shri Ram Charan
13. Shri V. Narasimha Rao
14. Shri N. K. Somani
15. Shri Balgovind Verma
16. Shri Morarji R. Desai

Rajya Sabha

17. Shri M. P. Bhargava
18. Shri Ram Niwas Mirdha
19. Shri Jairamdas Daulatram
20. Shri Sherkhan

21. Shrimati Vidyawati Chaturvedi
22. Chaudhary A. Mohammad
23. Dr. B. N. Antani
24. Shri K. P. Subramania Menon
25. Shri G. R. Patil

**REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE AND INSURANCE)**

1. Shri P. Govindan Nair, *Secretary.*
2. Shri A. Rajagopalan, *O.S.D. & Joint Secretary.*
3. Shri C. S. Anantapadmanabhan, *Director (Insurance).*
4. Dr. Raj K. Nigam, *Deputy Secretary.*

LIGISLATIVE COUNCIL

Shri S. K. Maitra, *Jt. Secretary & Legislative Counsel.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. At the outset, the Chairman welcomed the Members of the Committee.

3. After some discussion the Committee decided that a Press Communiqué (Annexure) be issued advising individuals, public bodies, business organisations, insurers and other associations who were desirous of submitting memoranda on the Bill or of giving evidence before the Committee thereon, to do so by the 25th September, 1968.

4. The Committee also decided that the Members might give their notices of amendments to the Bill, if any, by the 10th October, 1968.

5. The Committee decided that Chamber of Commerce, business organisations, insurers' associations, etc. should specifically be addressed to enquire whether they wish to submit memoranda and give evidence before the Committee.

6. The Committee authorised the Chairman to select parties after the receipt of written memoranda from them for oral evidence and to fix the time and date in each case.

7. The Committee then adjourned to meet again. From Friday, the 25th October, 1968 onwards to hear oral evidence and thereafter to take up clause-by-clause consideration of the Bill.

ANNEXURE

LOK SABHA SECRETARIAT
PRESS COMMUNIQUE

The Insurance (Amendment) Bill, 1968 which was introduced in Lok Sabha on the 8th April, 1968 was referred to a Joint Committee of both Houses of Parliament. It seeks to provide for the extension of social control over insurers carrying on general insurance business. In order to eliminate undesirable practices in general insurance business, the Bill contains, *inter alia* provisions to provide for (i) restriction on shareholding and voting rights (ii) regulation of investments (iii) conferring of power on the Controller of Insurance to carry out routine or surprise inspections and issue directions, to appoint Directors on the Board of Directors or Observers, to enforce amalgamations of insurers, to regulate and fix premium rates etc. The Joint Committee at their first sitting held today under the Chairmanship of Pandit D. N. Tiwary, M.P. decided that individuals, public bodies, business organisations, Insurers and other associations desirous of submitting memoranda on the Bill for consideration of the Committee may send 50 copies of each memorandum so as to reach the Secretary, Lok Sabha, Parliament House, New Delhi on or before the 25th September, 1968. The memoranda which might be submitted to the Committee would form part of the records of the Committee and should be treated as strictly confidential and not circulated to anyone, as such an act would constitute a breach of privilege of the Committee.

Those who are desirous of giving oral evidence before the Committee, besides sending memoranda, are requested to intimate to this effect to the Lok Sabha Secretariat by the said date for consideration of the Committee.

The Insurance (Amendment) Bill, 1968, as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 8th April, 1968.

The Committee will sit in Parliament House, at New Delhi from the 25th October, 1968 onwards to hear the evidence and thereafter take up clause-by-clause consideration of the Bill.

NEW DELHI:

dated the 2nd September, 1968

No. 16/8/CII/68

Dated the 2nd September, 1968.

Copy forwarded for information to the News Editor, All India Radio, New Delhi.

1955 (B) LS—13

It is requested that this may please be broadcast from the A.I.R. on three successive days and this Secretariat informed of the dates on which it is broadcast.

M. C. CHAWLA,
Deputy Secretary.

II

Second sitting

The Committee sat on Friday, the 25th October, 1968 from 15.00 to 19.15 hours.

MEMBERS

Pandit D. N. Tiwary—*Chairman*

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri George Fernandes
4. Shri Humayun Kabir
5. Shri Ramavatar Shastri
6. Shri C. M. Kedaria
7. Shri S. S. Kothari
8. Chowdhry Brahm Perakash
9. Shri Jagannath Pahadia
10. Shri Mrityunjay Prasad
11. Shri Ram Charan
12. Shri P. Ramamurti
13. Shri V. Narasimha Rao
14. Shri R. Dasaratha Rama Reddy
15. Shri Beni Shanker Sharma
16. Shri N. K. Somani
17. Shri Balgovind Verma
18. Shri Morarji R. Desai

Rajya Sabha

19. Shri Jairamdas Daulatram
20. Shri Sherkhan
21. Shrimati Vidyawati Chaturvedi

22. Chaudhary A. Mohammad
23. Dr. B. N. Antani
24. Shri K. Chandrasekharan
25. Shri Man Singh Varma
26. Shri K. P. Subramania Menon
27. Shri G. R. Patil

REPRESENTATIVES OF THE MINISTRY OF FINANCE

1. Shri P. Govindan Nair, *Secretary, Department of Revenue and Insurance.*
2. Shri A. Rajagopalan, *O.S.D. and Joint Secretary, Department of Revenue and Insurance.*
3. Shri C. S. Anantapadamanabhan, *Director (Insurance) Department of Revenue and Insurance.*
4. Dr. Raj K. Nigam, *Deputy Secretary, Department of Revenue and Insurance.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee heard the views of the representatives of the following Organisations/Associations/Company on the provisions of the Bill:—

I. (i) National Cooperative Union of India, New Delhi:

- (i) Shri M C. Shah,
Manager, Union Cooperative Insurance
Society, Delhi Branch.
- (ii) Shri R. N. Panda,
President, Orissa Cooperative Insurance
Society, Cuttack.
- (iii) Shri A. S. R. Murthi,
General Manager, Hyderabad Cooperative
Insurance Society, Hyderabad.
- (iv) Shri M. S. Asthana,
Chief Executive Director of National
Cooperative Union of India, New Delhi.

- (v) Shri R. D. Bedi,
Joint Director, National Cooperative Union of India,
New Delhi.

(15.00 to 16.25 hrs.)

**II. The Overseas & Inland Insurers' Employees' Association,
Calcutta.**

&

**All India Insurance Employees Association General Insurance Sub-
Committee, New Delhi.**

- (i) Shri Ajit Lal Das,
President, Overseas and Inland Insurers'
Employees' Association, Calcutta.
- (ii) Shri Atul Kirshna Kundu,
General Secretary, Overseas & Inland
Insurers' Employees' Association, Calcutta.
- (iii) Shri Samaresh Sarkar,
Member, Executive Committee, Overseas & Inland
Insurers' Employees' Association, Calcutta.
- (iv) Shri R. N. Mukherjee,
Member, Executive Committee, Overseas & Inland
Insurers' Employees' Association, Calcutta.
- (v) Shri K. D. Bhattacharya,
Member, Executive Committee, Overseas & Inland
Insurers' Employees' Association, Calcutta.

&

&

- (i) Shri Saroj Chaudhuri,
General Secretary, All India Insurance
Employees Association, General Insurance
Sub-Committee, New Delhi.
- (ii) Shri K. S. B. Pillai,
Joint Secretary, All India Insurance
Employees Association, General Insurance
Sub-Committee, New Delhi.

- (iii) Shri Ajoy Das Gupta,
Member, Executive Committee, Overseas & Inland
Employees Association, General Insurance
Sub-Committee, New Delhi.
- (iv) Shri J. G. Kothare,
Member, Working Committee, All India Insurance
Employees Association, General Insurance Sub-Committee,
New Delhi.
- (v) Shri R. K. Gupta,
Member, General Council, All India Insurance
Employees Association, General Insurance
Sub-Committee, New Delhi.
- (vi) Shri P. P. Ravindranathan,
Member, General Council, All India Insurance Employees,
Association, General Insurance Sub-Committee, New
Delhi.

(16.30 to 18.20 hrs.)

[The attention of all these witnesses was drawn to Direction 58 of the Directions by the Speaker.]

3. On a point being raised that the witnesses referred to in para 1 (II) above should be permitted to raise the question of nationalisation of general insurance, the Chairman invited the attention of the members to Direction 76 of the Directions by the Speaker and ruled that this was beyond the purview of the Committee as it sought to make some particular or additional provision in the Bill under consideration. He, however, added that the member could raise this when the Committee meet to take up clause-by-clause consideration of the Bill.

4. After the evidence of the representatives of organisations referred to in para 1 (II) above concluded, the Committee heard the following representatives of the Vulcan Insurance Co. Ltd. (Staff Union), Bombay from 18.20 to 19.15 hrs.:

- (i) Shri P. B. Deshmukh,
President.
- (ii) Shri N. M. Shukla,
General Secretary.
- (iii) Shri V. A. Korgonkar,
Joint General Secretary.

(iv) Shri K. S. Dighe,
Treasurer.

5. A verbatim record of the evidence was kept.

6. The Committee then adjourned till 10.00 hours on the 26th October, 1968.

III

Third Sitting

The Committee sat on Saturday, the 26th October, 1968 from 10.00 to 12.00 hours and again from 14.00 to 18.15 hours.

PRESENT

Pandit D. N. Tiwary—*Chairman*

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri George Fernandes
4. Shri Humayun Kabir
5. Shri Ramavatar Shastri
6. Shri C. M. Kedaria
7. Shri S. S. Kothari
8. Chowdhry Brahm Perakash
9. Shri Jagannath Pahadia
10. Shri Mrityunjay Prasad
11. Shri Ram Charan
12. Shri P. Ramamurti
13. Shri V. Narasimha Rao
14. Shri R. Dasaratha Rama Reddy
15. Shri Beni Shanker Sharma
16. Shri N. K. Somani
17. Shri Balgovind Verma
18. Shri Morarji R. Desai

Rajya Sabha

19. Shri M. P. Bhargava
20. Shri Jairamdas Daulatram

21. Shri Sherkhan
22. Shrimati Vidyawati Chaturvedi
23. Choudhary A. Mohammad
24. Dr. B. N. Antani
25. Shri K. Chandrasekharan
26. Shri Man Singh Varma
27. Shri K. P. Subramania Menon
28. Shri G. R. Patil

LEGISLATIVE COUNSEL

Shri S. K. Maitra, *Jt. Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE AND INSURANCE)

1. Shri A. Rajagopalan, *O.S.D. and Joint Secretary.*
2. Shri C. S. Anantapadmanabhan, *Director (Insurance).*
3. Dr. Raj K. Nigam, *Deputy Secretary.*

SECRETARIAT

Shri M. C. Chawla, *Deputy Secretary.*

As the following witness, which was the first in the order paper, did not come, the Committee held general discussion on the various provision of the Bill in the light of the evidence given before them at their yesterday's sitting:

Shri Gopi Chand Chopra, Jaipur.

2. The Committee then took up examination of the following witnesses:

I. *The Insurance Surveyors & Loss Assessors Association, New Delhi*

- (i) Shri R. K. Bhandari, President
- (ii) Shri V. N. Sarin, Vice-President
- (iii) Shri R. N. Sharma, Secretary
- (iv) Shri J. D. Gulshan, Joint Secretary
- (v) Shri S. C. Rosha, Joint Secretary

(10.45 to 12.00 hours)

3. The Committee then adjourned for Lunch at 12.00 hours.

4. The Committee re-assembled after Lunch at 14.00 hours and heard the evidence of the following further witnesses:

II. *Institute of Insurance Surveyors and Adjusters Ltd., Bombay*

- (i) Shri V. N. C. Narichania, Secretary
- (ii) Shri R. C. Sheth, Member
- (iii) Shri S. C. Mazumdar, Member
- (iv) Shri V. P. Shah, Member

(14.00 to 15.00 hours)

III. *The National Employers' Mutual General Insurance Association,
New Delhi*

- (i) Shri M. L. Pasricha, Manager for India
- (ii) Shri V. P. Mehta, Branch Manager
- (iii) Shri R. Mahadev, Office Manager, Bombay.

(15.00 to 15.48 hours)

IV. *The Indian Insurance Companies Association, Bombay*

(Representing the entire General Insurance Industry in India composed of both Indian and Non-Indian Companies)

- (i) Shri P. U. Patel, Chairman, Special Advisory Committee
- (ii) Shri H. V. Gandhi, Vice-Chairman, Special Advisory Committee
- (iii) Shri C. M. Teliwala, Chairman, Indian Insurance Companies Association, Bombay
- (iv) Shri E. K. Srinivasan, Chairman, Indian Insurance Companies Association, Madras
- (v) Shri K. P. Modi, Chairman, Indian Insurance Companies Association, Calcutta
- (vi) Shri D. Hammond Giles, Chairman, Overseas Insurers Association
- (vii) Shri G. V. Kapadia, Technical Adviser
- (viii) Shri S. K. Desai, Technical Adviser.

(15.50 to 17.29 hours)

V. *The Indian Merchants' Chamber, Bombay*

- (i) Shri Pratap Bhogilal, President
- (ii) Shri J. H. Doshi, Vice-President
- (iii) Shri B. M. Desai, Member
- (iv) Shri C. L. Gheevala, Secretary

(17.30 to 18.15 hours)

5. A verbatim record of the evidence was kept.

6. The Committee then adjourned till 10.00 hours on **Sunday**, the 27th October, 1968.

IV

Fourth Sitting

The Committee sat on Sunday, the 27th October, 1968 from 10.00 to 13.00 and again from 15.00 to 17.30 hours.

PRESENT

Pandit D. N. Tiwary—*Chairman*

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri George Fernandes
4. Shri Ramavatar Shastri
5. Shri C. M. Kedaria
6. Shri S. S. Kothari
7. Chowdhry Brahm Perakash
8. Shri Jagannath Pahadia
9. Shri Mrityunjay Prasad
10. Shri Ram Charan
11. Shri P. Ramamurti
12. Shri R. Dasaratha Rama Reddy
13. Shri Beni Shanker Sharma
14. Shri Balgovind Verma
15. Shri Morarji R. Desai.

Rajya Sabha

16. Shri M. P. Bhargava
17. Shri Sherkhan
18. Chaudhary A. Mohammad
19. Dr. B. N. Antani
20. Shri K. Chandrasekharan
21. Shri K. P. Subramania Menon
22. Shri G. R. Patil
23. Shri Man Singh Varma

REPRESENTATIVES OF THE MINISTRY OF FINANCE

1. Shri P. Govindan Nair, *Secretary, Ministry of Finance (Department of Revenue and Insurance)*.
2. Shri A. Rajagopalan, *O.S.D. & Joint Secretary, Ministry of Finance (Department of Revenue and Insurance)*
3. Shri C. S. Anantapadmanabhan, *Director (Insurance), Ministry of Finance (Department of Revenue and Insurance)*
4. Dr. Raj K. Nigam, *Deputy Secretary, Ministry of Finance (Department of Revenue and Insurance)*.

LEGISLATIVE COUNSEL

Shri S. K. Maitra, *Joint Secretary and Legislative Counsel.*

SECRETARIAT

Shri M. C. Chawla, *Deputy Secretary.*

2. At the outset, the Chairman apprised the Committee of the letter dated the 26th October, 1968 from Shri N. K. Somani, as he was going out of India, his amendments might be considered by the Committee.

3. The Committee then took up clause-by-clause consideration of the Bill.

4. *Clause 2.*—The following amendments were accepted:—

(1) Page 2, line 2, *omit* “in sub-section (4)”

(2) Page 2, *after* line 2, *insert*

“(a) in sub-section (4),—

(i) *after* clause (a), the following clause shall be inserted, *namely:*—

“(aa) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or”.

(3) Page 2, line 3, *for* “(i)”, *substitute* “(ii)”.

(4) Page 2, line 4, *for* “(ii)”, *substitute* “(iii)”.

(5) Page 2, after line 7, insert—

“(b) in sub-section (5),—

(i) after the word, brackets and letter ‘clause (a)’, the word, brackets and letters ‘clause (aa)’ shall be inserted;

(ii) after the word, brackets and letter ‘clause (e)’, the word, brackets and letters ‘clause (ee)’ shall be inserted;

(c) in sub-section (5C),—

(i) after the word, brackets and letter ‘clause (a)’, the word, brackets and letters ‘clause (aa)’ shall be inserted;

(ii) after the words and figures ‘or section 98’, the words, figures and letters ‘or complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities’ shall be inserted.”

The clause, as amended, was adopted.

5. **Clause 3.**—The following amendments were accepted:—

(1) Page 2, line 13, for “total premiums”, substitute “total gross premium written direct in India”.

(2) Page 2, lines 15-16, omit “(including consideration for annuities, if any, less re-insurances)”.

(3) Page 2, line 16, omit “in India”.

(4) Page 2, line 21, after “business” insert—

“Provided that in the case of an insurer carrying on solely re-insurance business, the provisions of this sub-section shall apply with the modification that instead of the total gross premium written direct in India, the total premiums in respect of facultative re-insurances accepted by him in India shall be taken into account.”

The clause, as amended, was adopted.

6. **Clause 4.**—The following amendment was accepted:—

Page 2, for lines 22 to 30, substitute—

4. In section 6A of the principal Act,—

(a) after sub-section (10), the following sub-section shall be inserted, namely:—

“(11) The provisions of this section, except those of sub-sections (7), (8) and (9) shall, on and from the

Amend-
ment of
section 6A.

commencement of the Insurance (Amendment) Act, 1968, also apply to insurers carrying on general insurance business subject to the following modifications, namely:—

- '(i) that references in sub-sections (1), (3), (5) and (6) to the Insurance (Amendment) Act, 1950, shall be construed as references to the Insurance (Amendment) Act, 1968; and
- (ii) references in sub-section (10) to sub-sections (7) and (8) shall be omitted.' ”;

(b) the Explanation shall be re-numbered as Explanation I, and after Explanation I, as so re-numbered, the following shall be inserted, namely:—

*“Explanation II.—*The provisions of Explanation I shall, in their application, after the commencement of the Insurance (Amendment) Act, 1968, to insurers carrying on general insurance business, be subject to the modification that for sub-clauses (a) and (b) of clause (ii), the following shall be substituted, namely:—

- '(a) by a company of which such person is a member holding more than ten per cent of the paid-up share capital, or'.”

The clause, as amended, was adopted.

7. *Clause 5.*—The clause was adopted without amendment.

8. *Clause 6.*—The following amendments were accepted:

(1) Page 3, for lines 3 to 6, substitute—

“(i) for clauses (a) to (i), the following shall be substituted, namely:—

“(a) where his total gross premium written direct in India in respect of general insurance business in any calendar year commencing after the 31st December, 1967, did not exceed rupees one crore, a sum of rupees ten lakhs,

(b) where his total gross premium written direct in India in respect of general insurance business during any calendar year referred to in clause (a) exceeded rupees one crore, a sum of rupees twenty lakhs,”

(2) Page 3, after line 9, insert

“(iii) after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that in respect of an insurer not having a share capital and carrying on only such insurance business as in the opinion of the Central Government is not carried on ordinarily by insurers under separate policies, the Central Government may by notification in the Official Gazette, order that the provisions of this sub-section shall apply to such insurer, with the modification that instead of the sum of twenty lakhs or ten lakhs of rupees, as the case may be, the deposit to be made by such insurer shall be such amount, being not less than one hundred and fifty thousand rupees, as may be specified in the said notification.”

(3) Page 3, line 12 for “(1A) substitute “(IA) (i)”.

(4) Page 3, line 22, for “one-fourth” substitute “one-fifth”.

(5) Page 3, line 25, for “one-third” substitute “one-fourth”.

(6) Page 3, lines 29-30, for “one-half of the residue” substitute “one-third of the balance left after making the deposit under clauses (a) and (b).

(7) Page 3, line 31, omit “and”.

(8) Page 3, for lines 32-33, substitute

“(d) the fourth shall be not less than one-half of the residue and shall be paid before the expiry of four years from such commencement, and

(e) the balance shall be paid before the expiry of five years from such commencement.”

(9) Page 3, after line 33, insert

“(ii) An insurer referred to in clause (a) of sub-section (1), by whom the total gross premium written direct in India in any calendar year in respect of general insurance exceeds for the first time rupees one crore, shall make deposit of the sum which is equal to the difference between the sum already deposited and kept deposited by him, as at the end of such calendar year, and the sum of rupees twenty lakhs, in not more than five equal annual instalments, the first of which shall be made on

or before the 31st day of December of the year immediately following the year in which the total gross premium written direct by him in India exceeded rupees one crore and nothing in clause (i) of this sub-section shall apply to such insurer after the end of the calendar year during which the gross premium written direct by him in India exceeded rupees one crore."

(10) Page 4, line 8, for "this section" substitute "this section and section 64VA".

(11) Page 4, line 17, after "as a group" insert "in respect of their business in India".

(12) Page 5, line 9, for "in India shall" substitute "in India shall, unless he has joined another group within a period of six months from the date of cessation of the previous group and has complied with all the provisions of this section,"

(13) Page 5, lines 12-13 for "the date of cessation of the group" substitute "the date of such cessation".

(14) Page 5, line 15, for "the date of cessation of the group" substitute "the date of such cessation".

(15) Page 5, after line 27, insert—

"(IE) Where a group of insurers is operating in India as a group, such insurers may notwithstanding anything contained in section 32A, have common officers and common staff within India."

(16) Page 5, for lines 36-37, substitute—

"1968, a deposit of rupees ten lakhs shall be made before the application for registration is made and the provisions of clause (ii) of sub-section (1A) shall apply to such insurer after his registration as they apply to an insurer specified in clause (a) of sub-section (1)".

(17) Page 6, line 12, for "by all the members of the group" substitute "by the other insurers of group or the proposed group, as the case may be,"

(18) Page 6, lines 14-15, for "sub-section (4)" substitute "sub-section (2A) of section 3 or in sub-section (4)".

The clause, as amended, was adopted.

9. *Clauses 7 to 10.*—The clauses were adopted without amendment.

10. *Clause 11.*—The following amendments were accepted:

(1) Page 8, lines 8-9, for “(a) to (f), (i) to (n), (q) and (s)”, substitute “(a) to (e), (n), (q) and (r)”.

(2) Page 8, after line 9, insert—

“(b) debentures secured by a first charge on any immovable property, plant or equipment of any company which has paid interest in full for the three years immediately preceding or for at least three out of the four or five years immediately preceding on such or similar debentures issued by it;”

(3) Page 8, line 10, for “(b)” substitute “(c)”.

(4) Page 8, line 15, for “(c)” substitute “(d)”.

(5) Page 8, line 18, for “five” substitute “three”.

(6) Page 8, line 19, for “five out of the six or seven” substitute “three out of the four or five”.

(7) Page 8, after line 20, insert—

“(e) preference shares of any company which has paid dividends on its ordinary shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding;

(f) preference shares of any company on which dividends have been paid for the three years immediately preceding or for at least three out of the four or five years immediately preceding and which have priority in payment over all the ordinary shares of the company in winding up;

(g) shares of any company which have been guaranteed by another company, such other company having paid dividends on its ordinary shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding:

Provided that the total amount of shares of all the companies under guarantee by the guaranteeing company is not in excess of fifty per cent of the paid-up amount of preference and ordinary shares of the guaranteeing company;

(h) shares of any company on which dividends of not less than four per cent including bonus have been paid for

the three years immediately preceding or for at least three out of the four or five years immediately preceding;

- (i) first mortgages on immovable property situated in India or in any other country where the insurer is carrying on insurance business:

Provided that the property mortgaged is not leasehold property with an outstanding term of less than fifteen years and the value of the property exceeds by one-third, or if it consists of buildings, exceeds by one-half, the mortgage money."

- (8) Page 8, line 21, for "d" substitute "j".
- (9) Page 8, line 29, omit "being a company".
- (10) Page 8, line 38, for "all the directors" substitute "all the directors, other than directors appointed under section 34C".
- (11) Page 9, after line 5, insert
 "Provided that the making, or the continuance, of such investment is not objected to by any director appointed under section 34C".
- (12) Page 9, for lines 22 to 25 substitute
 "Provided that nothing in this sub-section shall apply to any investment made by an insurer in the shares of any other insurer if such other insurer is a company within the meaning of section 3 of the Companies Act, 1956, and carries on insurance or re-insurance business in India."
- (13) Page 9, line 37, for "clause (i) or clause (k) or clause (l)" substitute "clause (c) or clause (g) or clause (h)".
- (14) Page 10, for lines 20 and 21, substitute
 "credited, during the preceding sixty days to the account of the insurer with such banking company and the amounts deposited, during the preceding thirty days, by such insurer with that banking company for payment of claims or out of re-insurance recoveries shall be excluded."
- (15) Page 10, lines 25-26, for "investment" substitute "investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies".

The clause, as amended, was adopted.

11. *Clauses 12 and 13.*—The clauses were adopted without amendment.

12. *Clause 14.*—The clause was adopted without amendment.

The Minister-in-charge, however, gave an assurance that clauses 14 and 41 of the Bill would not be brought into force until the Payment of Bonus Act, 1965, was suitably amended in relation to the employees of the Insurance companies, carrying on general insurance business.

13. *Clause 15.*—The clause was adopted without amendment.

14. *Clause 16.*—The following amendments were accepted:—

(1) Page 14, after line 20, insert—

“APPOINTMENT OF STAFF

33A. The Central Government or the Controller may appoint such staff, and at such places as it or he may consider necessary, for the scrutiny of the returns, statements and information furnished by insurers under this Act and generally to ensure the efficient performance of the functions of the Controller under this Act.”

Power to
appoint
staff.

(2) Page 14, marginal heading to clause 16, after “sections” insert “33A”.

(3) Page 15, after line 8, insert

“Provided that no such direction shall be issued to any insurer in particular unless such insurer has been given a reasonable opportunity of being heard.”

(4) Page 15, lines 19 and 20, for “managing director or any other director, whole-time or otherwise”, substitute “managing or whole-time director”.

(5) Page 15, lines 21-22, delete “or secretary, accountant or underwriter,”

(6) Page 15, lines 30-31, for “managing director or any other director, whole-time or otherwise” substitute “managing or whole-time director”.

(7) Page 15, lines 32-33 omit “or secretary, accountant or underwriter,”

(8) Page 16, lines 1 to 3, for “secretary, accountant or underwriter or the managing director or any other director,”

whole-time or otherwise," substitute "managing or whole-time director".

(9) Page 16, lines 14-15, omit "or by a secretary, accountant or underwriter".

(10) Page 16, line 17, after "appointment", insert "or re-appointment"

(11) Page 16, line 20, after "appointment" insert "or re-appointment".

(12) Page 16,—

(i) lines 28-29, for "chief executive officer, by whatever name called, or other officer or employee", substitute "or the chief executive officer, by whatever name called,";

(ii) lines 32-33, omit "or other officer or employee";

(13) Page 17,—

(i) lines 1-2, omit "or other officer or employee";

(ii) lines 3-4, omit "or other officer or employee";

(iii) omit lines 8 to 15.

(iv) line 17, omit "or other officer or employee";

(v) line 19, omit "or other officer or employee";

(vi) lines 32-33, omit "or other officer or employee";

(vii) line 37, omit "or other officer or employee";

(14) Page 18,—

(i) lines 4-5, omit "or other officer or employee";

(ii) line 13, after "in the", insert "public interest or in the".

(15) Page 19,—

(i) lines 1-2, for "a director, chief executive officer or other officer or employee", substitute "a director or chief executive officer";

(ii) line 7, omit "(1)".

(17) Page 20,—

(i) omit lines 6 to 11.

(ii) line 35, omit "(1)".

(18) Page 21,—

(i) omit lines 10 to 14.

- (ii) lines 26-27, for "an inspection under that sub-section, or" substitute "an investigation under sub-section (1) of section 33 or an inspection under sub-section (1A) of section 33, or".

The clause, as amended, was adopted.

15. *Clause 17.*—The following amendment was accepted:—

Page 24, after line 12, insert

"Provided that no such scheme shall be prepared unless the other insurer has given his written consent to the proposal for such amalgamation."

The clause, as amended, was adopted.

16. The Committee adjourned for Lunch at 13.00 hours and re-assembled at 15.00 hours and took up further clause-by-clause consideration of the Bill.

17. *Clause 18.*—The following amendments were accepted:—

(1) Page 28, for lines 24—33, substitute—

- "(a) where the policy relates to fire or marine insurance, five per cent of the premium payable on the policy, and
(b) where the policy relates to miscellaneous insurance, ten per cent of the premium payable on the policy."

(2) Page 29, omit lines 1 to 36.

(3) Page 30, omit lines 1 and 2.

The clause, as amended, was adopted.

18. *Clause 19.*—The following amendments were accepted:

(1) Page 30, after line 13, insert—

"(ii) in the case of an insurer having his principal place of business outside India a share of the expenses of his office in India in respect of a general insurance business transacted by him outside India through this office in India, not exceeding such percentage of his gross direct premium written outside India through his office in India, as may be prescribed."

(2) Page 30, line 14, for "(ii) substitute '(iii)'".

(3) Page 30, line 19, for "(iii)" substitute "(iv)".

The clause, as amended, was adopted.

19. *Clauses 20 and 21.*—The clauses were adopted without amendment.

.....

20. *Clause 22.*—The following amendments were accepted:

- (1) Page 31, line 29, for "52M" substitute "52N".
- (2) Page 32, lines 2-3, omit "the undertaking of the acquired insurer and".
- (3) Page 32, after line 3, insert "the undertaking of insurer and its".
- (4) Page 32, line 6, omit "undertaking of the acquired insurer and its".
- (5) Page 32, line 7, after "liabilities", insert "of the undertaking of the acquired insurer".
- (6) Page 32, lines 17-18, omit "the undertaking of the acquired insurer and"
- (7) Page 32, line 18, for "his" substitute "the".
- (8) Page 32, after line 18, insert "of the undertaking of the acquired insurer".
- (9) Page 32, line 21, after "scheme" insert "made under section 52-I".
- (10) Page 32, line 22, for "52M" substitute "52N".
- (11) Page 32, line 23, omit "that Government may".
- (12) Page 32, line 24, after "that the" insert "assets and liabilities of the".
- (13) Page 32, lines 24-25, omit "including the assets and liabilities thereof".
- (14) Page 32, lines 28-29, omit "and the assets and liabilities thereof".
- (15) Page 33, line 1, omit "of".
- (16) Page 34, line 15, omit "shareholders of the".
- (17) Page 34, line 16, for "their" substitute "his".
- (18) Page 35, for lines 1-2, substitute "The acquired insurer".
- (19) Page 35, omit lines 8 to 14.
- (20) Page 35, lines 19-20, for "all those to whom compensation is payable under sub-section (1)", substitute "the acquired insurer".

- (21) Page 35, line 23, for "(3)" substitute "(2)" and omit "any shareholder of".
- (22) Page 35, line 24, for "such shareholder" substitute "he".
- (23) Page 35, omit lines 28 to 34.
- (24) Page 35, line 35, for "(4)" substitute "(3)".
- (25) Page 35, line 36, for "requests" substitute "request".
- (26) Page 35, line 37, for "(5)" substitute "(3)".
- (27) Page 35, line 38, for "(3)", substitute "(2)".
- (28) Page 36, lines 3-4, for "requests" substitute "request".
- (29) Page 36, line 4, for "(5)" substitute "(3)".
- (30) Page 36, line 8, for "(5)" substitute "(3)".
- (31) Page 36, line 13, for "(7)" substitute "(5)".
- (32) Page 37, after line 35, insert—

"52N. Where any acquired insurer, being a company, has in accordance with the provisions of this Act, collected and distributed any monies paid to him by the Central Government or the acquiring insurer, as the case may be, by way of compensation or otherwise and has also complied with any directions given to him by the Central Government or the acquiring insurer, as the case may be, for the purpose of securing that the ownership of any property or any right is effectively transferred to the Central Government or the acquiring insurer, as the case may be, the Central Government may, on application being made to it in this behalf by such insurer, grant a certificate to the insurer that there is no reason for the continued existence of the insurer, and upon the publication of such certificate, the insurer shall be dissolved."

Special
Provision
for wind-
ing up
required
insurers.

The clause, as amended, was adopted.

21. *Clauses 23 to 28.*—The clauses were adopted without amendment.

22. *Clause 29.*—The following amendments were accepted:—

- (1) Page 39, line 14, for "eight" substitute "ten".
- (2) Page 39, line 18, for "six" substitute "four".

- (3) Page 39, line 24, for "Central Government" substitute "Office of the Controller".
- (4) Page 39, lines 24-25, for "that Government" substitute "the Controller".
- (5) Page 40, line 5, for "thereunder" substitute "by the Advisory Committee or any Regional Committee".
- (6) Page 40, line 7, omit "thereunder".
- (7) Page 40, line 11, omit "thereunder".
- (8) Page 41, line 6, for "Advisory Committee" substitute "Controller".
- (9) Page 41, line 11, for "that Committee, rates of premium" substitute "him, rates, advantages, terms or conditions".
- (10) Page 41, line 12, for "it" substitute "the Advisory Committee".
- (11) Page 41, line 13, for "it" substitute "he".
- (12) Page 41, after line 37, insert—

"Provided that instead of proceeding against the insurer for such contravention, the Controller may, if the insurer removes the contravention by recovering the deficiency in the premium, or where it is not practicable to do so, modifies suitably or cancels the contract of insurance, compound the offence on payment to the Advisory Committee of such fine, not exceeding rupees one thousand, as he may decide in consultation with the Advisory Committee."
- (13) Page 42, line 31, after "Secretary to the" insert "Advisory".
- (14) Page 43, line 10, after "insurer" insert "or where the Advisory Committee has agreed in advance, by such other officer or officers of the insurer as the principal officer of the insurer may nominate for the purpose."
- (15) Page 45, lines 5-6, omit "or that Regional Council, as the case may be."
- (16) Page 47, line 17, after "persons" insert "of which not more than five shall be".
- (17) Page 47, after line 18, insert "and not more than two shall be nominated by the Controller".

(18) Page 47, lines 20-21, omit "in the prescribed manner".

(19) Page 48, for lines 18 to 21, substitute—

"cribed manner of such fee, not exceeding for any year, in the case of an insurer doing only re-insurance business in India, one per cent of his total premiums in respect of facultative re-insurance accepted by him in India in the preceding year and, in the case of any other insurer, one per cent of the total gross premium written direct by him in India in the preceding year, as may be specified by the Advisory Committee for the purpose of this Part".

(20) Page 48, after line 21, insert—

"(1A) The Advisory Committee may collect, in addition to the fees mentioned in sub-section (1), reasonable fees and charges from any person to cover the cost of any specific services rendered by it."

(21) Pages 48 and 49, for lines 41-43 and 1-4 respectively, substitute:

64-UM. (1) (A) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, unless he holds a valid licence issued or renewed to him by the Controller.

(B) Every person who intends to act as a surveyor or loss assessor after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, shall make an application to the Controller within such time, in such form, in such manner and on payment of such fee, not exceeding rupees two hundred and fifty, as may be prescribed.

(C) Every licence issued under this section shall remain in force, unless cancelled earlier, for a period of five years from the date of issue thereof, and may be renewed for a period of five years at a time, on payment of such fee, not exceeding rupees two hundred, as may be prescribed.

(D) No licence to act as a surveyor or loss assessor shall be issued unless—

- (i) the applicant, where he is an individual, satisfies the Controller that he—
- (a) has been in practice as a surveyor or loss assessor for a period of not less than seven years immediately preceding the commencement of the Insurance (Amendment) Act, 1968, or
 - (b) holds a degree of a recognized University in any branch of engineering, or
 - (c) is a fellow or associate member of the Institute of Chartered Accountants or the Institute of Chartered Accountants or the Institute of Cost and Works Accountants, or
 - (d) possesses actuarial qualifications or holds a degree or diploma of any recognized university or institute in relation to insurance, or
 - (e) holds a diploma in insurance granted or recognized by the Government, or
 - (f) possesses such other technical qualification as may be prescribed; and
 - (g) does not suffer from any of the disqualifications mentioned in sub-section (4) of section 42; and
- (ii) the applicant, where he is a company or firm, satisfies the Controller that all its directors or partners, as the case may be, possess one or more of the qualifications specified in clause (a) and none of such directors or partners suffer from any of the disqualifications mentioned in sub-section (4) of section 42.
- (E) Every application for the renewal of the licence shall be made at least thirty days before the expiry of the period of validity thereof.
- (F) The Controller may, if he is satisfied that any licence issued or renewed under this section has been lost or destroyed, issue a duplicate licence on payment of a fee of rupees five and the duplicate licence so issued shall remain in force for the remainder of the period of validity of the licence for which it was issued or renewed.

(G) If the Controller is satisfied that the holder of any licence is suffering from any of the disqualifications mentioned in sub-section (4) of section 42 or that he has contravened any provision of this Act or any rule made thereunder, he may, after giving a reasonable opportunity to the holder of such licence of being heard, cancel such licence and such cancellation shall be notified in the official Gazette.

(22) Page 49, line 5, after "claim" insert "in respect of a loss which has occurred in India and".

(23) Page 49, line 11, for "it has been certified" substitute "the insurer has secured a report on the loss".

(24) Page 49, lines 11 and 12, for "an approved surveyor or loss assessor", substitute "a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor")".

(24) Page 49, after line 12, insert—

"Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor."

(25) Page 49, line 15, for "certificate" substitute "report".

(26) Page 49, line 17, for "certificate" substitute "report".

(27) Page 49, line 20, for "certificate" substitute "report".

(28) Page 49, line 21, for "certificate" substitute "report".

(29) Page 50, omit lines 1 to 6.

(30) Page 50, line 10, for "certifying" substitute "reporting on".

(31) Page 50, lines 11-12, for "certification" substitute "report".

(32) Page 50, after line 12, insert—

"(6A) where in the case of a claim of less than twenty thousand rupees in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer

may employ any other person (not being a person disqualified for the time being under sub-section (7) for being included in the list of approved surveyors or loss assessors) for surveying such loss and may pay such reasonable fee or remuneration to the person so employed as he may think fit."

(32A) Page 50,

(i) lines 18-19, for "remove his name from the list of approved surveyors and loss assessors", substitute "cancel the licence issued to him";

(ii) line 20, for "removal", substitute "cancellation";

(iii) for lines 21—26, substitute

"(8) Any surveyor or loss assessor whose licence has been cancelled shall not be eligible for having a licence to act as a surveyor or loss assessor for a period of three years from the date on which the cancellation is notified in the Official Gazette."

(iv) line 29, for "certified" substitute "reported upon".

(33) Page 50, line 30, for "certified" substitute "reported upon".

(34) Page 50, after line 33, insert—

"(10) Where, in relation to any class of claims, the Central Government is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a professional surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order published in the official Gazette, exempt such class of claims from the operation of this section."

(35) Page 50, after line 36, insert—

"64V. (1) For the purpose of ascertaining compliance with the provisions of section 64VA,

(i) assets shall be valued at values not exceeding their market or realisable value and the assets hereafter mentioned shall be excluded to the extent indicated, namely:

(a) agents' balances and outstanding premiums in India to the extent they are not realised within a period of thirty days;

Assets and liabilities how to be valued.

- (b) agents' balances and outstanding premiums outside India, to the extent they are not realisable;
 - (c) sundry debts, to the extent they are not realisable;
 - (d) advances of an unrealisable character;
 - (e) furniture, fixtures, dead stock and stationery;
 - (f) deferred expenses;
 - (g) profit and loss appropriation account balance and any fictitious assets other than pre-paid expenses;
- (ii) a proper value shall be placed on every item of liability and liabilities in respect of share capital, general reserve and other reserves of similar nature not created to meet specific liabilities and investment reserve, reserve for bad and doubtful debts, and depreciation fund shall be excluded and liabilities hereafter mentioned shall be included to the extent indicated, namely:
- (a) provision for dividends declared or recommended, and outstanding dividends in full;
 - (b) reserves for unexpired risks in respect of—
 - (i) fire and miscellaneous business, 40 per cent.,
 - (ii) marine cargo business, 40 per cent., and
 - (iii) marine hull business, 100 per cent, of the premium, net of re-insurances, during the preceding twelve months;
 - (c) estimated liability in respect of outstanding claims in full;
 - (d) amount due to insurance companies carrying on insurance business, in full;
 - (e) amounts due to sundry creditors, in full;
 - (f) provision for taxation, in full.

Explanation.—In the case of an insurer whose principal place of business or domicile is outside India, where in the accounts filed with the public authority of the country in which the insurer is constituted, incorporated or domiciled, in respect of marine insurance business, the provisions for unexpired risks and outstanding claims are not shown separately, the liabilities under items (b) and (c) of clause (ii) in respect of marine insurance business shall be taken together at a figure of not less than the total premium less re-

insurances in respect of that class of business during the preceding twelve months.

(2) Every insurer shall furnish to the Controller with his returns under section 15 or section 16, as the case may be, a statement certified by an auditor, of his assets and liabilities assessed in the manner required by this section as on the 31st day of December of the preceding year."

(36) Page 50, for lines 39 to 41, substitute "not less than the amount arrived at as follows (hereafter in this section referred to as the 'relevant amount'), namely:

(i) in the case of an insurer whose total premium income less re-insurances in respect of general insurance business (hereafter in this sub-section referred to as the "said income") in the preceding twelve months did not exceed five crores of rupees, one-fifth of the said income subject to a minimum of—

(a) five lakhs of rupees in the case of an insurer who is a cooperative society registered under the Cooperative Societies Act, 1912 or any other law for the time being in force in any State relating to co-operative societies, or

(b) ten lakhs of rupees in the case of any other insurer; and

(ii) in the case of an insurer whose said income in the preceding twelve months exceeded five crores of rupees, the aggregate of one-fifth of the first five crores of rupees of the said income and one-tenth of the amount by which the said income in the preceding twelve months exceeded five crores of rupees."

(37) Page 51, line 1, after "laws of" insert "the country of".

(38) Page 51, for lines 4 to 6, substitute

"a single insurer, subject to the further condition that the relevant amount shall, in no case, be less than a sum equal to,—

(i) the number of such insurers multiplied by ten lakhs of rupees, or

(ii) where the group consists of insurers all of whom are cooperative societies registered under the Cooperative Societies Act, 1912, or any other law for the

time being in force in any State relating to cooperative societies, the number of such insurers multiplied by five lakhs of rupees”.

(39) Page 51, for lines 15 and 16, substitute—

“tion that instead of the proportion of one-fifth, wherever mentioned in this sub-section, such other proportion being not less than one-tenth as”.

(40) Page 51, lines 27-28, for “required amount or percentage as the case may be”, substitute “relevant amount”.

(41) Page 51, for lines 32 to 39, substitute—

“(3) The Controller shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets and liabilities of the insurer or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date and the insurer shall comply with any requisition made in this behalf by the Controller, and if he fails to do so within two months from the receipt of the requisition, he shall be deemed to have made default in complying with the requirements of this section.”

(42) Page 52, for lines 1 to 6, substitute—

“(5) In applying the provisions of sub-section (1) to any insurer, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy:

Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India, shall comply with the requirements of sub-section (1) as if he had not been an insurer in a group at any time:

Provided further that it shall be sufficient compliance with the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within

a period of six months from the date of cessation of the group:

Provided also that the Central Government may, on sufficient cause being shown extend the said period of six months by such further periods, as it may think fit, so however that the total period may not in any case exceed one year."

(43) Page 52, line 7, for "rules" substitute "notification in the Official Gazette".

(44) Page 52, line 8, for "two million rupees" substitute "ten lakhs of rupees or five lakhs of rupees, as the case may be".

(45) Page 52, for lines 11-12, substitute—

"having a share capital and carrying on only such insurance business as, in the opinion of Central Government, is not carried on ordinarily by insurers under separate policies."

The clause, as amended, was adopted.

23. *Clauses 30 to 33.*—The clauses were adopted without amendment.

24. *Clause 34.*—The following amendment was accepted:

Page 55, line 31, for "33A" substitute "33".

The clause, as amended, was adopted.

25. *Clause 35.*—The following amendment was accepted:

Page 56, line 7, for "Every Chairman" substitute—
"Every whole-time Chairman, whole-time".

The clause, as amended, was adopted.

26. *Clause 36.*—The clause was adopted without amendment.

27. *Clause 37.*—The following amendments were accepted:

(1) Page 56, line 30, after "sections" insert "3A,"

(2) Page 56, line 31, for "33A, 34, clauses (a) and (b)" substitute "33, 34 and clause (a)".

(3) Page 56, line 32, for "section 34F" substitute—
"sections 34F, 40C, 44A,".

- (4) Page 56, line 33,—
- (a) before "64 VA" insert "64V".
- (b) for "section 101C" substitute "sections 101A, 101C, 110D, 110G and 110H".
- (5) Page 57, line 3, for "27B, 28B, 33A, 34, clauses" substitute "3, 3A, 27B, 28B, 33, 34 and clause."
- (6) Page 57, line 4, for "(a) and (b)" substitute—
" (a) " and for "section 34F" substitute "sections 34F, 40A, 40C, 44A".
- (7) Page 57, line 5, before "64VA" insert "64V".
- (8) Page 57 line 6, for "section 101C" substitute—
"sections 101A, 101C, 110D and 110G, 110H".
- (9) Page 57, lines 8-9, omit "the Central Government or".
- (10) Page 57, after line 10, insert—

"110G. (1) The Central Government shall constitute a Con-stitution of Consultative Committee consisting of the Controller (who shall be the Chairman thereof) and not more than four other members having special knowledge and experience of the business of insurance. Consultative Committee.

- (2) The term of office of, and the allowance payable to, the members of the Consultative Committee, the procedure to be followed by, and the quorum necessary for the transaction of business of, the Consultative Committee and the manner of filling casual vacancies therein shall be such as may be prescribed.
- (3) Before making any order under sections 34, 34A, 34B, 34C, 34E, 34F, 34G, sub-sections (4) and (7) of section 64—UM and section 64—VC, the Controller shall consult the Consultative Committee constituted under sub-section (1).

110H. (1) Any person aggrieved by any order made by the Appeals. Controller under sections 34, 34A, 34B, 34C, 34E, 34F, 34G, sub-sections (4) and (7) of section 64UM or section 64VC may, within a period of thirty days from the date of such order to the Central Government and that Government may, by order, confirm, modify or reverse the order of the Controller and the order so made shall be final.

- (2) No claim for compensation shall lie in favour of any person for anything done in pursuance of an order of the controller so long as such order was effective.
- (3) The Central Government may, on the application of an appellant, stay, until the decision of the appeal, the operation of any order made under section 34 or subsection (5) of section 34B or sub-clause (v) of clause (b) of section 34E."

The clause, as amended, was adopted.

28. *Clause 38.*—The following amendment was accepted:

Page 57, line 11, after "the principal Act," insert "in the proviso".

The clause, as amended, was adopted.

29. *Clause 39.*—The following amendment was accepted:

Page 57, line 20, for "administration expenses" substitute "administration expenses, except in so far as they relate to any employee exclusively employed on survey or assessment of losses".

The clause, as amended, was adopted.

30. *Clause 40.*—The following amendments were accepted:

- (1) Page 58, line 3, for "assets" substitute "value of assets".
- (2) Page 59, for lines 33 to 35, substitute—

"(i) reserves for unexpired risks being in respect of each policy, such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid;"

- (3) Page 60, omit lines 7 to 13.

The clause, as amended, was adopted.

31. *Clause 41.*—The clause was adopted without amendment.

32. *Clause 1.*—The clause was adopted without amendment.

33. *Enacting Formula.*—The Enacting Formula was adopted without amendment.

34. *Long Title.*—The Long Title was adopted without amendment.

35. The Committee authorised the Legislative Counsel to correct patent errors and to carry out amendments of consequential nature in the Bill.

36. The Committee decided that (i) evidence given before them should be printed and laid on the Table of both the Houses and (ii) copies of memoranda received from various parties who gave evidence before the Committee should be placed in the Parliament Library for reference by members after the Report of the Committee had been presented to the House.

37. The Chairman also drew attention of the members of the Committee to the provision of Direction 87 of the Directions by the Speaker regarding minutes of dissent.

38. The Committee decided to sit at 15.00 hours on Friday, the 8th November, 1968 to consider their draft Report.

39. The Chairman announced that the minutes of dissent, if any, might be sent to Lok Sabha Secretariat so as to reach them by 17.00 hours on Saturday, the 9th November, 1968. The members were requested to give 4 copies of their respective minutes, if possible.

40. The Chairman thanked the Deputy Prime Minister and Finance Minister and members of the Committee for their valuable cooperation in considering and passing the Bill.

41. The Committee then adjourned.

V

Fifth Sitting

The Committee sat on Friday, the 8th November, 1968 from 15.00 to 15.45 hours.

PRESENT

Pandit D. N. Tiwary—*Chairman*

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri George Fernandes
4. Shri Humayun Kabir
5. Shri Ramavatar Shastri
6. Shri C. M. Kedaria
7. Chowdhry Brahm Perakash
8. Shri Jagannath Pahadia

9. Shri Beni Shanker Sharma
10. Shri Balgovind Verma
11. Shri Morarji R. Desai.

Rajya Sabha

12. Shri M. P. Bhargava
13. Shri Ram Niwas Mirdha
14. Shri Jairamdas Daulatram
15. Shri Sherkhan
16. Smt. Vidyawati Chaturvedi
17. Chaudhary A. Mohammad
18. Dr. B. N. Antani
19. Shri K. Chandrasekharan
20. Shri Man Singh Varma

LEGISLATIVE COUNSEL

Shri S. K. Maitra, *Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE AND INSURANCE)

1. Shri P. Govindan Nair, *Secretary, Revenue and Insurance, Ministry of Finance.*
2. Shri A. Rajagopalan, *O.S.D. and Joint Secretary, Ministry of Finance.*
3. Shri C. S. Anantapadmanabhan, *Director (Insurance), Ministry of Finance.*
4. Dr. Raj K. Nigam, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee after some discussion adopted the Bill as amended, subject to minutes of dissent, if any, to be given by any member.

3. The Committee then authorised the Chairman to finalize the Report after making such verbal or consequential changes therein, as may be considered necessary by him. Subject to this, the Committee adopted the draft Report.

4. The Chairman announced that the minutes of dissent, if any, might be sent to the Lok Sabha Secretariat by 17.00 hours on Saturday, the 9th November, 1968.

5. The Committee authorised the Chairman, and, in his absence, Shri Humayun Kabir to present the Report and to lay the Evidence on their behalf on the Table of the House on the 11th November, 1968.

6. The Committee also authorised Shri Jairamdas Daulatram and, in his absence, Shri M. P. Bhargava to lay the Report and the Evidence on the Table of Rajya Sabha on the 18th November, 1968.

7. The Committee placed on record their appreciation of the able manner in which the Chairman conducted the proceedings. The Chairman in turn thanked the members for their cooperation.

8. The Committee also placed on record their appreciation of the assistance rendered to them by the Legislative Counsel and officers of the Ministry of Finance.

9. The Committee then adjourned.

LOK SABHA

JOINT COMMITTEE

ON

THE INSURANCE (AMENDMENT)
BILL, 1968

EVIDENCE



LOK SABHA SECRETARIAT
NEW DELHI

November, 1968/Kartika, 1890 (Saka)

Price : Rs. 1.35

JOINT COMMITTEE ON THE INSURANCE (AMENDMENT) BILL, 1968.

COMPOSITION OF THE JOINT COMMITTEE

Pandit D. N. Tiwary—*Chairman.*

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri Shivajirao S. Deshmukh
4. Shri George Fernandes
5. Shri Bimalkanti Ghosh
6. Shri Humayun Kabir
7. Shri Ramavatar Shastri
8. Shri C. M. Kedaria
9. Shri S. S. Kothari
10. Chowdhry Brahm Perakash
11. Shri Jagannath Pahadia
12. Shri K. C. Pant
13. Shri Mrityunjay Prasad
14. Shri K. Rajaram
15. Shri Ram Charan
16. Shri P. Ramamurti
17. Shri V. Narasimha Rao
18. Shri R. Dasaratha Rama Reddy
19. Shri Beni Shanker Sharma
20. Shri N. K. Somani
21. Shri Galgovind Verma
22. Shri Morarji R. Desai

Rajya Sabha

23. Shri M. P. Bhargava
24. Shri Ram Niwas Mirdha
25. Shri Jairamdas Daulatram
26. Shri Sherkhan
27. Shrimati Vidyawati Chaturvedi
28. Chaudhary A. Mohammad
29. Dr. B. N. Antani
30. Shri K. Chandrasekharan
31. Shri Man Singh Varma
32. Shri K. P. Subramania Menon
33. Shri G. R. Patil

LEGISLATIVE COUNSEL

Shri S. K. Maitra, Joint Secretary and Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY

1. **Shri P. Govindan Nair, Secretary, Ministry of Finance, (Department of Revenue and Insurance).**
2. **Shri A. Rajagopalan, O.S.D. and Joint Secretary, Ministry of Finance (Department of Revenue and Insurance).**
3. **Shri C. S. Anantapadmanabhan, Director (Insurance), Ministry of Finance (Department of Revenue and Insurance).**
4. **Dr. Raj K. Nigam, Deputy Secretary, Ministry of Finance (Department of Revenue and Insurance).**

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

WITNESSES EXAMINED

S. No.	Names of witnesses	Date	PAGE
I.	National Cooperative Union of India, New Delhi	25-10-68	6
	<i>Spokesmen:</i>		
	Shri M. C. Shah, Manager, Delhi Branch		
	Shri R. N. Panda, President, Orissa Cooperative Insurance Society, Cuttack		
	Shri A.S. R. Murthi, General Manager, Hyderabad Cooperative Insurance Society, Hyderabad		
	Shri M. S. Asthans, Chief Executive Director		
	Shri R. D. Bedi, Joint Director		
II.	The Overseas & Inland Insurers Employees' Association, Calcutta	25-10-68	22
	<i>Spokesmen:</i>		
	Shri Ajit Lai Das, President		
	Shri Atul Krishna Kundu, General Secretary		
	Shri Samaresh Sarkar, Member Executive Committee		
	Shri K. D. Bhattacharys, Member Executive Committee		
	Shri R. N. Mukherjee, Member Executive Committee		
III.	All India Insurance Employees Association, General Insurance Sub-Committee, New Delhi		
	Shri Saroj Chaudhri, General Secretary		
	Shri K. S. B. Pillai, Joint Secretary		
	Shri Ajoy Das Gupta, Member, Working Committee		
	Shri J. G. Kothare, Member, Working Committee		
	Shri R. K. Gupta, Member, Working Committee		
	Shri P. P. Ravindranathan, Member, Working Committee		
IV.	The Vulcan Insurance Co. Ltd. (Staff Union), Bombay	25-10-68	40
	<i>Spokesmen:</i>		
	Shri P. B. Deshmukh, President		
	Shri N. M. Shukla, General Secretary		
	Shri V. A. Korgaonkari, Joint General Secretary		
	Shri K. S. Dighe, Treasurer		

S. No.	Names of witnesses	Date	PAGE
V.	The Insurance Surveyors & Loss Assessors Association, New Delhi	26-10-68	51
	<i>Spokesmen:</i>		
	Shri R. K. Bhandari		
	Shri V. N. Sarin, Vice President		
	Shri R. N. Sharma, Secretary		
	Shri J. D. Gulshan, Joint Secretary		
	Shri S. C. Roshia, Joint Secretary		
VI.	Institute of Insurance Surveyors and Adjusters Ltd., Bombay	26-10-68	63
	<i>Spokesmen:</i>		
	Shri V. N. C. Narichania, Secretary		
	Shri R. C. Sheth, Member		
	Shri S. C. Mazumdar, Member		
	Shri V. P. Shah, Member		
VII.	The National Employers' Mutual General Insurance Association, New Delhi	26-10-68	74
	<i>Spokesmen:</i>		
	Shri M. L. Pasricha, Manager for India		
	Shri V. P. Mehta, Branch Manager, Delhi		
	Shri R. Mahadev, Office Manager, Bombay		
VIII.	The Indian Insurance Companies Association, Bombay (Representing the entire General Insurance Industry in India composed of both Indian and Non-Indian Companies)	26-10-68	81
	<i>Spokesmen:</i>		
	Shri P. U. Patel, Chairman, Special Advisory Committee		
	Shri H. V. Gandhi, Vice-Chairman, Special Advisory Committee		
	Shri C. M. Teliwala, Chairman, Indian Insurance Companies Association, Bombay		
	Shri E. K. Srinivasan, Chairman, Indian Insurance Companies Association, Madras		
	Shri K. P. Modi, Chairman, Indian Insurance Companies Association, Calcutta		
	Shri D. Hammond Giles, Chairman, Overseas Insurers Association		
	Shri G. V. Kapadia, Technical Adviser		
	Shri S. K. Desai, Technical Adviser		

S No.	Name of witnesses	Date	PAGE
IX.	The Indian Merchants' Chamber, Bombay	26-10-68	100
	<i>Spokesmen:</i>		
	Shri Pratap Bhogilal, President		
	Shri J. H. Doshi, Vice-President		
	Shri R. M. Desai, Member		
	Shri C. L. Gheevala, Secretary		

**MINUTES OF THE EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON
THE INSURANCE (AMENDMENT) BILL 1968.**

Friday, the 25th October, 1968 at 15.00 hours.

PRESENT

Pandit D. N. Tiwary—Chairman.

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri George Fernandes
4. Shri Humayun Kabir
5. Shri Ramavatar Shastri
6. Shri C. M. Kedaria
7. Shri S. S. Kothari
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24. Shri K. Chandrasekharan
25. Shri Man Singh Varma
26. Shri K. P. Subramania Menon
27. Shri G. R. Patil

REPRESENTATIVES OF THE MINISTRY OF FINANCE

1. Shri P. Govindan Nair, *Secretary, Department of Revenue and Insurance.*

2. Shri A. Rajagopalan, O.S.D. and Joint Secretary, Department of Revenue and Insurance.
3. Shri C. S. Anantapadmanabhan, Director (Insurance) Department of Revenue and Insurance.
4. Dr. Raj K. Nigam, Deputy Secretary, Department of Revenue and Insurance.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

WITNESSES EXAMINED

I. National Cooperative Union of India, New Delhi:

Spokesmen:

- (i) Shri M. C. Shah,
Manager, Union Cooperative Insurance Society, Delhi Branch.
- (ii) Shri R. N. Panda,
President Orissa Cooperative Insurance Society, Cuttack.
- (iii) Shri A. S. R. Murthi,
General Manager, Hyderabad Cooperative Insurance Society,
Hyderabad.
- (iv) Shri M. S. Asthana,
Chief Executive Director of National Cooperative Union of India,
New Delhi.
- (v) Shri R. D. Bedi,
Joint Director, National Cooperative Union of India, New Delhi.

II. The Overseas and Inland Insurers' Employees' Association, Calcutta.

Spokesmen:

- (i) Shri Ajit Lal Das,
President, Overseas and Inland Insurers' Employees' Association,
Calcutta.
- (ii) Shri Atul Kirshna Kundu,
General Secretary, Overseas and Inland Insurers' Employees'
Association, Calcutta.
- (iii) Shri Samaresh Sarkar,
Member, Executive Committee, Overseas and Inland Insurers'
Employees' Association, Calcutta.
- (iv) Shri R. N. Mukherjee,
Member Executive Committee, Overseas and Inland Insurers'
Employees' Association, Calcutta.
- (v) Shri K. D. Bhattacharya,
Member Executive Committee, Overseas and Inland Insurers'
Employees' Association, Calcutta.

**III. All India Insurance Employees Association General Insurance Sub-Committee,
New Delhi.**

Spokesmen:

- (i) Shri Saroj Chaudhuri,
General Secretary, All India Insurance Employees Association,
General Insurance Sub-Committee, New Delhi.
- (ii) Shri K. S. B. Pillai,
Joint Secretary, All India Insurance Employees Association,
General Insurance Sub-Committee, New Delhi.
- (iii) Shri Ajoy Das Gupta,
Member, Working Committee, All India Insurance Employees
Association, General Insurance Sub-Committee, New Delhi.
- (iv) Shri J. G. Kothare,
Member, Working Committee, All India Insurance Employees
Association, General Insurance Sub-Committee, New Delhi.
- (v) Shri R. K. Gupta,
Member, General Council, All India Insurance Employees Associa-
tion, General Insurance Sub-Committee, New Delhi.
- (vi) Shri P. P. Ravindranathan,
Member, General Council, All India Insurance Employees Associa-
tion, General Insurance Sub-Committee, New Delhi.

IV. The Vulcan Insurance Co. Ltd., (Staff Union), Bombay.

Spokesmen

- (i) Shri P. B. Deshmukh,
President.
- (ii) Shri N. M. Shukla,
General Secretary.
- (iii) Shri V. A. Korgaonkar,
Joint General Secretary.
- (iv) Shri K. S. Dighe,
Treasurer.

I. (i) *National Cooperative Union of India, New Delhi:*

Spokesmen

- (i) **Shri M. C. Shah,**
Manager, Union Cooperative Insurance Society, Delhi Branch.
- (ii) **Shri R. N. Panda,**
President, Orissa Cooperative Insurance Society, Cuttak.
- (iii) **Shri A. S. R. Murthi,**
*General Manager, Hyderabad Cooperative Insurance Society,
Hydrabad.*
- (iv) **Shri M. S. Asthana,**
*Chief Executive Director of National Cooperative Union of India,
New Delhi.*
- (v) **Shri R. D. Bedi,**
Joint Director, National Cooperative Union of India, New Delhi.

(The witnesses were called in and they look their seats).

Mr. Chairman: I suppose you are from the National Cooperative Union of India.

First of all let me make it clear to you that the evidence that you give becomes the Committee's property. This may be published. If you want something to kept confidential, that too will be made known to Members of Parliament. But, that may be kept confidential from the public.

So, you should indicate which part of your evidence you want to keep confidential from the public in the course of your evidence.

Now, you may introduce your colleagues to the Committee.

(At this stage, witnesses were introduced to the Committee)

Shri Bedi: Shri R. N. Panda will be our main spokesman. Shri Murti will give additional points.

Mr. Chairman: You have already submitted your memorandum. If you want to make additional points or if you want to emphasise anything you can do so.

Shri Panda: Honourable Sirs, what we wish to represent is this. The cooperative Institutions as such are basically socially-controlled. Moreover they function under a special Act known as the Cooperative Societies Act. And they are under the vigilant control of the Registrar of Cooperative Societies all over the State. Therefore, the special control envisaged in the Bill would bring in a sort of dual control in certain matters.

We would earnestly represent that such a position will bring in some confusion.

Mr. Chairman: You must say what harm will proceed from that.

Shri Panda: We are already under control and we submit that an additional control or a special control without removing the present control would bring in some confusion.

Shri Morarji Desai: Already companies are controlled by the company law.

Shri Panda: This is a special Act. We do not want any curtailment over the Controller's suggested authority with regard to our position as insurers but with regard to the administrative

part of it, we represent that the present control with the Registrar is sufficient and that would keep the institutions going much smoother than at present.

Mr. Chairman: So far as insurance business is concerned, you are willing to be controlled by this Act but so far as the co-operative side is concerned, you do not want to be controlled by the authorities named under this Act. That is the position.

Shri Panda: There are provisions which would bring in conflict with the Co-operative Societies Act. For instance, the Controller's authority to remove Directors and Managers and other officers of the Societies would bring in conflict with the provision of the Co-operative Societies Act. Short of that, as insurers, any kind of control that is envisaged, we have no objection at all.

Shri Beni Shankar Sharma: Mr. Panda, you represent Co-operative Insurance Companies. You want exemption from the operation of this Bill. You have got co-operative societies in other spheres. You have co-operative sugar mills, co-operative shops, etc. They are under the control of certain authorities. So far as the exemption is concerned, have you got any exemption from those sugar control authorities. If not, why should you want special exemption from this Insurance Bill?

Shri Panda: My submission with regard to the internal administration of the co-operative sugar factory, its Board of Directors are supreme subject to the control of the State Government or through the Registrar so far. But with regard to the administrative officers or Board of Directors there is no other authority to control.

Shri Beni Shankar Sharma: That objection we have received from other Associations as well. That is not exclusive to your association. What special reasons you put for this exemption? You are not getting that in other spheres.

Shri Panda: These are supposed to be autonomous and I should say, special bodies which contribute generally to the common strata of the society and it is the declared policy of the leaders of the country to progressively put things in the hands of the people and enlarge the functions of the social institutions through co-operatives.

Shri Beni Shankar Sharma: One more thing. Do you take business from outsiders?

Shri Panda: Some business we are obliged to take because we cannot sustain entirely on the members' business.

Shri Beni Shankar Sharma: That is what is the difference between you and other companies.

Shri M. S. Asthana: May I supplement what Mr. Panda has said, there is hardly any institution in the co-operatives which is administratively controlled under the Act by any other authority than the Registrar of Co-operative Societies.

Mr. Chairman: What he meant to say is that when you receive business from your own members, there may not be any interference from outside authority, but as you go outside your spheres and receive business from non-members, what have you got to say about that?

Shri Panda: Actually the main object of the co-operatives is to deal mainly with the members. But to make it a viable unit, they have got to go outside also.

Shri M. S. Asthana: We are progressively increasing and the number of members is increasing and the volume of business is also increasing.

Shri S. S. Kothari: How many co-operative insurance societies are operating in India?

Shri Panda: We have now 5.

Shri S. S. Kothari: How many of them are running at a profit?

Shri Panda: Broadly all are making some profits.

Shri S. S. Kothari: What is your specific objection to the Controller's powers? Do you have any specific objection that he should not be allowed to appoint or he should not be allowed to remove office bearers?

Shri Panda: We do not want to interfere in his powers excepting the power to appoint or remove Directors or managers or the top office-bearers of the institutions, the elected representatives.

Shri S. S. Kothari: On what ground? The Controller would interfere or appoint Directors only where he sees that the things are not being run properly.

Shri Panda: The Registrar of Co-operatives is there and he has got competence to remove or to suspend or supersede societies and also to remove office-bearers.

Shri S. S. Kothari: Are you aware of any instance where Registrar of Co-operatives Societies has taken action in this regard?

Shri Panda: There have been no occasions with our co-operative societies. But there are several co-operative institutions which have been superseded.

Shri S. S. Kothari: Why

Shri Panda: We are all functioning quite in order. Naturally there was no occasion for superseding.

Shri M. S. Asthana: To substantiate his point, the Maharashtra Co-operative Insurance gave a profit last year—Rs. 2,19,000, the Union Co-operative, Bombay gave a profit of Rs. 9,96,000 and Hyderabad Co-operative Insurance gave Rs. 1.12 lakhs and Orissa gave Rs. 39,500. Regarding the fifth one we do not have the figure.

Shri S. S. Kothari: Who has incurred loss?

Shri M. S. Asthana: There is not a single society which has incurred any loss.

Shri Mrityunjay Prasad: Insurance is a specialised line of business. Do

you think the Registrar of Co-operative Societies, an executive officer of the State Government, will be able to assess your working in all its different aspects and technical aspects? If not, why do you think that the specialist in this line, the Controller, should be completely kept out of the picture? If not, to what extent do you want the Controller to have control over you?

Shri Panda: We do not wish to suggest any restriction on the Controller's powers with regard to our function as insurers, but our administrative functions as a Co-operative Society, we would submit, may not be interfered with because it is a matter under a special Act, viz., the Co-operative Societies Act.

Shri Mrityunjay Prasad: Are we able to separate the administrative functions from the insurance business here?

Shri Panda: At the moment the present system is functioning quite all right. We have not had any occasion for any complaint, either from Controller's side or from our side.

Shri Mrityunjay Prasad: That is a different thing altogether. That means you have no fear; at least in the past there had been no instance where anything wrong was found with cooperative Insurance societies, as you say. Is that not sufficient guarantee that in future too there should be no such fear and you can rely on the Controller to exercise his discretion judiciously?

Shri M. S. Asthana: So far as co-operative societies are concerned, they are mostly specialised agencies. We are operating sugar factories, processing units etc. They are within the discipline of many Acts—they may be labour or industrial disputes. So far as co-operative societies are concerned, it does not rest with any other authority except the Registrar—I mean the power for suspension or removal of Board of Directors. We are running a solvent extraction plant, which is a

sophisticated type of plant. The Registrar conducts inspection. He has specialist with him. He inspects. He also appoints auditors to audit our accounts. If something is found wrong, notice is given to the Board of Management. You must be aware of cases where the Board of Directors was suspended by the Registrar of Co-operative Societies. If one institution is subject to two disciplines for the same purpose, there is bound to be confusion and duplication.

Shri Mrityunjay Prasad: I believe you accept that this is not a sugar mill. This is neither a consumers stores or a Bank. This is a specialised business and therefore a specialist should have some say. Would you suggest some *via media*?

Shri M. S. Asthana: I gave the parallel example of banking which is equally a specialised industry as insurance. In the case of Banks we are subject to the control of the Reserve Bank's Agricultural Trade Department.

Shri Mrityunjay Prasad: Are the co-operative societies exactly like Banks or is there some difference? I think there is a lot of difference between the two; may be in some exceptional cases it may not be so.

Shri M. S. Asthana: Thought here is difference in basic principles . . .

Shri Morarji Desai: Are you not under the control of Insurance Act?

Shri Panda: We are:

Shri Morarji Desai: Then, why do you want a change?

Shri Panda: We don't want any change. We are only saying that the removal or suspension of the Board of Directors should be done only by the Registrar.

Shri Morarji Desai: If you are under the control of Insurance Act, you are bound to remain so. Whatever changes are brought in that, they will apply to you also. There are more complaints against cooperative insurance than against other insurance.

The average complaints in 1964 was 16 against cooperative insurers; against other insurers it was 4. In 1965 it was 10 against cooperative insurers; 4 against others. In 1966 it was 9 against cooperative insurance; it was 3 against others. You are more at fault than other people.

Shri K. Suryanarayana: Complaints by whom?

Shri Morarji Desai: Complaints by people for settlement of claims and there are other complaints of mis-management etc. The complaints are in two parts.

Shri M. S. Asthana: In democratic institutions the chances of complaints are much more.

Shri Humayun Kabir: May I ask you two questions, mainly clarifications? I thought Mr. Panda's main objection was to the removal of Directors and other officers. Does it mean that he is prepared to come under the orbit of this new proposal so far as the removal of Managing Director is concerned.

Shri Panda: Yes, provided he is not an elected office-bearer.

Shri Humayun Kabir: Why do you make this distinction? The Managing Director, either you may appoint him or elect him. If you agree that the Managing Director, who is the Chief Executive may be removed by the Controller, why should the mere fact of his being elected make you suggest that he should not be removed by the Controller? If the removal takes place, it will be on similar kind of reasons. The Controller will not do it just for fun; there will be some specific complaints, specific miscarriage of functions etc.

Shri M. S. Asthana: In the case of cooperative societies, the Managing Directors are not generally elected; they are paid employees. A paid employee of the society cannot hold elective office in the society. Firstly, the Managing Director is a paid em-

ployee of society. Secondly, there are Chairmen, Vice-Chairmen, etc. who are elected office-bearers. The Managing Director of a cooperative society is not like the managing agency system of joint stock companies. This is slightly different.

Shri Humayun Kabir: Your point is that elective people should not be removed by the Controller. Those who are non-elective may be removed.

Shri Panda: Yes.

Shri Morarji Desai: That also by the Registrar of Cooperative Societies, not by the Controller. That is what they want.

Shri Panda: We submit that this function may be exercised only by the Registrar of Cooperative Societies in the case of Directors of the Board.

Shri Morarji Desai: Is he qualified about insurance?

Shri Panda: The Controller has the supreme right to withdraw the licence. How can the society function then?

Shri Morarji Desai: You want that to be exercised by him.

Shri Panda: Yes.

Shri Humayun Kabir: In other words, you are prepared for capital punishment but not imprisonment. The second point is this. Your objection is that control over the administration by two authorities may lead to duplication and in some cases to contradictory orders.

Shri Panda: That is our fear.

Shri Humayun Kabir: Till now, there has not been any provision by which this kind of administrative control could be exercised.

Shri Panda: It has not happened so far; because further amendments are suggested, we submit our objections.

श्री शेर खां: क्या आप चाहते हैं कि को-ऑपरेटिव इंशोरेंस सोसायटीज के लिये ग्राम इंशोरेंस से अलग हुआ फंडसिनिटीज या सहूलियतें दी जायें ?

Shri Panda: The agreed policy of our leaders is to give encouragement to cooperatives. They have a special status as they are serving the ends of social justice. They are supposed to become bigger units, controlling the affairs of their own livelihood.

श्री शेर खां : मैं आपसे यह पूछना चाहता हूँ कि को-ऑपरेटिव के नाम से क्या आप कोई ऐसी चीज चाहते हैं कि आपको कोई स्पेशल फंडसिलिटी दी जाय ?

श्री शेर खां : जी हाँ ।

श्री शेर खां : ऐसी हालत में तो बहुत से इल्लोगल काम करने वाले भी कोई को-ऑपरेटिव सोसायटी बना लेंगे, व लोग भी स्पेशल फंडसिलिटी चाहेंगे ।

Shri Bedi: The co-operatives should be given a special status. They cannot be equated with private companies on the one hand or with public companies on the other. They are more or less a balancing factor between the two. This claim of the co-operatives has already been accepted and a special law has been prepared; Special consideration be shown to them.

Shri Morarji Desai: Co-operatives are given a certain preference. Co-operative societies are controlled only by the State officials. Co-operative officials look after only the work of co-operation whether it is done to satisfy the members of the co-operative or not. But with view to review the business of insurance in accordance with the principles of insurance, in accordance with the regulations laid

down by Government only insurance has got to be seen under this Act.

Shri Panda: We would like consideration of this only point, viz. the elected office-bearers.

Shri Morarji Desai: They can do any wrong. They are under the control of the Registrar of Co-operative Societies.

An hon. Member: Why are you in love with the Registrar?

Shri Bedi: We have to respect both of them and we cannot make any distinction between them.

Shri K. P. Subramania Menon: May I know who are the members of these co-operative societies? Are they ordinary public or companies?

Shri Panda: They are ordinary. For instance, our society started first for all the motor vehicle owners. Then we took fire insurance. Of course, other members also came in and in the subsequent stage we had certain individual members.

Shri K. P. Subramania Menon: More members are business concerns or co-operatives?

Shri Panda: We have got 150 co-operatives and 134 individual members.

Shri Asthana: The main business is from the co-operative sector. There is enough business in the co-operative sector itself and co-operative insurance societies are doing mainly the business of this nature.

Shri Panda: We have restricted the introduction of individual members. There has been no further recruitment of individual members since the last one year after the directions from the State Government.

Shri K. P. Subramania Menon: You have just stated that if co-operative insurance societies are asked to remit 20 lakhs in the Reserve Bank of India, it creates difficulties, so that many

insurance co-operatives will go out of business.

Shri Panda: Yes. We submit that that it will not be possible for all the co-operative institutions to fulfil these conditions within the time stipulated. So, in this regard we beg to represent that the security deposit may be reduced to 10 lakhs and the solvency margin also to 10 per cent of the premium income.

Shri K. P. Subramania Menon: Only in the case of co-operatives?

Shri Panda: Yes. The period may be extended to ten years to fulfil these conditions.

Shri K. P. Subramania Menon: You have asked for ploughing back all the funds of the co-operative insurance societies into the co-operative movement rather than place them at the disposal of agencies.

Shri Panda: We deposit some portion of our surplus money in Government securities too. We need to place a portion of our funds in other co-operative organizations also.

Shri Asthana: Under the Co-operative Societies Act, reserve and other funds of the co-operative societies have to be invested into defined securities, defined by the Registrar of Co-operative Societies. The reserves can only be invested in these securities. And one of the recognized institutions is fixed deposit and debenture of and mortgage bank. So there is some control over the investment of reserves of any co-operative society under the Co-operative Societies Act.

Shri G. R. Patil: May I know how far these co-operative societies are in a position so far to attract the members of such co-operatives?

Shri Panda: The first co-operative insurance society was started only in 1946. And in 1947 our society started. Other societies started later. So our activity in the co-operative sphere is only very recent. And as we are making progressive increase in our

business, we expect that in a little while, provided these facilities and concessions we have been praying for are allowed, we might reach a very attractive position in this field of business also. At the moment, our business is more from the co-operatives than from the public. But we cannot afford to give up co-operative business also because other insurance organizations are encroaching upon co-operative business also and there is no such restrictive provision in any of the co-operative societies.

Shri G. R. Patil: How do you think that if the Controller exercises these powers under this Act, that will affect the entire working of co-operative insurance societies? You have already made it clear. What harm will be there until and unless some things are not according to the Act which come to the notice of the Controller? Actually when you accept all other things and powers delegated under this Act, you do not want only that.

Shri Panda: Being supreme representatives of this country it is for you to judge how far an elected body could be removed by an officer excepting that

Shri P. Ramamurti: The Board of Directors can be superseded by an officer under the Co-operatives Act. The Registrar of Cooperatives can supersede the entire Board and the entire Board is an elected body.

Shri K. Suryanarayana: Mr. Panda your main objection, as you said in the beginning, is only to the controlling by the Insurance Controller besides the Registrar of Cooperatives Societies in the States. The Controller has been given powers only where there are mal-practices. He can remove even Managers where there is mis-management, misappropriation of funds, etc. Even now the Controller has got power to remove or to ask for explanation. Now, they have introduced in this Bill instead of two agencies they have introduced only one agency. What is the harm? We have not been able to understand you. What is the specific harm? If there is anything wrong done

by the Controller you have got specified right to go in for a petition. We are concerned with the development of the business and to safeguard the interest of the investors and policy holders, instead of nationalisation and other things we prefer cooperatives but what is the harm being done if powers are given to the Controller instead of your Registrar?

Shri A. S. R. Murti: With regard to the functioning of our business, branch managers, etc. we are not asking for any concessions. That will be continued by the Controller of insurance. Only with regard to the constitutional and some of the powers like investments and audit by Registrar of Cooperative Societies that part of the powers may be continued so that there may not be nay duality and also that the Society may work smoothly in the insurance business. Otherwise, there will be much difficulty. It will be administratively causing much hardship. Therefore, so far as constitutional and some of the major aspects in which the Registrar is competent enough—the Registrar may not be a technical man—so far as insurance business is concerned. There we do not want any relief—but only in regard to its functioning we are requesting you to kindly consider if it gives us any help administratively. With regard to business control we have not suggested. We are very happy to follow the amendments as they are. Only with regard to the constitutional aspect, investment point of view and audit point of view if some facilities could be given. We may not be just compared with the private sector.

Shri K. Suryanarayana: The Controller is given powers to supervise and put in proper way your investments, your recurring the business or other mal-practices. For the development of the business the Controller has not to secure business for you. You can find your business. Here may I point out that whereas the capitalist companies are giving dividends only to the shareholders the cooperative societies are giving bonus to all policy

holders. But as regards the controlling there will not be any objection by you also. You know the banks were being controlled—the State Bank was 99 per cent being controlled by the Registrar. Now social control over the banking is being introduced. The Government has entrusted the work to the Reserve Bank which is directly interested in the investments of the banks. This is the

Shri K. Suryanarayana: You may ask for other facilities, such as in regard to Rs. 10 lakhs or Rs. 20 lakhs etc., but your contention is something of which we have not been convinced so far.

Shri Bedi: May I add to what has already been said? The question of dual control came when the Reserve Bank's Banking Regulations Amendment Bill came. At that time, the Reserve Bank's Agricultural Credit Department as well as the Registrar of Co-operative Societies were the two authorities which were suggested for controlling the co-operative banks, but later on it was decided that the Agricultural Credit Department of the Reserve Bank of India would exercise control on the co-operative banks only through the registrar of co-operative societies. There are certain reasons why the registrar is being preferred by the co-operatives. Traditionally, the co-operative societies are more attached to the registrars and the registrars also are traditionally more attached to the co-operative societies, and both of them have got some equation between themselves. They understand each other. The registrar of co-operative societies has always been considered to be the friend, philosopher and guide of the co-operative societies. They always have the benefit of his aid.

Shri P. Ramamurti: Each is guided by the other.

Shri Bedi: That is why the co-operative societies always prefer the registrar to control them, because he has a better equation with them and he understands the co-operative societies better. Therefore the co-opera-

tive societies want to be controlled by the registrars of co-operative societies and not by anybody else.

श्री रमामूर्ति र शर्मा : सभी ग्राम ने बतलाया कि कंट्रोलर की आवश्यकता नहीं है ग्राम के ऊपर, कोऑपरेटिव सोसायटीज के रजिस्ट्रार ही काफ़ी हैं। हम ने यह देखा है कि उनके रहने के बावजूद कोऑपरेटिव सोसायटीज में दिन प्रति दिन गड़बड़ बढ़ती जा रही है और बहुत ज्यादा गोल-माल होता है। उसकी रजिस्ट्रार साहब कंट्रोल नहीं कर सकते। यह भी ग्राम ज नते हैं कि कोऑपरेटिव सोसायटीज में इन्स्टैंड इंटरेस्ट और पार्टियाँ घुस जाती हैं, जिन का चेक करना कठिन हो जाता है। ग्राम को यह भी पता है कि दोनों तरफ के लोग रजिस्ट्रार के पास पहुँचते हैं और जो भी रजिस्ट्रार पर घसर डाल पाता है वह अपना काम निंकार लेता है, बाकी लोग सफ़र करते हैं। जब ग्रामक यहाँ इतनी गड़बड़ होती है तब क्या उसका चेक करने के लिये कंट्रोलर का होना जरूरी नहीं है ?

Shri Bedi: So far as malpractices are concerned, they are not the monopoly of the co-operative societies; the malpractices are more probably in the private sector and even in the public sector, which of course I would not like to touch here.

An Hon. Member: What is the ratio between the private and public sectors in regard to the malpractices?

Shri Bedi: I do not think that a study has been made regarding this comparison between the malpractices in the private sector, public sector and the co-operatives. But generally as it is understood, the malpractices in the private sector are much more than in the co-operative societies, and in the co-operative societies, they are coming down. I do not have any figures to cite here. But when there is malpractice in the entire co-operative movement, it does not follow that

there is malpractice prevalent in the insurance societies. In the insurance societies, there has been no case of malpractice detected so far. As far as malpractices are concerned, there is no guarantee that the registrar of co-operative societies cannot stop them but the controller of insurance will be able to stop them. Probably because the registrar is nearer to the co-operative societies and he has got a hand in all its transactions, he can supervise and control them better and detect the malpractices better than the controller of insurance sitting at the Centre. The registrar has got his staff, inspectors, assistant registrars and so on, all of whom are having a close look at the co-operative societies and who are auditing and inspecting them and who know what is happening inside.

श्री रामावतार शास्त्री : आपका टोटल बिजनेस कितना है, और उसमें आपकी कोऑपरेटिव का शेयर क्या है तथा इंडिविजुअल इश्योरेंस का शेयर क्या है ?

Shri Bedi: We do not have any figure in general. But regarding the Union societies, the Hyderabad society and the Orissa societies, 55 per cent share will come from the co-operative sector and 45 per cent from the other sector.

Shri Panda: I may submit that some of these co-operative institutions are doing wonderful work and they are all managed by non-officials. I think the future of co-operation is improving and there is no doubt that wherever there are bad people, they would be brought to book. But I submit that all co-operative institutions may not be brushed with the same colour. There are very good institutions in the co-operative sector also.

Shri Morarji Desai: May I mention some figures which Shri Ramavatar Shastri had asked for from the witness? They may not be having those figures, but I have them. The figures are as follows: The total amount of net premium income of the

co-operatives was Rs. 89,30,000 in 1964, Rs. 1,00,25,000 in 1965 and Rs. 128,35,000 in 1966. For the others, the corresponding figures were Rs. 51,13,14,000, and Rs. 56,64,07,000 in 1964 and 1965 respectively.

If they make a rule that they will take business only from their members, then I can understand but then they will not exist.

Shri Panda: Profit is not our motive mainly in the co-operatives, because we part with a major part of our profits in the shape of bonus to the members. In the joint-stock companies money is invested for making money, but here money is invested both for meeting social needs and also for serving the purpose of insurance.

Shri Morarji Desai: If you do not make profit, then you do not deserve to exist.

Shri Panda: We do make profits, but we do not make it just like joint-stock companies only for the investors.

Shri K. Suryanarayana: In the joint-stock companies, the profits are distributed to the shareholders. Unless you make profits, what is the use of your existence? You must make profits and give bonus.

Shri Panda: We pay a dividend, but a limited one. We do not pay unlimited dividends in our State. The dividend is 9 per cent.

Shri N. K. Somani: We have been told that as much as 45 per cent comes from outside. And you are calling yourself co-operative societies and claiming other benefits such as total exemption from the purview of the proposed legislation. Until such time as the large part of your income comes from your own members would you agree that it is a misnomer to all yourself a co-operative society?

Shri Panda: There should be a distinction between mutual co-operative societies and other co-operatives societies which are doing business with members as well as some non-members. For instance, take the case of a consumer co-operative society. There are a large number of members; some

non-members are also being served because they form a part of the community. We cannot afford to forgo the interests of other members. We shall try to bring them into our fold. How can we bring them into our fold unless we start serving them? That is one of the reasons why we are obliged to serve not only our members but also to serve the non-members with a view to recruiting more and more members.

Shri Somani: The Controller of Insurance is sought to be armed with wide powers under this Bill. You have said that you would like to be exempted from certain sections of his authority. What is so special about you that you would like all the other companies to be under his constant purview and sometimes at his mercy but not the co-operative insurance companies?

Shri Panda: We do not say that we are not to be under his control except that on the question of removal of elected directors that should be the position because we are under a special Act which governs the activities of co-operative institutions.

Shri Somani: You have been told that all other companies, joint stock companies, are under one authority or another, under the Indian company law or the Registrar of Companies, and they also function similarly. So I do not see any new point in what you are urging.

Shri Bedi: There is a difference between the powers exercised by the Registrar of Companies and that of Co-operative Societies. The former does not audit the books nor inspect the companies; he only registers them, takes some fee and exercises some penalty powers. The Registrar of Co-operative Societies audits the books, inspects the societies, supervises them and promotes them.

Shri Somani: Power is also proposed to be given to the Controller to the effect that if in the interest of business it is advisable to ask one

small insurance company to merge with another, he will give instructions to do so. This may very well happen in your sector also. Do you have any objection?

Shri Bedi: No, provided the co-operative insurance society is asked to amalgamate only with another co-operative insurance society. We will object if the merger is sought with a private company.

Shri Somani: What is the total profit after tax of the entire general insurance companies in India—public limited companies, private limited companies and co-operative insurance societies?

Shri Panda: We do not know.

Shri Somani: In view of the fact that the profits after tax of nearly 70 per cent of the largest companies in India including one or two co-operatives is Rs. 2.28 crores per annum—you may add a few lakhs to make it a round sum—what is at the back of your mind in making such a sweeping allegation in your opening paragraph that this entire idea of social control of insurance is to put a check on their acquisitive propensities?

Mr. Chairman: We are not to be guided by their opinion.

Shri Somani: This is a view coming from a federation; they are not here in their individual capacity. So I wanted to know what is at the back of their mind in making this allegation.

Shri Morarji Desai: The percentage of profits is larger in the case of co-operatives than in the case of other insurance companies.

Shri P. Ramamurti: What does it matter what they think with regard to this? How are we concerned with their opinion?

Shri George Fernandes: Are there any special concessions you give to your members in respect of premium rates and other things or are you on the same rates as other companies?

Shri Panda: Premium rates are controlled by the Controller. We follow the scheduled tariff prescribed. We charge the same rates. But we pay back the profits in the shape of bonus.

Shri George Fernandes: What is the extent of bonus and percentage of premium?

Shri Panda: That depends on the volume of profit a society makes. It is found out at the end of the year. Profits are calculated after paying a small dividend, which is always 9 per cent or less; a portion is also paid back to members in the shape of bonus.

Shri George Fernandes: Can you speak on behalf of the Union Co-operative Insurance Company?

Shri Shah: Yes. Since the last three years, every year they are declaring 10 per cent bonus subject to tax.

Shri George Fernandes: What is the capital of the Union Co-operative?

Shri Shah: Rs. 9 lakhs.

Shri George Fernandes: And the profit last year?

Shri Shah: Rs. 12 lakhs.

Shri George Fernandes: More than 125 per cent of capital.

You made a statement that there have been no malpractices in the co-operative insurance sector. Do you know of the Cooperative Insurance Society Ltd. which was charged with suppression of accounts and misappropriation of money?

Shri Murthi: It is not a co-operative society.

Shri Bedi: It may be a private sector company registered before 1904, 'co-operative' only in name.

Shri George Fernandes: According to Mr. Bedi, it is not a co-operative society registered under the Co-operative Societies Act.

Shri Bedi: That is my information.

Shri C. M. Kedarla: In asking for special concessions, are you suggesting that you should not be dragged to the court without the consent of the Registrar? If it is provided for here, will you be satisfied?

Shri Panda: If any matter is for adjudication, naturally the High Court will ask the party whether he has come through the Registrar, and if he has come after a decision by the Registrar.

Shri C. M. Kedarala: You have also raised objection to the provision concerning deposit. If you are treated on the same basis as State Co-operative banks or land mortgage banks in this respect, will it do?

Shri Panda: We are asking for a reduction in the quantum of security deposit and also the solvency margin, because co-operatives have not yet reached a viable position; we are just developing.

Shri George Fernandes: On a capital of Rs. 9 lakhs, you make a profit of Rs. 12 lakhs, and still say you are not viable.

Shri Panda: It is only one society.

Shri Suryanarayana: In this case, it is not a business investment. It is only to meet their expenses and other things. Profits will be given from the premium where there are not losses. We have to ask them whether all the money is being given as bonus to policyholders.

Shri V. Narasimha Rao: Instead of it being Rs. 50 lakhs, you want to have a reduction in the premium.

Shri R. N. Panda: We are asking for a reduction in the case of co-operatives, from Rs. 20 lakhs to Rs. 10 lakhs, and in the case of solvency margin, from Rs. 20 lakhs to Rs. 10 lakhs. That is only a submission for your consideration.

The question of promoting these co-operatives is also a matter for the

Government, and it is for the Government to consider whether it will be in the interests of the co-operative organisations to grant these concessions.

Shri K. Suryanarayana: Do you agree that the Government is also interested in the development of the co-operatives and the co-operation idea in the country? That is the fundamental point. It is not only in respect of insurance. In order to take care of the co-operative idea, it is being recognised and they are spending large amounts. We know of co-operative farming, co-operative sugar factories and so many other things. So, you can specifically ask the Government or the Controller to give directions in order that the co-operative unions may develop.

Shri R. N. Panda: We have already made a representation and we are still persisting with that representation. We should also get a share in the Government business. Otherwise, it will not be possible to make it viable and compete with other institutions. It is only because that the Government should promote co-operation that we have ventured to make this representation. It is for the Government to consider how far it will be reasonable to grant these concessions to promote co-operatives.

Shri K. Chandrasekharan: There are no provisions analogous to the proposed section 34B and 34C in any of the enactments regarding co-operative societies. The provision is only for supersession or suspension of the entire set-up. We are thinking just in terms of directors. There is no such provision in any other co-operative societies laws. Can I take it like that?

Shri R. D. Bodi: There are certain States in which even one director can be removed. For example, in Punjab, there is a provision that the Registrar can remove one director.

Shri K. Chandrasekharan: So far as section 34D is concerned, any action taken under the provisions of this Act

would prevail notwithstanding any provision in any other enactment. Therefore, there is not likely to be any conflict with any other provision of law. You said that your apprehension was that there would be contradictory procedures being taken under the Co-operative Societies Act and under the present legislation. That apprehension is not likely to be there in view of the wording of the proposed section 34D.

Shri R. N. Panda: It is not a legal conflict, because, a special Act of Parliament will certainly prevail over the special Act of a State Legislature. That is the point which we submit. But here, the question is one of administrative convenience. The State administration being near at hand, it will be possible for us to have the matters considered quickly and earlier. But if it is a question of matters being settled at the Centre, then people have to come from far-off places in the country, from different parts, to Delhi for settling these disputes and knotty matters.

Shri K. Chandrasekharan: So, your objection is not on the basis of any fundamental principle, but on the basis of administrative convenience?

Shri R. N. Panda: Yes.

Dr. B. N. Antani: Shall I be not incorrect if I infer from your memorandum that you want to remain as a class and should not be touched by this central legislation, because you happen to be co-operative?

Shri R. N. Panda: We want only certain concessions to be extended to us as co-operative unions. For instance, in the matter of deposits, then in the matter of solvency margin and so on. So, it is only a question of small administrative concessions.

Dr. B. N. Antani: Concessions which in effect would nullify the very objectives of this legislation.

Shri R. N. Panda: If that were so, we have no case.

Dr. B. N. Antani: You object to the inspection by the Controller because you say that such an inspection and audit is sufficient through the Registrar of companies. Do you think that there should be no room for supervisory inspection by the Controller whatsoever, after audit and inspection by registrars?

Shri R. N. Panda: We will not plead for such a wide exclusion of the powers of the Controller. I think that if that is the interpretation, we should withdraw that point. We accept your interpretation.

Dr. B. N. Antani: Tell me if I am incorrect, convince me.

Shri R. N. Panda: We have no objection to the Controller exercising control

Shri B. N. Antani: You say in your first paragraph that you are bracketed in every respect with private sector insurers. Why do you like to shun even if it is bracketed—which I am not convinced—and why are you so very sensitive about being treated on the level of private enterprise?

Shri R. N. Panda: Already, it is the declared policy of the Government that this is a sector which is quite different from the private sector.

Dr. B. N. Antani: Do you think that your conditions will be bettered if you are bracketed with the public sector as they are alleged now to be managed?

Shri R. N. Panda: This is a thing which is in between the public sector and the private sector. We need to be steered through in a new way.

Mr. Chairman: Is the LIC, which is also doing general business, excluded from these provisions?

Shri Morarji Desai: It is not.

Shri Jairamdas Daulatram: I understood from you that your main objection to control of an effective administrative type by the Centre would not be satisfactory because the Centre is removed; you prefer that type of control for insurance purposes from the local authority. May I suggest to you that where the interfering authorities are not very close at hand, it is likely to be more cautious and more impartial and that will be in the interests of your concerns.

Shri R. N. Panda: If there is no other way out, what we plead is that the Controller should be an officer of such a status as would be using a judicial discretion in these matters.

Shri Jairamdas Daulatram: I do not want to argue the matter; I just put the matter clearly.

Shri S. S. Kothari: With regard to deposit, what do you think would be a reasonable deposit for cooperative societies? Do you think Rs. 20 lakhs is excessive?

Shri Panda: It is excessive. I would suggest Rs. 10 lakhs for security and 10 per cent of the premia income as solvency margin.

Shri Mrityunjay Prasad: When a particular cooperative insurance company makes a profit, are the policyholders also benefited and if so, in what way?

Shri Panda: They are receiving cash bonus at the end of the year commensurate with the profits on the basis of the premium paid.

Shri Mrityunjay Prasad: Do they get the bonus whether they are members or non-members?

Shri Panda: Yes, Sir.

Mr. Chairman: We thank you, gentlemen, very much for coming and cooperating with us by giving your views.

(The witnesses then withdraw)

II. *The Overseas & Inland Insurers' Employees Association, Calcutta.*—

Spokesmen

(i) *Shri Ajit Lal Das, President, Overseas and Inland Insurers' Employees' Association, Calcutta.*

(ii) *Shri Atul Kirshna Kundu, General Secretary. Overseas & Inland Insurers' Employees' Association, Calcutta.*

(iii) *Shri Samaresh Sarkar, Member, Executive Committee, Overseas & Inland Insurers' Employees' Association, Calcutta.*

(iv) *Shri R. N. Mukherjee, Member Executive Committee, Overseas & Inland Insurers' Employees' Association, Calcutta.*

(v) *Shri K. D. Bhattacharya, Member Executive Committee, Overseas & Inland Insurers' Employees' Association, Calcutta.*

III. *All India Insurance Employees Association General Insurance Sub-Committee, New Delhi.*

Spokesmen

(i) *Shri Saroj Chaudhuri, General Secretary, All India Insurance Employees Association, General Insurance Sub-Committee, New Delhi.*

(ii) *Shri K. S. B. Pillai, Joint Secretary, All India Insurance Employees Association, General Insurance Sub-Committee, New Delhi.*

(iii) *Shri Ajoy Das Gupta, Member, Working Committee, All India Insurance Employees Association, General Insurance Sub-Committee, New Delhi.*

(iv) *Shri J. G. Kothare, Member, Working Committee, All India Insurance Employees Association, General Insurance Sub-Committee, New Delhi.*

(v) *Shri R. K. Gupta, Member, General Council, All India Insurance*

Employees Association, General Insurance Sub-Committee, New Delhi.

(vi) *Shri P. P. Ravindranathan, Member, General Council, All India Insurance Employees Association, General Insurance Sub-Committee, New Delhi.*

(The witness were called in and they took their seats.)

Direction No. 58 was read out to the witnesses by the Chairman.

Mr. Chairman: Gentlemen, we have received your memorandum. If you want to stress any points, you may do so. This is a Bill for social control. You should forget about nationalisation, which the Government is not going to do now. Our power is limited to go into the clauses contained in this Bill. Any point made about nationalisation will not be relevant, so far as this Committee is concerned.

Shri K. Suryanarayana: Parliament and government have agreed only for social control and not for nationalisation. We request you to guide us on implementing social control.

Shri Saroj Chaudhuri: Although this Bill is named Insurance (Amendment) Bill, it has popularly come to be known as social control Bill. But, as we have tried to explain in the first 7 or 8 paragraphs of our memorandum, in the Bill "social" and "control" is nowhere there.

Shri Morarji Desai: That is not relevant here.

Mr. Chairman: We circulated the Bill for receiving comments and suggestions on the various clauses of the Bill. Besides commenting on the provisions of this Bill, you may also say that there should be nationalisation. We know your views about nationalisation. But we are not competent to consider that question here. We want to know what you have to say on the provisions of this Bill.

Shri Saroj Chaudhuri: We only want to draw the attention of the Committee to the fact that this Bill has been introduced to overcome certain difficulties now confronting the industry. Our point is that the ills now confronting the industry cannot be eradicated unless the industry is nationalised.

Shri K. Chandrasekharan: Mr. Chairman, may I respectfully submit that that approach would not be correct, so far as we are concerned? This Joint Committee is entitled to go into the competence of enacting a measure of social control; it can see whether it is a measure for nationalisation of the entire field of insurance. It is perfectly within the competence of this Joint Committee, after hearing the witnesses, to recommend that this social control Bill is unnecessary that government should bring forward a measure for nationalisation of the insurance industry. I would therefore, submit that we should hear the witnesses on this point.

Mr. Chairman: When this Bill was introduced in Parliament, the principle underlying the Bill was accepted by the House and then it was referred to the Joint Committee. The principle accepted was social control and not nationalisation. So, I do not think we are competent to go into the question of nationalisation.

Shri P. Ramamurti: It is certainly open to the Committee to consider whether the measures adumbrated or proposed here for social control will effectively control all the ills. Ultimately, we will come to our own conclusion whether these provisions are sufficient and they will be able to control all the ills effectively.

Shri Morarji Desai: May I submit that if you say, as they say, that nothing but nationalisation will solve the problem, then it is quite a different proposition altogether. You can certainly make that suggestion. They can certainly suggest what im-

provements can be made in the various clauses of the Bill. But they cannot negate the Bill, as they are now trying to do.

Mr. Chairman: Direction 76 of the Speaker reads:

"The principle of the Bill having been accepted by the House by adoption of the motion for reference of the Bill to the Select Joint Committee, further general discussion on the Bill as a whole shall not be permissible in a Committee."

So, it cannot be done here.

Shri P. Ramamurti: They can certainly point out what they think about the effect of the various provisions....

Shri Morarji Desai: You can do so as a member; not they.

Shri P. Ramamurti: They can point out why it is not necessary.

Mr. Chairman: That can be considered by us, whether this is sufficient or not.

Shri Morarji Desai: We can consider that when we consider the Bill after the evidence is over. They do not have the right to make this propaganda here.

Shri George Fernandes: According to the title, this Bill is "for the extension of social control over insurers carrying on general insurance business and for matters connected therewith or incidental thereto".

Shri Jairamdas Daulatram: Sir, I want to raise a point of order. I believe it is the practice that discussion among the members cannot take place in the presence of the witnesses. The point is important and if you want to discuss this, it must be discussed among the members. But it cannot be discussed in the presence of the witnesses.

Shri George Fernandes: When the Bill was introduced and was being referred to the Joint Committee, on

the 13th of August Shri Tapurish raised a point—I have the proceedings with me here—that according to his party it is wrong to refer a Bill to a Joint Committee without any discussion on the floor of the House. He also stated that Shri M. R. Masani, the Deputy Leader of his party has written a letter about it. Then the Deputy-Speaker ruled that the Business Advisory Committee had decided that the Bill would be referred to the Joint Committee without any discussion. The Deputy-Speaker added “if I permit you to speak, I will have to permit others; I am very sorry”. It is with that background that the Bill has come here. Before the Bill was referred to Joint Committee, if there had been some discussion the terms of reference would have been more or less emphasised or defined and then one could understand the limiting of the discussion to the points involved in the Bill itself. But, in this case, there was no such discussion in the House.

Shri Morarji Desai: We are not limiting discussion among members, as I understand it. This limitation is only on the witnesses.

Shri Jairamdas Daulatram: I believe when members accept membership of the Joint Committee, they do so on the assumption that they accept the principle of the Bill. Therefore, this matter cannot be discussed both on the grounds of impropriety....

Mr. Chairman: Shri Fernandez has referred to the ruling of the Deputy-Speaker and the fact that there was no discussion in the House.

Shri Jairamdas Daulatram: When there is no discussion in the House it does not mean that the principle has not been accepted or it has been rejected. If a member does not accept the principle of the Bill, he should not be in the Joint Committee. Therefore, both on grounds of the constitutional position and the

impropriety of discussing this matter in the presence of the witnesses, it cannot be permitted.

Mr. Chairman: We have received the memorandum and noted your views. If you want to emphasize any point or suggest any new point for improving the provisions of the Bill, or suggest new provisions, you may do so.

Shri Ajoy Das Gupta: I think we have made certain suggestions regarding investment which is, of course, a very vital part in the idea of social control, because it is the misuse of the money or the funds that these insurance companies have which has led the Parliament being forced to introduce this Bill in place of nationalisation. Our point of view is that enough restriction has not been put on the powers of the managements of these companies—the directors, the managing directors or the boards of directors—in regard to investment. Firstly, a large amount, that is, 25 per cent of the investible fund, has been left at the discretion of the managements to invest as they like and 75 per cent has been earmarked for investment in approved securities. There too, it has been left to the Controller or the Central Government to declare any security as an approved security. So we find that a huge amount, particularly of the bigger companies, will be at their disposal.

Moreover, as we have understood the provisions of the Bill, it aims at merging or amalgamation of different companies and making them bigger companies. The funds at the disposal of the existing companies, which will be existing after the operation of this Bill, will be considerable. So we have made a suggestion of limiting even that amount; that is, only 10 per cent of the total investible funds of the company should be left at the discretion of the management and 90 per cent should be in approved securities.

About the Government's power to declare any security as an approved security, our submission is that in the absence of any guidelines being given in the Bill about the nature of securities which can be declared as approved securities, it leaves a very wide field for the Government which should not be there. Moreover, we are afraid that it might be unconstitutional and might be struck down.

Another aspect of the investment question relates to how much of the funds of an insurance company can be invested in a company or companies and how much of the capital of that company can be subscribed by any single insurance company. There the limit is 10 per cent of the funds of the insurance company and 2 per cent of the company in which the investment is being made. For big companies, like New India, this 10 per cent is a huge amount. So we want to restrict the amount which can be invested so that the company in which it is invested cannot be influenced. We also want that the investment be spread over. So we suggest that Rs. 5 lakhs should be the limit for investment in any single venture or company.

Then, I come to clause 14 which is about the bonus question. It seeks to amend clause 31A of the Principal Act. So far we are out of the purview of the Payment of Bonus Act and this Bill seeks that general insurance employees also be brought within the purview of the Bonus Act. The amendment suggested by the Bill in section 31A seems to us to be taking away the power that was conferred on the Central Government to decide about the quantum of bonus in each case, from company to company. As we understood it, in the Principal Act, section 31A was inserted to stop the payment of bonus at a high rate to high officers; it was not stopped altogether but a proviso was made. Now if that part of the proviso is taken away and

only this part is left which says that it can be paid on a uniform basis to employees or a class of employees, it will also include the officers. For them some uniform rate may be prescribed and others who come within the purview of the Industrial Disputes Act, that is, the workmen, will come within the purview of the Payment of Bonus Act. This, we consider, will harm us in two ways. Firstly, the clause about expenses of management remains; so, big companies are allowed to pay bonus at a high rate to officers. That will come not under the Payment of Bonus Act but will be under the expenses of management. This will bring down the profit of the company and will impinge upon the interests of the workmen so far as the quantum of the available surplus is concerned.

Mr. Chairman: You want that high officers should not be paid out of the Bonus Fund.

Shri Ajoy Das Gupta: No.

Mr. Chairman: You want the present arrangement to continue.

Shri Ajoy Das Gupta: No. We have suggested that the payment of bonus in the insurance industry be guided by the Payment of Bonus Act and it should be applicable to all. So we have suggested that proviso (vii) be substituted by the following:—

“the payment of bonus in accordance with the provisions of Payment of Bonus Act, 1965.”

We want to limit the payment of bonus only to workmen or employees who are entitled to get bonus under the Payment of Bonus Act and want to prohibit it to others.

Coming to clause 16, a new section, section 34B, is sought to be added by which the Controller will be empowered to remove any employee of an insurance company. Of course, we take it that the intention of this new section is to confer the power on the

Controller to remove managerial persons only. But wide powers have been given in this clause and even ordinary employees can be removed under this as there is no restriction. We want to protect the interests of workmen by suggesting the insertion of a new sub-section as follows:—

“(9) Nothing contained in this section shall apply to workmen as defined under section 2(s) of the Industrial Disputes Act, 1947.”

Mr. Chairman: Do you think that the Controller will care to touch those employees who are under the big bosses who have the power to remove them?

Shri Ajoy Das Gupta: I have already submitted that the powers are very wide. How these powers will be exercised are yet to be defined. We hope that Parliament will also exercise its control over his actions. If the Controller is given the right to exercise his powers in the case of ordinary employees, it will be very difficult for them to protest and there is no legal remedy. If the Controller exercises his powers there, only at the intervention of the highest level, it can be removed. It will be very difficult for the ordinary employees to approach at high level in administration or in Government. We want to protect the interests of the ordinary employees or the workmen. Whether such powers vested in the Controller are exercised properly should be controlled by Parliament. Here, we are concerned mostly about the workmen. Our submission is that workmen should be put out of the purview of the Bill. As we understand, the purpose of this clause is to stop mal-practices at a high level. The ordinary workmen have no managerial functions. They have no say in the management. Sometimes, they are compelled to act even against their own conscience which help corruption in the industry. We know that. That unhealthy atmosphere has been created in the industry. For that, the

ordinary employee is not responsible. So, we want that the ordinary employees or the workmen should be protected and they should not come within the purview of this clause. We have given a saving clause at the end and we want it to be incorporated.

With regard to Clause 17 of this Bill, Section 37 of the Principal Act, here, it comes the question of amalgamation and it also comes in subsequent clauses. Our submission is that when amalgamation takes place, the interests of the workmen must be protected. Here, the Controller is empowered to make schemes. We want to make certain provisions contained in this Bill to be made compulsory and some other provisions to be optional. As it is worded now, the Controller in making schemes can omit all the points or any of the points as he likes. In our view, certain points are in the interest of the employees, that is, to safeguard the continuity of service, their emoluments and other service conditions. As it is, he can omit the question of the absorption of the employees in the amalgamated company or the new company or if the Government takes it over. Our submission is that the interests of the employees, their continuity of service, their emoluments and other service conditions must be protected.

Then, I would draw your attention to Section 52(1), that is about the solvency level. This Bill provides that if any insurance company fails to provide for the solvency level, it will be declared to be insolvent and will be wound up. Our submission is that if that is done, many employees will be thrown out of employment. We humbly submit that the Government should take it over. If any company seems to be insolvent, the Government should take it over.

Shri Morarji Desai: Is it becoming insolvent?

Shri Ajoy Das Gupta: No, Sir. It has been the responsibility of the Controller. Even now, after the passing of this Bill, the Controller has been given wide powers even to post directors, extra directors who have no responsibility but who have rights to watch over the working of the company. If, even after the Controller exercises such wide powers, the company is allowed to become insolvent, it is definitely the responsibility of the Controller and also of the Government to see that the company is put on sound footing by taking it over and, perhaps, amalgamating with Government companies.

Shri Morarji Desai: If it becomes insolvent as a result of the bad working of the employees, even then the Government should take it over?

Shri Ajoy Das Gupta: The Controller has been vested with the power to stop bad practices.

Shri Morarji Desai: The Controller will not be able to control the ordinary workmen.

Shri Ajoy Das Gupta: It is not the question of ordinary workmen.

Shri Morarji Desai: You do not want the Controller to remove an employee. Therefore, the employees must be the masters.

Shri Ajoy Das Gupta: No, Sir. They are governed by the laws of the land. The management is free to take any action against the employees if they misbehave.

Shri Morarji Desai: If an employee seeks to destroy the company, that is, its whole working, then the Controller should be able to remove him. If that happens, if the Controller has that power, then I can understand the other argument. Otherwise, I cannot understand it.

Shri Saroj Chaudhuri: If an employee is found working for the destruction of a company, then the law of the land takes care of it. If a

company is ruined because of the bad management, wasteful expenditure and all that, and also because of a large number of sinocures, the ordinary employees cannot be held responsible.

Mr. Chairman: We will discuss that later.

Shri Ajoy Das Gupta: There is one point more about compensation to be paid in the case of acquiring a company. I would say that there should be a limit put for that. As is provided in the Bill, the compensation should be paid to the share-holders directly because, after the nationalisation of life insurance, a provision was made that compensation should be paid to the companies and, in respect of many companies, it did not flow to the share-holders and that the management retained the money to invest in other business. So, a provision has been made in the Bill that the money should be paid to the shares. Naturally, in a free economy that. But we want to limit the amount. The compensation provided here is on the high side. Our suggestion is that it should be three years' average of the market value of the shares. Naturally, in a free economy like ours, the share market fluctuations show the health of the company or the worth of the company. So, I think, it is very equitable if three years' average of the market value is paid as compensation to the share-holders, or the face value, whichever is lower.

Shri S. S. Kothari: In certain cases, it may even go more than what is provided.

Shri Ajoy Das Gupta: But in many cases, it will be less.

The next point is about the employees of the Tariff Committee and the Regional Councils. Here, the Controller has been given the power to reduce or amend their conditions of service and their salary also. There is no provision for increase but there is a specific provision for reduction.

We want protection for the employees here. We want that the existing conditions of service of the employees of the Tariff Committee and the Regional Councils should not be adversely affected in any way. Of course, we have suggested here that, if the Government wants to do it, then the judiciary should come in to determine but before that the Government or the Controller must not adversely change the conditions of service and the salaries of the employees who will become, under the provisions of this Bill, government employees and by that way they will have no way left to protest against the arbitrary reduction in their salaries and emoluments.

One point that we have not mentioned and on which our friends of the Overseas Association will dilate, is about the employees of Calcutta Claims Bureau, Bombay Fire Service Association and associations like that who are, strictly speaking, not insurance employees but who are intimately connected with the insurance industry. They are separate organisations. Although not strictly insurance employees, their whole work is linked with the work of insurance companies; they are maintained by the insurance companies themselves. This Bill does not ipso facto do away with those associations, but there is an apprehension in the minds of those associations that those companies might be affected by this. There is a provision in this Bill that Government will every year declare surveyors or claims adjusters and all those things. If some provision can be made in the Bill by which the existence of such associations, which are now in operation and which are run by the insurance companies themselves, can be made permanent and not subject to year to year, then we will think that justice has been done to these associations and organisations because they are existing for a long time and a large number of employees are working there.

Then I come to the application of Chapter IX of the Penal Code to the

insurance industry. Of course, there are certain specific points in that section, but our apprehension is that this will give power to the Police to harass the insurance employees, particularly in smaller sectors; there, the police can, out of grudge, harass them because this is made a cognisable offence. We are afraid that, at the instance of the management, the employees might be harassed. As we have pointed out, some sort of provision can be made in the regulations and rules to the extent of illegal gratification. On the question of the employees doing some side business or part-time work, I would say that a large number of employees have to do this in order to maintain themselves. This will be prohibited if the section of the Penal Code is brought into operation in the insurance industry. So, we have suggested that this should not be so. On the question of illegal gratification, of course, some provision might be made elsewhere and the section of the Penal Code need not be extended to cover the insurance industry.

Mr. Chairman: When there is misappropriation or things like that happen, the Police have got the inherent right to intervene there whether it is extended to insurance business or not.

Shri Ajoy Das Gupta: Yes. That is there. Why should a special mention be made that the insurance industry will be brought under the purview of Chapter IX of the Penal Code? No other business, nor even the banking industry, has been brought within the purview of this section.

Mr. Chairman: Anything more? I think, the members will now ask questions.

Shri Ajoy Das Gupta: That is all.

Shri Beni Shanker Sharma: You represent the employees of insurance companies. I am afraid, you have not been zealous enough to safeguard their interests. So far as the Bonus

Act is concerned, it has been made applicable to the insurance companies. You are also to get bonus according as the profit increases or decreases. You have stated that not more than 10 per cent of the assets should be invested in unapproved securities. As you know, so far as the profits of the company are concerned, they are not from the approved securities but from the unapproved securities if they are properly and cautiously invested. Don't you think that this will reduce the profits of the company and thereby also reduce your share as well in the bonus?

Shri Ajoy Das Gupta: Yes, Sir; that might be the position. But here the employees are more concerned with the national economy and the investment of the investible funds in projects of national importance. If, in doing so, the total profits are reduced and consequently the employees' share is also reduced, the employees would not mind it; they are prepared to undergo that much of privation for the sake of the growth of the national economy.

Shri Beni Shanker Sharma: As regards bonus, you have objected to the payment of bonus to higher-paid staff. After all, they also contribute to the good working of the companies. Why should you debar them from getting bonus to which the other employees are entitled?

Shri Ajoy Das Gupta: We have not debarred. Parliament, in its wisdom, has passed the payment of Bonus Act and there they have put a limit to the salaries upto which the bonus can be paid. We have suggested here that the bonus may be paid according to the Payment of Bonus Act. Even officers with a salary of Rs. 1600 per month are included in that. We have not objected to that. Our point has been this. Section 31A was inserted to prohibit payment of bonus and commission by way of remuneration; that was the way in which the insurance companies used to indulge in extravagances and fritter away

their resources. To stop that, section 31A was brought in. We only want to keep that position—those restrictive clauses of 31A of the principal Act. The Payment of Bonus Act should be in full operation in this industry also; we have no objection to officers drawing a salary of Rs. 1600 per month being paid bonus.

Shri Beni Shanker Sharma: Don't you think you will be very unfair and unkind to the man who is drawing Rs. 1600 but at the same time contributing to the good management of the company?

Shri Ajoy Das Gupta: We have nothing to do. You yourself have limited it.

Shri Beni Shanker Sharma: You have objected to controller's control over your employees. Don't you think so far as employees are concerned they will be happier under the controller than under the private management because so far as controller is concerned he is expected to exercise greater care. He may have more sense of justice than the immediate boss. Why should you object to control over the employees by the controller? You should on the other hand welcome it.

Shri Ajoy Das Gupta: They are given powers but they are negative powers since so far as normally employees and servants are concerned they are governed by the Industries Disputes Act in respect of awards and so many other things and so we think that they should be governed by that only.

Shri Beni Shanker Sharma: I may tell you that some employees' Associations have also pointed out the same thing which you have mentioned. Your interest and their interest do not clash.

Shri Ajoy Das Gupta: We don't know, Sir. We have not seen that.

Shri S. S. Kothari: On page 5 of your memorandum you have stated:

A number of unscrupulous insurers have started diverting the funds and business of the insurance companies to other companies and interests. Can you give specific instances?

Shri Ajoy Das Gupta: In page 15, para 23 of our memorandum, we have given the names of certain companies.

Shri S. S. Kothari: Can you give instances?

Shri Ajoy Das Gupta: Jayabharat Insurance Company. They have given notice that because of the Social Control Bill coming they will cease to transact general insurance and they will be trading company.

Shri Morarji Desai: That is not diverting funds. That is ceasing to do insurance business.

Shri Ajoy Das Gupta: The funds will be there and that will be applied to other business . . .

Shri Morarji Desai: If they can legally do it they will do it.

Shri S. S. Kothari: My next question is this. You say an officer may be treated as government servant but not the employees. Why do you want preferential treatment for the employees?

Shri Ajoy Das Gupta: Employees, should have a say in the management. The mischief is not with the employees, in general. They are made to do many things which are against their conscience by the order. Order is not always in writing. If they do not carry out the order they are harassed, put out of the job etc. Employees can't be harassed as it is not in their power to do or not to do anything about the funds of the company or organisation.

Shri S. S. Kothari: In page 5, you say that the entire fund gets released and is approved by shareholders and no tax is paid. Actually it is taxable.

Shri Ajoy Das Gupta: It is not taxable.

Shri S. S. Kothari: It is carried to revenue account . . .

Shri Ajoy Das Gupta: Standard General Insurance Company is one about which hon. Minister might remember and I had long correspondence with him. The funds were released and invested in other companies.

Shri S. S. Kothari: You want that to be distributed to employees?

Shri Ajoy Das Gupta: By way of compensation and other things, which come. Here, Government should get the tax out of it.

Shri S. S. Kothari: That is all. Thank you.

श्री मृत्युंजय प्रसाद : प्रमलगमेशन तभी होगा, जब कोई कम्पनी बहुत बुरी हालत में होगी, ऐसी हालत में अगर किसी कम्पनी की उसके एक्सट्रैवेनेंस की वजह से स्थिति खराब हो गई है और उसको दूसरी कम्पनी के साथ प्रमलगमेंट किया जाता है, उसके आफिसरों और वर्कमैन को जो मुशाहरा मिलता है, वह दूसरी कम्पनी से बहुत ज्यादा है, दूसरी कम्पनी के लोगों का मुशाहरा मिलने वाली कम्पनी से कम है तो इस का रिजल्टिंग कम्पनी पर क्या प्रभाव पड़ेगा। क्या ट्रान्स्फररी कम्पनी वाले लोगों का मुशाहरा कम किया जायगा या रिजल्टिंग कम्पनी वाले लोगों का बढ़ाया जायगा। क्या आप यह चाहेंगे कि दस प्रादमियों की वजह से 100 प्रादमियों की तनख्वाह बढ़ा दी जाय, क्योंकि वर्कमैन का इन्टरेस्ट तो प्रोटेक्ट होना ही चाहिये? आपकी इसके बारे में क्या राय है?

Shri Ajoy Das Gupta: I do agree you will be accused of going beyond the purview. We suggested about nationalisation—some companies have less strong base and some which have

stronger base—all will be amalgamated together and the evils will be evened out. The very idea or philosophy of insurance will be there. But here that is not being done. The difficulty will be there. We understand it. It will be for the controller to select companies in such a way as to make them viable complexes. If so many companies could be amalgamated that would be a viable unit.

Shri Mrityunjay Prasad: I am sorry that my point has not been clearly understood. The point is this. 10 persons working in the company which is in difficulty are getting a much higher salary than 100 persons of the transferee company. If they bring their higher salaries here there will be heart burning. Either the 100 people have got to be upgraded or these 10 people have got to be downgraded to the scale of that 100 people. One of these 2 things has got to be done. What is your suggestion?

Shri Ajoy Das Gupta: Natural justice is that existing conditions can't be downgraded. What happened in the case of LIC during nationalisation?

Shri Mrityunjay Prasad: Do you think you can compare LIC with this scheme for this simple reason—with LIC there was nothing else left. There was only LIC and nothing else. I hope all of you will agree with me. You have got that sort of experience that in the LIC people in 1957 drawing less than Rs. 40 were categorised on Rs. 130. I am talking of 1957. I am not going into further details. But LIC being such a huge thing, it could be managed. Here, one company may refuse to take another company because of this trouble later on, namely, it will have to upgrade the salaries of all its employees. Therefore, would it not be better to say that the transferee company would not be compelled to accept the schemes of amalgamation prepared by the Controller. It may accept or reject any amalgamation scheme to get

over this difficulty. Would you agree to this suggestion?

Shri Ajoy Das Gupta: Our suggestion is that if the transferee company does not accept it, Government should take over both the transferee company and the transferring company to obviate such difficulties.

Shri Mrityunjay Prasad: What will the Government do with these? LIC is different from these.

Shri Ajoy Das Gupta: Government should make such a scheme of amalgamating weaker and stronger companies so that after amalgamation it becomes a viable unit in which case the interests of employees can be protected by giving them standardised scales of pay?

Shri Humayun Kabir: In LIC did they standardise the salaries?

Shri Ajoy Das Gupta: What happened in LIC was that the existing salary was not reduced, but the salary scales were reduced.

Shri Humayun Kabir: They were brought under uniform scale by giving them personal pay to be absorbed in future increments.

Shri Ajoy Das Gupta: Yes; that should be done here also.

Shri Humayun Kabir: You have stated that the Controller should not have the power to dispense with the services of the employees because they are under the direction of the management. A suggestion has been made that this principle should be applied to other officers excepting only the Managing Director or the General Manager. In other words, the chief executives should be removable by the Controller, but he should not interfere with the administration at any other level. What is your reaction to this proposal?

Shri Ajoy Das Gupta: In the general insurance companies there are many sinecure officers and if the Controller really takes steps to re-

move them, they will be welcome. But there of course, the danger is that sinecure posts may not be located and dealt with properly. The suggestion you gave is about restricting the Controller's powers to top managerial cadres. We have no objection to that as such. But our intention is to find out these sinecures and remove them because that will cut down the expenditure bills of companies.

Shri Humayun Kabir: The difficulty is that what you regard as sinecure, somebody else may not. As has often happened, under the name of this kind of weeding out the inefficient, sometimes the inefficient will remain and the efficient will go out.

Shri Ajoy Das Gupta: That we cannot help.

Shri P. Ramamurti: This Bill is intended to institute a sort of social control over general insurance business for the purpose of eliminating certain malpractices that are prevailing there. I know that as employees of insurance companies you people are intimately connected with the working of these companies and you know more than anybody else the types of malpractices which, of course, we will keep as a sort of confidential information. If you could give them, we can examine whether this Bill is sufficient for that purpose or some more provisions are necessary. Can you just enumerate to us or tell us the types of malpractices such as misuse of funds, diversion of funds, etc. that are generally prevalent in the insurance companies, from your intimate knowledge of this business?

Shri Ajoy Das Gupta: I will give you one example.

Shri P. Ramamurti: We want to know all, not one alone.

Mr. Chairman: You can send us a supplementary note on this.

Shri Ajoy Das Gupta: We can do that in confidence. I am sure you heard of Mr. Jalan....

Shri P. Ramamurti: We are not concerned with names.

Shri Ajoy Das Gupta: There is one Asiatic Oxygen Company. The market value of its shares is Rs. 1.50. But in the investment of the company the share value has been shown as Rs. 8. In the course of transfer of shares, those shares have been bought at Rs. 8. and sold back to the managing agents at Rs. 1.50 so that the insurance company suffered a loss of Rs. 6.50 per share. And it went to the same people. In the past also we had another instance of a company owned by Goenkas....

Shri P. Ramamurti: We are not interested in names.

Mr. Chairman: You can send us a detailed note covering other categories of misappropriation or misuse also.

Shri Humayun Kabir: This is one class of misdemeanours—buying shares at inflated price....

Shri Ajoy Das Gupta: And selling them at a lower price just before the closing of the accounts.

We can send you a note in confidence because, if it is known to the management, the union leaders will be harassed.

Mr. Chairman: This will not be known to them. But you can give this information to Members of Parliament.

Shri Ajoy Das Gupta: We will do that in confidence.

Shri P. Ramamurti: On the question of bonus the existing provision of the Act says:

Provided that nothing in this sub-section shall be deemed to prohibit the payment of bonus in any year on a uniform basis to all salaried employees or any class of them by way of additional re-

muneration...such bonus in the case of any employee not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case.

Do you know of cases where the management has declared a higher rate of bonus to officers and a part of that bonus has gone back to the management? This is one of the ways by which the management has been able to get back a large amount of money not legally, but illegally—by declaring a higher rate of bonus to officers who are otherwise not covered by the bonus provision. It is just to prevent this that this clause was inserted in the 1968 Act. If I understand you correctly, you want that this provision should continue to exist and that any declaration of bonus to those people who are not covered by the Bonus Act should be with the approval of the Government. You want Government should have certain control over the declaration of bonus to those people who are not covered by the Bonus Act while others should be covered by the Bonus Act. This is in substance your contention. Am I right?

Shri Ajoy Das Gupta: Yes.

Shri P. Ramamurti: Therefore, you are not opposed to the declaration of any bonus. Or do you want that the bonus payment should be governed by certain restrictive provisions?

Shri Ajoy Das Gupta: The employees who are governed by the Bonus Act should continue to be governed by that Act.

Shri P. Ramamurti: To-day they are not governed by any other act. Therefore, as far as other people are concerned, under the proposed amendment, the position will be that all those employees who are getting below Rs. 1,600 will be governed by the Bonus Act. With regard to the other people, the employer can decide as to what, in his opinion, is the pro-

per bonus to be given to the other people. That is the proposed Bill. And that is what you are objecting to.

Shri Ajoy Das Gupta: We are objecting to that. What we are saying is that only the persons who are governed by the Payment of Bonus Act should get the bonus. In other words, the original provisions should remain.

Shri P. Ramamurti: In the original Bill, there is no such bonus. In the original Act nothing in this section shall be deemed to prohibit the payment of bonus to anybody on a uniform basis to all salaried employees. This includes the officers' cadres also. It does not prohibit giving bonus to them. The only proviso is that that should be accepted by Government as being reasonable under the circumstances. You are not opposed to that I suppose? May we know what exactly do you want? Do you want to prohibit the bonus to be given to the people?

Shri C. M. Kedarla: Mr. Ramamurti excuse me for my interruption. First of all, when we discuss these things, the witnesses know very well the ins and outs of the working of the insurance companies.

So, I would like to know whether there are any such circumstances where the bonus is paid to the higher officers coming back to the management. If so, can you give some instances?

Shri Ajoy Das Gupta: Let me first answer his question. I wish to draw your kind attention to Section 31(AC).

Mr. Chairman: The question is very simple. Do you want to be governed by the old Act?

Shri P. Ramamurti: The officers should be governed by the old Act. For them there is no provision. As far as the non-officers getting below Rs. 1,600 as salaries are concerned, they should be governed by the Bonus Act. That is the provision. It is legal also. Am I right?

As far as officers who are drawing above Rs. 1,600 are concerned, the Parliament in its wisdom thought that they should not get bonus. Only those who are getting below Rs. 1,600 should get the bonus. The same provision should apply here.

Shri Ajoy Das Gupta: Section 31A (1)(c) says that the company which employs an employee as a manager or officer or in any capacity whose remuneration is in the form of commission or bonus in respect of the general insurance business of the insurer is prohibited from payment of bonus.

Shri P. Ramamurti: You are mistaken. It simply says that there should not be any contract with the workers that he will be paid salaries, commission plus bonus. That does not prohibit the management from declaring the bonus to an officer. The only thing is that bonus should be approved by Government. That is the provision.

Mr. Chairman: Anything more Mr. Ramamurthi?

Shri P. Ramamurti: Now, with regard to the question of amalgamation, I cannot considering the question of employee's interest being safeguarded—obviously, that is being safeguard—under the Bill, the Controller of Insurance is given powers to compulsorily, amalgamate any two companies. Suppose there is a company which has been managed well; their investment has been good and they have not defrauded the people. There is another company which is on the verge of collapse because of defrauding and all sorts of things. Their assets are much less than the liabilities. Under this Bill, the Controller is given powers to compulsorily force the amalgamation of this company that being a losing concern whose assets are much less than the liabilities. In such a case, he has no option but to amalgamate it. What would you suggest for that? Would you say that we should take over all the companies. Why do you allow the private companies to exist and at the

same time when a company which has been well-managed is unnecessarily punished? Why do you say that all companies should be taken over?

Shri Ajoy Das Gupta: Our submission is that all companies should be taken over.

Shri P. Ramamurti: I want to ask one question. Under the provisions of the Bill, the Controller of Insurance has been given a number of powers. For example, he is given the powers to appoint anybody he likes as observers to attend every meeting of the Board of Directors. He has also been given powers to force the observers to see to it that the offices are run properly. After all these things, you will also find that the Controller of Insurance is also given powers to appoint directors—not more than five and not more than one-third of the total number. You will find that as far as these directors are concerned, they have no responsibility whatsoever. I want to know from you that after giving all these powers to the Controller of Insurance whether it is necessary to give him the power to appoint directors who have no responsibility?

Shri Ajoy Das Gupta: We think that such Directors should also be held responsible. We also think that the Controller should also be held responsible if there is any misfeasance in any general insurance company.

Shri K. P. Subramania Menon: Have you any idea as to how much general insurance business are these overseas insurers controlling?

Shri Ajit Lall Das: Hon'ble Chairman and hon. Members of the Committee: I am at a loss because these questions were raised by so many members and I can easily answer many points, but I was silent uptill now only because I knew that I will be representing my organization separately. So I did not say anything upto this moment. My organization is the Overseas and Inland Insurers' Employees' Association which is in

Calcutta. Our Association is confined with the activities of Trade Union in Calcutta region. We have given another separate memorandum to you and if I am separately questioned I can give you the reply.

Mr. Chairman: You have given it just now.

Shri Ajit Lal Das: No. I had an idea that I will be able to give a separate representation.

Mr. Chairman: When the question is asked by a member, he replies. Then afterwards if you have to add something to it you can do so.

Shri Ajit Lal Das: I may contradict the answers given by another association. How can I give you that answer unless I am asked for?

Mr. Chairman: At the end you can say. If you do not agree with him, you can say so and give your own solution.

Shri S. S. Kothari: Have you any idea about the amount of business transacted by the Overseas Insurance Companies in India and how much of it is sent abroad by them?

Shri Ajit Lal Das: I cannot give you the exact figure. Now 50 per cent of the profit is being sent abroad.

Shri K. P. Subramania Menon: Apart from this, do you think that any extra provision is necessary to control the operation of foreign insurance companies in India?

Shri Ajoy Das Gupta: The Indian Insurance Year Book gives the figure. The latest book, 1967 Year Book, is available. In that year book page (1); Table 14 gives you the figure and percentage (Rs 20 lakhs—24.8 per cent).

Shri K. P. Subramania Menon: Do you think any specific provisions are necessary with regard to foreign insurance companies?

Shri Ajoy Das Gupta: The foreign insurance companies are allowed to

send out 5 per cent of their gross premium income. We think it should be stopped.

Shri K. P. Subramania Menon: Do you think it is desirable to stop these remittances?

Shri Ajoy Das Gupta: We think it is fully justified that the remittance should be stopped. These foreign insurance companies and their operations are closely connected with our export scandal of under-invoicing and over-invoicing. One insurance company owns a shipping line and that way they manipulate the things. Apart from the question of profit, they are endangering a vital sector of our economy.

Shri S. S. Kothari: Do you think something can be put in this Bill to stop these overseas remittances?

Shri Ajoy Das Gupta: It can be done.

Mr. Chairman: Can you give a supplementary note?

Shri Ajoy Das Gupta: We will supply a note.

Mr. Chairman: What are your views in this matter?

Shri Ajit Lal Das: Hon'ble Chairman, really speaking I have got an head-ache about all these things. I am only here to safeguard the interests of the employees. I believe if too much restrictions are put on these foreign insurance companies they will withdraw their business from India. If so much restriction is put on them, what is the security of our service? We have 1500 members in our Association and they will all be affected.

Mr. Chairman: You do not want any restriction?

Shri Ajit Lal Das: I have got many things to say.

Mr. Chairman: You do not want any restriction on the foreign insurance companies to send their profits or some amount of premium outside India?

Shri Ajit Lall Das: No, we want the *status quo* to be maintained. Under the Insurance Act there is a percentage and not more than that from the premium income they will be able to send.

Mr. Chairman: Have you got any other point?

Shri Ajit Lall Das: I do not want to add much to what is given in our memorandum, I have already submitted 30 copies of my memorandum to you and in that particular memorandum we have raised only 4 or 5 points. I am only interested in the security of service of the employees. I am Ajit Lall Das, Chairman of this organization, a simple worker of the industry. In the year 1956 we gave a memorandum to the Finance Department so that our insurance industry also can be included in the Bonus Act. Now I find that it is now being included in the Bonus Act. There are some questions which suggest that some sort of checking must be there as regards the outstanding claims because it would not be difficult for the management to provide more than sufficient amount for the outstanding claims for a particular year. As far as reserve is concerned we would suggest that the Insurers should remain within the limit of statutory percentages, unless it is otherwise asked by the Controller for the betterment of the Company. This would prevent the Company from transferring unnecessarily an exorbitant amount to Reserve Fund in order to reduce the profit to evade the equitable payment of Bonus to employees. Therefore, we would request you to leave the Section 40C inoperative so far payment of Bonus is concerned. Otherwise, the objective to amend the Bonus Act would be defeated. Insurance industry is governed by section 40C in regard to limitation of expenses. The Bonus is paid in our industry at the end of the year. During the year if the management sees that they are below the limit and they can spend on some of their whimsical

projects, at the time of bonus they will only be saying 'we are governed by the Insurance Act; though there is available surplus, we still are not able to give you bonus because we are governed by 40C. When we go to a Tribunal or anywhere, we are told that it does not come under the purview of the Industrial Disputes Act. The management says we have the desire to give you but the Controller of Insurance says that this quantum of bonus is not justified. So we fervently request you to leave this section 40C inoperative so far as payment of bonus is concerned.

My friend has already clarified other points. A memorandum has also been submitted to the Committee. I don't want to repeat those points. But one point has been exercising us. The Calcutta Claims Bureau is a member of our Association. Section 64 UM (1) says: The Controller shall, after consultation with the Advisory Committee, prepare and maintain a list of persons who are approved by him to function as surveyors and loss assessors (hereinafter referred to as approved surveyors or loss assessors) and shall publish the list of approved surveyors and loss assessors, as on the 1st day of January of each year, in the official Gazette. We are really worried what would be the position of 150 members working in this Bureau and other houses in India when they are not brought under the purview of this Act. It will be appreciated therefore that whilst the Member Insurance Companies issue Policies covering Workmen against Workmen's Compensation Act, the Bureau settles workmen's Compensation claims arising there under on their behalf and thereby the Bureau ensures the fulfilment of the Policy conditions. The Claims Bureau are the settling agents. We suggest for the insertion of a sub-section numbered 64 UM (10) for the recognition of the services of the employees of these houses. How it should be included is a matter to be decided by you. We request that a single line added here

will save hundreds of people working in these houses.

Now I will come on Clause 16—Section 34B(3) which says: The decision of the Central Government on such appeal and subject thereto, the order made by the Controller under sub-section (1) shall be final and shall not be called into question in any court. We feel that this sub-section should be deleted. It is difficult to understand why the aggrieved person should have no opportunity to appeal before a Court of Law. We don't understand why the Controller should have this supreme power when we are living in a democratic and socialistic pattern of State. We feel that the aggrieved person should have the right of appeal and this clause should be deleted.

Shri A. L. Das: The decision of the Central Government on such appeals and subject thereto orders made by the Controller under sub-section 1) shall be final and shall not be called into question in any court. So it is difficult to understand why the aggrieved person should not be able to go to court.

Shri K. Suryanarayana: I want to ask the drafting people this question. Our Constitution provides in Article 14 the fundamental right of equality before law. Nothing can stop this right of going in writ petition. How can we prevent this? This 34(B) (3) (b) negates the fundamental rights guaranteed in the Constitution.

Shri George Fernandes: I thought we are examining the witnesses, not discussing among ourselves.

Shri K. Suryanarayana: Before I go to the witnesses, I am wanting to know the extent position from the officials. How can they take such wide powers in this Bill? I want clarification first, as to how they have drafted like this. Anyway, I would inform the witnesses that we will consider this section again. In a business institution, the Directors, the share-

holders and the employees should jointly work for furthering the business. Here, the right to remove the Directors has been given to the Controller and not the right to remove the employees. Unless the directors and others are properly managing, it is not going well. Society should be run in a proper way. The Controller has also been given the powers to remove the Directors when there is a malpractice. There should not be any fear even to the workers by the powers given to the Controller.

Shri Saroj Chaudhuri: The employees have practically no voice so far. They only carry out the instructions that are given to them. Now, we certainly want that for each section of the employees there should be proper scope for appeals and all that. Our submission is that this provision would introduce an element of duality and that would certainly hamper. Therefore, we said that.

श्री रामारत्न र शास्त्री : देश के मन्दर जेनरल इन्शोरेंस के डबलपमेंट के लिये क्या यह जरूरी नहीं है कि वर्कर्स-एम्पलाइज का कोऑपरेशन लिया जाये ? अगर यह जरूरी है तो एम्पलाइज की प्रोबलम्ज का हल करना होगा, क्या यह काम इस प्रमेडिंग बिल से हो सकता है ? इस प्रमेडिंग बिल से क्या वर्कर्स का कोऑपरेशन मिल जायेगा ?

Shri Ajoy Das Gupta: We have already stated without nationalisation problems cannot be solved.

Shri Saroj Chaudhuri: As far as we are concerned, the whole point is this: there is no provision anywhere in the Bill for associating the workers with the conduct and management of the organization. We would very much like to have it. And we feel that if the workers are given their due share in the formulation of policies, then certainly the industry can be put on better lines.

Shri N. K. Somani: I have one point for your consideration. Mr. Ramamurti, with his sagacity and characteristic skill, has obtained per-

mission from you, Mr. Chairman, to allow these gentlemen to submit a confidential sheet of allegations and malpractices. Now, it is very easy to do that. But the next set of witnesses may also like to make wild allegations, unsubstantiated, against the Controller's office or against the trade unions. Are you also going to allow them to do that? I am wanting a ruling from the chair on this point.

Mr. Chairman: They have made certain allegations in their memorandum itself. He wanted some examples of that.

Shri N. K. Somani: What I am saying is that another set of witnesses may also like to do so. What is going to be your position in that case? I want a clear ruling on this point.

Mr. Chairman: Whatever they submit will be circulated to you. The matter will be discussed by us in the absence of witnesses, in the committee, and then disposed of.

Shri N. K. Somani: You have recommended that the discretion with the insurance companies management in regard to the investment policy should be restricted to only 10 per cent of the investible funds. Now, generally this is found to be detrimental to the profits of the company. I suppose you know about the Unit Trust which is a Government body which makes investment in Government securities as well as stocks from the market. What is the purpose of this? I don't understand. Would you like to clarify?

Shri Ajoy Das Gupta: We have already submitted on this point that, firstly, this is the social objective which is to be achieved. The social objective is the development of our economy. Naturally it cannot be guided solely by the consideration of profits. Secondly, these funds are not the capital of the company. These are statutory funds. The reserves are kept for unexpired risks or something like that. In that way, the employees want that these investments are in the Government securi-

ties and absolute'y safe. We have already pointed out that there are some investments already there, which are not just safe. So our point of view is that let even the profit margin be less but there should be more security. And that is the social objective of this Bill. Most of the funds should be placed at the disposal of the Government.

Shri N. K. Somani: The shareholders should have no say in this? Only the employees are concerned with the growth of the company?

Shri Ajoy Das Gupta: We employees, have placed our point of view. The shareholders will come and they will place their point of view before you.

Shri N. K. Somani: What I am trying to understand is whether the employees' viewpoint would not do something which is against the growth of the company itself?

Shri Ajoy Das Gupta: We do not see it will hamper the growth of the company. Growth of a company in the case of an insurance company means expansion of business and that expansion will not be impeded by investments in Government securities. Before nationalisation Oriental Government Security Insurance Company was the biggest life insurance company in our country. Its investable funds were invested in Government securities and yet it was the biggest company.

Shri N. K. Somani: This is a strange analogy.

Shri George Fernandes: You remember that in 1963 the present Deputy Prime Minister and then Finance Minister, Mr. Morarji Desai, had said that if the general insurance companies continued with their misbehaviour it would be necessary to consider nationalising them. As employees of the general insurance companies or as trade unionists associated with the employees of the general insurance companies is it your experience that the misbehaviour of the companies continue as it was in 1963 and 1964.

Shri Ajoy Das Gupta: That we have already stated. Yes.

Shri George Fernandes: Now you have said there was a special committee which was set-up by the general insurers soon after the Congress Working Committee Resolution on nationalisation of general insurance. This committee was very active for a month or so. Is this special committee still active?

Shri Ajoy Das Gupta: Yes.

Shri George Fernandes: As trade unionists you are aware that the Oriental Insurance Company is a Party to this Committee which is campaigning against nationalisation of general insurance.

Shri Ajoy Das Gupta: As far as my information goes it is not a party to it but I am not sure.

Shri George Fernandes: We have among the general insurance companies the cooperative insurance companies, mutual benefit or some other sort of companies. Would you like to make any distinction—in so far as the social control is concerned—in regard to these three companies or would you like the same rules to be applied..

Shri Ajoy Das Gupta: We do not want any distinction.

Shri George Fernandes: Is it necessary at the moment for the general insurance companies to secure the permission of the Government before making payment of bonus?

Shri Ajoy Das Gupta: Yes.

Shri George Fernandes: And with the amendment now coming in it will be open to the company without getting the permission of the Government . . .

Shri Ajoy Das Gupta: Yes.

Shri George Fernandes: In other words the amendment is a retrograde one in so far as where there was certain amount of governmental control on payment of special remuneration now without the governmental permission it will be open to these companies....

Shri Ajoy Das Gupta: Yes.

Shri George Fernandes: You mentioned about the power of the Controller where removal of these various executives is concerned and you suggested that this entire clause should be deleted. Well I am afraid, you do not know the views expressed by the Indian Chamber of Commerce. Indian Chamber of Commerce says while it does not approve of this clause it would, nevertheless, not mind if this clause were extended to the top managerial staff including the Managing Director, the Principal Officer or the Chief Executive by whatever name called and not extend to other persons. In view of what the Chamber of Commerce has said would you like to modify your views and say that you do not mind if the Controller exercise control over the top management people and not over the employees.

Shri A. L. Das: I do not accept those contentions. I do not know why the management has accepted the removal of the Managing Director and other officers.

Shri George Fernandes: May I explain why they accepted? They say: "The clause should, therefore, be so amended that its operation be confined to actions taken in public interest or for preventing the affairs of an insurer being conducted in a manner detrimental to the interest of the policy holders. Further the power

should only be confined to removal from office the Managing Director, Principal Officer or the Chief Executive by whatever name called and not extend to other employees".

Shri A. L. Das: I do not know exactly what is the interpretation of that wording but still I am not able to understand why the management has given such a memorandum where they have included the Director and other officers but excluded the employees. But now I apprehend they want the power in the case of the employees to be retained in their hands. They do not want that these employees may be able to go to the Controller.

Shri George Fernandes: He does not get the power in his hand. As far as the employees are concerned the Industrial Disputes Act will continue to apply.

My question is in view of this opinion expressed by the Indian Chamber Commerce would you like to modify your views and say if the Controller of Insurance desires to exercise control on the policy makers of the company or top management that you are not bothered about it and so far as employees are concerned that you do not want that.

Shri A. L. Das: Yes.

Shri R. P. Subramania Menon: I would like to know whether in the Advisory Committee proposed to be constituted under this new provision section 64 (u) (k) would you like to have a representative included in that Advisory Committee?

Shri A. L. Das: Yes

Shri K. P. Subramania Menon: Thank you.

Dr. Antani: In your memorandum you have said that sympathetic consi-

deration will help to restore the confidence of employees of the companies which had been shaken on the presentation of the Bill. May I ask you that assuming that there was nationalisation don't you think your interest would be more safeguarded by this Bill than they would have been under the socialisation scheme?

Apart from the question of appeal, do you not think that your interests will be more safeguarded under this Act than they would have been under nationalisation?

Shri A. L. Das: There are many questions connected with full nationalisation. But if it is fully nationalised, we believe our interests will be more safeguarded.

Mr. Chairman: Thank you for your co-operation.

The witnesses then withdrew

IV The Vulcan Insurance Co. Ltd. (Staff Union) Bombay:

Spokesmen: Shri P. B. Deshmukh
—President

Shri M. Shukla—General Secretary.

Shri V. A. K. Kosgaokar—Joint General Secretary.

Shri K. S. Dige—Treasurer.

Shri Suryanarayana: Do you represent only the Vulcan's staff or do you represent the general insurance employees in the country as a whole.

Shri Deshmukh: We represent the Vulcan's staff union. But we are also members of the all-India association.

I have read the objectives of the proposed amendment. I have some suggestions to make. Premium rates should be fair, there should be secu-

rity to policyholders, insurance companies should not be owned by individuals and their funds should not be utilised for the private ends; the industry should function on sound and healthy lines and should be devoid of malpractices.

We had the Insurance Act in 1930, it was amended in 1950 and 1957. We have seen that the Act is honoured more in breach than in observance. We made a search to find out what should be the reasons behind this non-observance. It was observed that there are certain private interests who have rushed to this industry to make much out of it; otherwise, they would not have been attracted to it. In the earlier stages, almost all the insurance companies started as brokers. I shall go into the question whether the objectives I have outlined can be achieved by a further amendment of the Act or there should be nationalisation.

Mr. Chairman: Nationalisation is out of the question here.

Shri Deshmukh: Premium rates should be fair. They are already fair. Not only that. There are a number of malpractices in rebates by which reduction in premia is obtained. So far as the security deposit holders are concerned, what is required is a probe into the financial working of the industry, whether the position as reflected in the returns submitted to the Controller really reflects the true picture. I may say that the return is nothing but a document certified by some auditors and directors which goes into the files of the Controller, and there the matter ends. We employees simply feel pity that despite several malpractices going, despite everybody knowing that the law is not observed, nobody is taking any action about it. Who will be there to render a correct account of the financial position of a company.

Shri B. S. Sharma: You have described the conditions in your memorandum. You have blamed everybody. What are your concrete suggestions in terms of the present Bill to improve the state of affairs?

Shri Deshmukh: I have seen that very wide powers are given to the Controller. We really wish that they should be exercised. But in case the Controller's orders are not complied with in case, the Controller finds that there is something wrong with the company, which does not set its house in order, what will be the effect? We do not find any sincere or serious effort made to rectify the situation.

My suggestion is that in each company there should be a government representative conversant with the insurance line and its day to day working, who should know how the revenue accounts are compiled, how losses are tackled—because there are avenues through which money flows; one side is the premium income side and the other is the losses side—who must keep an eye on the administrative functioning and also on the development side. He must correct wrongs on the administrative side and also stop the rebates system by which revenue is taken away. Not that there should be only periodical inspection. But there should be a special officer with each company.

Shri Mrityunjay Prasad: What check would you put on that government officer?

Shri Deshmukh: I have a suggestion. It should be a team consisting of one of the elected representatives of the employees, the government officer concerned and a representative of the management. They will have periodical meetings to go into these matters and rectify wrongs.

Shri Mrityunjay Prasad: Have you not got examples where certain elected representatives of employees have been found to be acting not exactly as they were expected to?

Shri Deshmukh: A dirty linen cannot be cleaned by one washing, but by a number of them. The employees will guard their interests. They would not like to be unemployed by the cancellation of the licence.

Shri Mrityunjay Prasad: Why not say that the employees should have a hand in management?

Shri Deshmukh: That will involve amendment of several laws, company law and others. Otherwise, I had a mind to suggest a representative on the board of directors also. But there would be questions of qualification etc. Since Government are interesting in cleansing this industry, it would not be costly for Government to put in their own officer in each company at the cost of the company. As employees, we have to be very careful about our security of employment.

Whenever it is thought necessary to cancel a licence or the company should be closed or amalgamated and taken into voluntary liquidation, provision should be made for absorption of the employees in some other unit.

Shri Mrityunjay Prasad: If no other unit is willing, would you suggest compulsion? Or some other method?

Shri Deshmukh: All companies found to be defective necessitating cancellation of licence should be formed into a general insurance corporation on the lines of LIC.

Shri Mrityunjay Prasad: But there is no such corporation. LIC has a general department or a subsidiary but there is no general insurance corporation to which you can send these people.

Shri Deshmukh: To avoid unemployment, these people should be provided for. There should be no unemployment because the poor employees are absolutely innocent of the faults of the company resulting in its closure. They are innocent of the sins of the employers.

Shri Mrityunjay Prasad: They may be innocent of the sins of commission and omission but they may also be innocent of the working of these offices. They may have to be kept as sinecures.

Shri Deshmukh: If the employees are given a voice in the administration, things would definitely improve and these unhealthy trends would be checked. But now they have no voice. Now for the faults of some interested persons, they have to suffer. So pressure should be brought on the bigger company in which these units are merged to absorb the employees, because the business and the funds of the companies go into the hands of the bigger company.

Shri Mrityunjay Prasad: The company has to be amalgamated because it is not working properly. For its faulty working, there may be many reasons, the principal one of which may be bad management. The management might have had its own men as officers and workmen on fancy salaries. Forget the officers. The workmen are to be accepted by the transferee company according to the present amendment. If they have to be absorbed into the bigger company on the same high salaries they were drawing in the merged company, salaries which are not paid by the transferee company for comparable work or responsibility, will it not create heartburning to a large number of employees of the transferee company? How are we to get over this difficulty? I want your suggestion because I do not know if there is any such case. I am just pulling a case which might be there, and all of us know—you will also agree, I hope—that we have had several such examples then the LIC came into being.

Shri Deshmukh: At that time, the LIC did a very good thing. The appointments of all these big shots and high-salaried people were fully probed into, and it was found out what would be the utility of these appointments.

These people were offered simple terms, in line with the other employees. Now, I divide them into genuine and non-genuine employees. The genuine employees were fully absorbed by the LIC. The genuine employees form a very little burden as compared to the big burden cast by the high-salaried people.

Shri Mrityunjay Prasad: Did the LIC refuse to take in anybody? If they did not refuse, where is the question of distinction between genuine and non-genuine employees? If everybody was taken up, where is the distinction?

Shri Deshmukh: Some units became uneconomic from the point of view of running them, because of the top-salaried people for whom some way had to be found out. It was also suggested that they should remove the uneconomic elements and see that the economic elements alone were retained and it should be seen how they functioned. The present head-ache is of the same type in general insurance. Whenever any amalgamation takes place, the business goes to the absorbing company and that company can easily afford to take the working class.

Shri Mrityunjay Prasad: The business goes for how long? In life insurance, it is expected to go for the rest of the term. In general insurance, the maximum is only for a few months. The policy is only for one year. Wherever it is amalgamated, even a one month, old policy lasts only for 11 months. The business lasts only for a few months; not more than one year. All that you can say is that the business connection is there; the transferee company gets access or gets the approach to the policy-holders and to get a renewal.

Shri Deshmukh: During the last 20 years, the business of every company is on the increase. It would also appear that in some parts, or in subsidiary business, the LIC absorbed

some general insurance companies like the Oriental and Jupiter. But almost all the companies' business is going up, and it is for 12 months' contract. It is not that after 12 months, the business goes to some others. This can be totally stopped by bringing an amendment in the Insurance Bill that if certain business is on the books of a particular company, it cannot go to any other company unless it can be said that it is an insolvent company.

Shri Mrityunjay Prasad: In that case, you are suggesting that the policy-holders need not have any say in the matter. Once he goes to company A and stays there for one year and he must go to company B which amalgamates A and then follow to company C with which both A and B are amalgamated what is the position? Should the policy-holder have no freedom of choice?

Shri Deshmukh: So far as the policy-holders are concerned, they see only to their own security. The policy-holder will look to the premium rate and see whether it is uniform, and thus he will endeavour to see whether it is secure or not. That is the only concern, and this, as I suggested, would automatically stop the rebate system. If it is amended to this effect, namely, a certain business on the books of a company shall not go to the books of any other company, it will be good. In that case, every company will have security of its business on the books, unless it does something whereby the policy-holder's interest is prejudiced.

Shri Mrityunjay Prasad: At one place, you get the policy within 15 days and at another place, after six months. While the claims are promptly settled at one place, at another place, they are not promptly settled. I am not talking of rebate at all now. Moreover what about the man behind the policy, who brings in the party, the agent? The agent himself gives certain services. He explains the things properly. He sees

to the interests of the policy-holder, and another agent may not explain things in the same way. He may explain them differently. Thus, the freedom of the policy-holder is taken a way.

Shri Deshmukh: The agent's interest can be protected wherever necessary.

Shri Mritunjay Prasad: There is no such thing in the Bill.

Shri P. Ramamurti: You have said in your memorandum that big business-houses are holding control over most of these general insurance companies. This Bill provides for a certain amount of diversion of the shareholdings. It provides that no particular individual can have with him more than 10 per cent of the total shareholding of an insurance company. It also restricts the voting rights to five per cent of the total shareholdings. Do you think that this sort of precaution is enough, or, do you want any further restriction in order to see that these big business-houses do not control the insurance companies?

Shri Deshmukh: To a certain extent, this restriction would bring in a check, because, presently, some block shareholders have their entire say as to the policy of the insurance company. It also decides the fate of the funds of the company. So far as the investments are concerned, there should be some provision or some safeguard on the Government side so as to see that at the time of the annual general meeting, the voting rights are properly used: whether they are in the interests of the industry, of the policy-holders and all concerned. Otherwise, I have seen in meetings—I have myself some experience in my company—many things happening. I have managed somehow to put in my five shareholders and to bring an end to this 15 minutes annual general meeting. I was told that one of the big shots had got 16,000 shares and I had only five shares, and

so I could not do anything. I said that such matters should be discussed there, as to what is good and what is not good, so that everything can be gleaned by all concerned. Over and above this control of having certain percentage, I should say that there should be some Government control to see how these block shareholders are exercising their rights, whether it is in fairness to the industry or not. In that case, the Government should have full authority to give them guidelines in the administration of the unit.

Shri P. Ramamurti: It has been provided in this amendment that the Controller of Insurance can send his observer to every meeting of the Board of Directors. He can even permanently send his observers to sit in the office of the insurance company. Your question is whether it is implemented in practice. We can only provide for certain things. If they are not implemented, what can we do?

Shri Deshmukh: In the present state of affairs, in spite of full power being vested in the Controller of Insurance for regulating particular units, the investment policy, underwriting policy, way of working, in fact everything is decided by the companies.

Shri P. Ramamurti: You want to scrap the Managing Agents, Managing Director, Executive Committee, everything and Government should appoint an executive committee.

Shri Deshmukh: That is exactly what I mean to say.

Shri P. Ramamurti: In other words you want the Board of Directors to be a nominal body which has no power.

Shri Deshmukh: If you find it worthwhile, you may accept that position,

Shri G. R. Patil: Are the provisions made in the amending Bill sufficient to check the malpractices that are prevailing in the this industry?

Shri Deshmukh: If the enforcement of the various provisions is made strict under the vigilance of several agencies, including the agency of the employees, the position will improve. Otherwise, simple inspection will not improve matters.

Shri G. R. Patil: Do you mean to say that under the present Act the Controller of Insurance is not competent to control the industry effectively?

Shri Deshmukh: No, I have never said that he is not competent.

Shri G. R. Patil: But he is not implementing the provisions under the present Insurance Act?

Shri Deshmukh: I would say that the present position is that even under the 1938 Act to implement the various provisions of that Act, the the Controller of Insurance sitting at Simla would require a big machinery and the co-operation of all. The co-operation of employees is very essential in this respect. We feel that this industry has a big role to play in our economy and that is why we felt it our duty to come all the way here from Bombay to place our views before the Committee on how to improve the functioning of this industry. Much is said about the code of conduct. In 1950, 1956 and in later years wide powers have been given to the Controller of Insurance under the various amending Acts. There are adequate provisions in the Insurance Act now. It even provides for imprisonment up to three years. Yet, as I have mentioned in my memorandum, the industry has not worked well. Why? Because, the statutory bodies like the Insurance Association of India, General Insurance Committee and Executive Committee are composed of people who are managing the industry. I have asked many a time the Management and

the Board of Directors of my company why he is appointing so many of their relations as dummy officers with fat salaries when they are not doing any work. We want to see that the industry flourishes and our profits go up so that it will be not Rs. 5 crores but much more. When we saw the picture of our balance sheet we were shocked to find that it shows a profit of Rs. 2,65,000. I asked them a simple question about the return on reserves.

We have come before you to place our case because our efforts to rectify the position at the level of the Controller of Insurance have not proved successful. We sent a cable to the Controller of Insurance in 1966 and again in 1968 about the inflated management expenses which is used against us. Nothing was done; nobody heard our plea. These amendments will only increase the size of the statute book; they will simply remain in the rack.

This industry is the backbone of our country. If the backbone is broken, the whole thing breaks. Yet, nothing is done to improve the working of the industry. We in our company have been pleading with the management to provide the employees with housing. We tell them: please deduct it from our provident fund, or give us loans and charge interest, but give us some houses by investing your money rather than buying shares of small private companies. But who is there to hear our pleas?

The Controller of Insurance with his present organisation cannot control the industry. Let me go further and say that the management is becoming bigger and bigger. All the brothers and sisters and even friends of the management are given big posts in the company. They simply sign their names and draw fat salaries from the company without doing any tangible work. In that way the expenses of the company go up and up and profits become less and less. The name of the company also goes down,

You introduce so many amending legislation, saying that one month after the commencement of the Act something will be done. The management is alert. They dash to Delhi and before the Act comes into operation do whatever they want to do, appoint all their relations in big posts so that it will be a fait accompli by the time the Act comes into operation. I have requested the Chairman and the Board of Directors of my company several times that this should be put a stop to and that the balancesheet should give a correct picture of the industry.

Shri George Fernandez: You have submitted a very interesting memorandum giving your wide experience in this field over a number of years. On page 3 of your memorandum you have stated:

"This is what I have once personally experienced in the case of one general insurance company, not a small company, a company of nearly 50 years standing where such tremendous irregularities are unabatedly continued for several years and who amongst many others have taken pride in circumventing the provisions of the insurance law at all stages."

Besides that you have given the instance of your own company. You have been speaking about it generally. You have also mentioned how the audit report and annual reports are manipulated by big business who control the industry. Would it be possible for you to give a more specific report, or a more specific memorandum on this subject, giving instances by naming the companies, not necessarily the individuals, and the manner in which these irregularities are committed?

Shri Deshmukh: Oh, yes. Whatever I have come to know about the manner in which the Board of Directors are functioning in these matters, I can give that information to the committee.

Shri George Fernandez: If you cite such instances, it will help the Joint Committee to come to some right conclusions.

Shri Deshmukh: I will not give the names of the persons but I will say in what direction they are going.

Shri George Fernandez: From your deposition here and the memorandum you have submitted it is clear that you would prefer nationalisation of general insurance and that in your view piece-meal legislation will really take us nowhere. In 1962 and later in 1963 and 1964 the present Deputy Prime Minister, who was then the Finance Minister, had made statements in the Lok Sabha that if general insurance companies do not behave themselves or improve their behaviour he would come forward with legislation to nationalise general insurance. Since you are in the insurance field for over 28 years, you were there in 1962 and 1963 when Shri Desai gave that threat and you are in that field even now. Since Shri Desai held out that threat in 1962 of nationalising the industry, has there been any improvement in so far as malpractices and irregularities in the insurance industry are concerned, or has there been any deterioration or the situation is the same as it was then?

Shri Deshmukh: There has been no improvement in the situation. Only new devices and methods are invented to circumvent the provisions of the Act. I will give an instance. After the last amendment, which abolished the principal agency system and reduced the commission of the agent to 15 per cent I was wondering what is going to happen to those people who were till then getting handsome commission. The moment this legislation came into force, all those relatives and friends of the management were appointed in the company in high positions with fat salaries and other perquisites. Except drawing the salary they were not doing any work for the company.

Shri George Fernandez: So you say that while there is no deterioration there is no improvement either. Now, there are some co-operative and mutual life insurance companies in the private sector. Would you like any changes to be made in so far as the control of these insurance companies is concerned or would you like that whatever control we exercise through this Bill or through nationalisation to be uniformly applied in respect of all companies?

Shri Deshmukh: So far as co-operative and mutual insurance societies are concerned, if the person who is manning it is a technical expert and a person of integrity, there is no fear of any such malpractices taking place. But even in co-operative insurance societies we hear of such malpractices because some people who manage it run it for their personal ends.

Shri George Fernandez: So, you want the law to be uniformly applied to all insurance companies.

Shri Deshmukh: Yes.

Shri George Fernandez: If we succeed in nationalising insurance, it is very good for all of us. But, in the meanwhile, you have suggested that the Chief Executive Officer should be a government appointee. You know there is a Government of India labour policy about employee participation in management. Supposing the present Bill, with whatever modifications that are ultimately accepted, also provides for an employee director elected by the employees would that not to that extent help the efficient working of the industry?

Shri Deshmukh: I have been pleading for that for a long time. It will definitely serve the national interest. It would help the government to relieve unemployment; it will help the government to absorb the unemployed in this industry. There will

be very keen and vigilant watch on the working of the industry. The employees would not take a stand that merely because one employee is there in the board of directors they should go on putting up demands. At least, that would help the government to have a clearer picture of this industry which we now do not find even in the Insurance Year Book.

Shri C. M. Kedaria: What steps would you suggest to stop the payment of high commission to insurance agents?

Shri Deshmukh: I said some time back that the commission paid to agents should not be completely tied to *pro rata*. Suppose as an agent I introduce business worth Rs. 20 lakhs, I should not be compared with an agent who brings two or three policies. When I canvass business, the merits of my business should be judged from the standpoint of reward of remuneration. Because, there are some agents who bring business worth Rs. 2 lakhs and there will be claims amounting to Rs. 3 lakhs against that. So, the business should be judged whether it is economic and profit-yielding. At the end of the year a survey should be made as to whether a particular agency is yielding any profit or loss. Since an agent is working throughout the twelve months of the year, the claims ratio for the entire period should be found out. There are a good many agents who bring first class business; they bring business worth Rs. 2 lakhs and at the end of the year they do not produce a single claim. On the other hand, there are agents who bring third class business where the claims will be many times the amount of the premium. So, the agencies should be rated not from business bulk but from profit-yielding capacity. Just like bonus shares, bonus commission can be given to those agents from whose business profit-yielding is more.

Shri C. M. Kedaria: You state in your memorandum:

" . . . they used to retain risks on the companies account to the utmost minimum, allowing a huge bulk of the insurance business to flow to the foreign insurance companies under-writing insurance business in our country and to foreign general reinsurance companies on the continent and in London and in America."

What steps do you propose to stop this?

Shri Deshmukh: At present we have got the Indian Reinsurance Corporation. Still, we take 10 per cent and 90 per cent remain with the foreign companies. We retain very little margin in all the foreign treaties with the result that much of our premium goes away. In place of it, what I would suggest is this. We have got over 100 companies in our country. There should be an agreement between all the insurers to re-insure as much as possible amongst themselves, just as Lloyds do it. In this way, we should be able to absorb the entire 90 per cent among the Indian companies. Whenever any business is to be distributed, the first preference should be given to Indian companies. Here, of course, politics also plays its part. Each one has got his own group of companies. They distribute between themselves and the rest, instead of giving to our own companies, they pass on to foreign companies.

Shri C. M. Kedaria: Do you include in this insurance CCP also? They import goods under licence.

Shri Deshmukh: That is under marine general insurance. A number of Indian companies have burnt their finger on marine insurance because of the losses. It is a very risky under-writing in which we have not been able to make level. Most of the companies have suffered huge losses on marine insurance. They are passing much of their business to foreign companies. At this stage at least it would not at all be advisable

for an Indian company to keep with it this risky insurance of marine. But a great portfolio, a bulk of insurance premium, is formed by the general insurance (miscellaneous and fire sections) which can very well be distributed by way of compulsion. There should be compulsion on each insurer, and not left to his discretion, to offer re-insurance to all the insurance companies in our country, and only what remains should be given to the foreign insurance companies.

Dr. B. N. Antani: You have suggested the inclusion of employees' representatives on the board of directors. Would it meet substantially your requirement if such representation is given on the proposed advisory committee?

Shri Deshmukh: Yes, Sir. While I criticize my company, I am also very proud of my company because they know whether the employee's advice will be helpful to them or not in certain matters. What I have observed is that those who are conducting the affairs are not definitely technical experts in the general insurance business, particularly in the claims section which I am handling for several years. They have mutual talks, collaboration and exchange of views where they do find sometimes that my suggestions are helpful in bringing down the loss ratio. Some time back I had talks in New Delhi also. I want this to be given by this Amendment Bill so that whatever the employee possesses, knowledge or anything, can be helpful to the industry as a guideline and even to the Controller. I have read that he is arranging some panel or service for officers.

Mr. Chairman: Thank you, gentlemen for coming all the way from Bombay and helping us in our deliberations.

Shri Deshmukh: We thank you for giving us this opportunity.

(The witnesses then withdrew)

(The Committee then adjourned)

**MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE
INSURANCE (AMENDMENT) BILL, 1968.**

Saturday, the 26th October, 1968 at 10.00 hours.

PRESENT

Pandit D. N. Tiwary—Chairman.

MEMBERS

Lok Sabha

2. Shri K. Suryanarayana
3. Shri George Fernandes
4. Shri Humayun Kabir
5. Shri Ramavatar Shastri
6. Shri C. M. Kedaria
7. Shri S. S. Kothari
8. Chowdhry Brahm Perkaash
9. Shri Jagannath Pahadia
10. Shri Mrityunjay Prasad
11. Shri Ram Charan
12. Shri P. Ramamurti
13. Shri V. Narasimha Rao
14. Shri R. Dasaratha Rama Reddy
15. Shri Beni Shanker Sharma
16. Shri N. K. Somani
17. Shri Balgovind Verma
18. Shri Morarji R. Desai

Rajya Sabha

19. Shri M. P. Bhargava
20. Shri Jairamdas Daulatram
21. Shri Sherkhan
22. Shrimati Vidyawati Chaturvedi
23. Chaudhary A. Mohammad
24. Dr. B. N. Antani
25. Shri K. Chandrasekharan
26. Shri Man Singh Varma
27. Shri K. P. Subramania Menon
28. Shri G. R. Patil

LEGISLATIVE COUNSEL

Shri S. K. Maitra, *Jt. Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE AND INSURANCE)

1. Shri A. Rajagopalan, *O.S.D. and Joint Secretary.*
2. Shri C. S. Anantapadmanabhan, *Director (Insurance).*
3. Dr. Raj K. Nigam, *Deputy Secretary.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES EXAMINED.

I. *The Insurance Surveyors and Loss Assessors Association, New Delhi.*

Spokesmen:

- (i) Shri R. K. Bhandari—*President.*
- (ii) Shri V. N. Sarin—*Vice-President.*
- (iii) Shri R. N. Sharma—*Secretary.*
- (iv) Shri J. D. Gulshan—*Joint Secretary.*
- (v) Shri S. C. Rosha—*Joint Secretary.*

II. *Institute of Insurance Surveyors and Oadjusters Ltd., Bombay.*

Spokesmen:

- (i) Shri V. N. C. Narichania—*Secretary.*
- (ii) Shri R. C. Sheth—*Member.*
- (iii) Shri S. C. Mazumdar—*Member.*
- (iv) Shri V. P. Shah—*Member.*

III. *The National Employers' Mutual General Insurance Association, New Delhi.*

Spokesmen:

- (i) Shri M. L. Pasricha—*Manager for India.*
- (ii) Shri V. P. Mehta—*Branch Manager.*
- (iii) Shri R. Mahadev—*Office Manager, Bombay.*

IV. *The Indian Insurance Companies Association, Bombay. (Representing the entire General Insurance Industry in India composed of both Indian and Non-Indian Companies).*

Spokesmen:

- (i) Shri P. U. Patel—*Chairman, Special Advisory Committee.*
- (ii) Shri H. V. Gandhi—*Vice-Chairman, Special Advisory Committee.*
- (iii) Shri C. M. Teliwala—*Chairman, Indian Insurance Companies Association, Bombay.*
- (iv) Shri E. K. Srinivasan—*Chairman, Indian Insurance Companies Association, Madras.*
- (v) Shri K. P. Modi—*Chairman, Indian Insurance Companies Association, Calcutta.*

(vi) Shri D. Hammond Giles--- *Chairman, Overseas Insurers Association.*

(vii) Shri G. V. Kapadia—*Technical Adviser.*

(viii) Shri S. K. Desai—*Technical Adviser.*

V. The Indian Merchants' Chamber, Bombay.

Spokesmen:

(i) Shri Pratap Bhogilal—*President.*

(ii) Shri J. H. Doshi—*Vice-President.*

(iii) Shri R. M. Desai—*Members.*

(iv) Shri C. L. Gheevala—*Secretary.*

I. The Insurance Surveyors and Loss Assessors Association, New Delhi.

Spokesmen:

1. Shri R. K. Bhandari—*President.*

2. Shri V. N. Sarin—*Vice-President.*

3. Shri R. N. Sharma—*Secretary.*

4. Shri J. D. Gulshan—*Joint Secretary.*

5. Shri S. C. Rosha—*Joint Secretary.*

(The witnesses were called in and they took their seats.)

Mr. Chairman: Mr. Bhandari, one thing should be borne in mind that whatever you say here or whatever you represent to us will become a public document. It may be made known to outsiders as well as to Members of Parliament. At any place if you have any objection or you want anything to be kept secret please indicate that in the course of the evidence. But, it will be known to Members of Parliament.

Shri Bhandari: Quite right, Sir.

Mr. Chairman: We have received your memorandum. Have you anything else to add in addition to this? Or else the Members will put questions to you and you may please answer them.

Shri R. N. Sharma: We have nothing more to add to what we have already stated.

Shri Man Singh Varma: This is regarding Section 64(7). The clause reads as follows:—

"If the Controller is satisfied that an approved Surveyor or Loss Assessor has been guilty of wilfully making a false statement knowing it to be false or of being

knowingly a party to the settlement of claim in a fraudulent manner, he may, after giving such Surveyor or Loss Assessor an opportunity of being heard, remove his name from the list of approved Surveyors and Loss Assessors."

श्रीर आपका जो सजेसन है यह तो ऊपर भी आ चुका है तो फिर इसका और क्या अर्थ होता है, यह मैं जानना चाहता हूँ ?

Shri Man Singh Varma: What is the difference? The Controller may remove his name after giving the Surveyor time and opportunity to be heard. It is already there. What more do you want? Please explain.

Shri R. N. Sharma: In regard to Section 64(7) regarding the Controller disqualifying a surveyor for making a false statement, we have no objection at all. The Controller, of course, will be both the prosecutor and the judge. We want that the surveyor should be given a chance. Within 90 days he should appeal. My second submission is that the accused surveyor should be heard by a Committee

on which the Surveyors' Association should be represented. One member of the Association should be there.

Shri Beni Shanker Sharma: I am drawing your attention to page 1 of your memorandum at the bottom where in respect of Sec. 64 UM(2) you have suggested that instead of Rs. 20,000, it should be Rs. 2,000. You want just to make it compulsory above Rs. 2,000. Would it not put difficulties in the matter of settlement of claims?

Shri R. N. Sharma: Regarding this limit of Rs. 2,000, the Act provides that losses over Rs. 20,000 are to be surveyed by an approved surveyor. We feel that it should be reduced to Rs. 2,000 because most of the claims or at least 80 or 90 per cent of the claims are below Rs. 20,000 and also to check the alleged malpractices and leave no scope for the claims to be manipulated.

Shri Morarji R. Desai: Why should it be surveyed at all? There is no dispute about it.

Shri R. N. Sharma: All the claims are surveyed.

Shri Morarji R. Desai: I do not think it is necessary.

Shri Beni Shanker Sharma: It is neither necessary nor compulsory. If the insurer and the insured come to a settlement, why should the surveyors be brought in? Your services as experts are required only if they are wanted by the insurer and the insured. Why should you insist on coming in between the two if they do not want you.

Shri R. N. Sharma: How can the insurer settle the claim unless he deposes some person?

Shri P. Ramamurti: I claim something and it is mutually settled with the company. Why should somebody else come unless there is a dispute? If I do not agree, in that case it may be referred to a surveyor. Otherwise, why should the surveyors come at all?

Shri R. N. Sharma: We suggest that if the aim or the object of the Bill is to be achieved, the losses are to be surveyed by the approved surveyors.

Shri S. S. Kothari: I do not think it is a practical proposition. I put in a claim for Rs. 10,000. How will the company know whether the claim is genuine or not?

Shri R. N. Sharma: The company has its own people.

Shri Beni Shanker Sharma: Would you be satisfied if it is put in the enactment that if there is a dispute between the insurer and the insured it should be referred to the surveyors; otherwise not?

Shri R. N. Sharma: I won't.

Shri Mrityunjay Prasad: In the same connection I would like firstly to know whether the surveyor can give opinion about the amount only and not about the claim. Am I correct.

Shri Gulshan: In the present stage the surveyor is an investigator and also he investigates the claim, he assesses the losses and submits his report to the insurance company.

Shri Mrityunjay Prasad: In that case if there is a fraud in the claim itself, take for instance, a fire case where it is not a case of accidental fire but deliberate fire, then, in that case do you look into the genuineness of the claim also?

Shri Gulshan: Yes, Sir.

Shri Mrityunjay Prasad: Secondly, what is the cost of your service? Does it go by the amount or nature of the claim?

Shri Gulshan: We normally charge according to the time spent on the job.

Shri Morarji R. Desai: Would it have no relation to the policy? Supposing the policy is for Rs. 20,000 and your charges are Rs. 30,000.

Shri Gulshan: No, sir.

Shri Morarji R. Desai: Then what can it be?

Shri Gulshan: If the losses are Rs. 10,000 and we have spent 2 days on it, we will charge accordingly for 2 days.

Shri Morarji R. Desai: At what rate?

Shri Gulshan: Normally Rs. 100 or Rs. 150 per day we charge.

Shri Morarji R. Desai: Whether the policy is for Rs. 20,000 or for Rs. 2 lakhs, that does not make any difference.

Shri Gulshan: No, Sir.

Shri Mrityunjay Prasad: Is that the general practice or does that depend upon mutual contracts between different companies and different surveyors?

Shri Gulshan: That is the general practice that all the losses are surveyed by the surveyors.

Shri Mrityunjay Prasad: I am asking about the charges.

Shri Gulshan: This is the general practice throughout India. We charge throughout India on the normal basis.

Shri Mrityunjay Prasad: What is the normal basis?

Shri Gulshan: Daily basis plus expenses.

Shri Balgovind Verma: You assess the losses and is that assessment binding on the insurance company?

Shri Gulshan: We recommend our assessment to the insurance companies and it is in their discretion to accept it.

Shri Beni Shanker Sharma: If the insurance companies want an assessor, you come in; if they don't want, there is no necessity for you to come in.

श्री राम चरण : क्या आपका रेट कांटेक्ट सिस्टम चलता है या एकाडिंग टू बैंक आप चार्ज करते हैं। मान लीजिये कि एक लाख की पालिसी है। आप एक दिन का क्लेम करेंगे या एकाडिंग टू दी वैल्यू आप पालिसी चार्ज करेंगे ?

श्री गुलशन : एक लाख की पालिसी है तो हम अगर चार दिन लगायेंगे तो चार दिन का चार्ज करेंगे।

श्री राम चरण : एकाडिंग टू वर्क चार्ज करेंगे।

श्री गुलशन : जी हाँ।

It is according to days spent.

श्री राम चरण : एक दिन में खत्म करें या चार दिन में खत्म करें यह आप पर डिपेंड करता है ?

Shri Sharma: We are in a hurry to finish the work and go back to our headquarters. We want to finish the work as quickly as possible.

Shri M. P. Bhargava: Will you tell me whether the daily charges vary from surveyor to surveyor, as is the case in respect of lawyers or it is uniformly same?

Shri Sharma: I think it changes from surveyor to surveyor, depending on his experience.

Shri M. P. Bhargava:... and reputation.

Shri Dasaratharama Reddy: Do you have any list showing the charges for each surveyor?

Shri Sharma: The Insurance companies, whenever they want our services, ask us to send them a schedule. Then they assign the job to the surveyor.

Shri George Fernandes: How many surveyors are there in the country?

Shri Sharma: Their number would be 300 to 400.

Shri George Fernandes: Do they have to get any licence?

Shri Sharma: No.

Shri George Fernandes: What are the special qualifications of a surveyor?

Shri Sharma: No special qualifications are required for a surveyor.

Shri George Fernandes: He need not be technically qualified for this work.

Shri Sharma: Yes.

Shri George Fernandes: This Amending Bill provides for a list of approved surveyors or loss assessors. Apart from the question of so many years of standing in the field, would you like any qualifications to be laid down before the approved list of surveyors is finalised?

Shri Sharma: We don't mind if technical persons come into the picture. Personally I am a non-technical man and I have found that experience counts more than technical knowledge in this field.

Shri George Fernandes: At the moment also your reports are not treated as final and it is open to Companies to make their own settlements. I don't think you have seen the amendment which the Government is proposing in this Bill. Since it is a Government's amendment, it can be more or less treated as part of the Bill, subject of course to the approval of this Committee—page 20 of the amendment list. This amendment is to sub clause (2) of Section 64 UM, i.e., after line 12 on page 49: "Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor." As the present situation stands, whatever your report may be,

the Company can settle on its own. Even after this Bill is enacted into law, it will be open to the Company to settle their claim as they are doing at the moment.

Shri Sharma: As far as the company's jurisdiction in this matter is concerned, we have nothing to say. We submit our report to them.

Shri George Fernandes: Does the present situation lead to any malpractices either by the insurers or by those who file their claims? As the Chairman pointed out in the beginning, it is open to you to say anything in confidence.

Shri Sharma: The chance for malpractices is always there.

Shri George Fernandes: With the proposed amendment of the Government, so far as the insurers and the insured are concerned, the position more or less remains the same. Would you like the entire clause 64 UM to be deleted?

Shri Sharma: I have no idea of this proposed amendment. If this discretion is given to the companies under law, then it is better not to have surveyors at all.

Shri George Fernandes: Apart from the list of approved surveyors which the Controller is to maintain, at any time he can call for second report, if the first report is not accepted. They will create difficulties for you. One of you will conduct a survey; that will be challenged by the Controller. This will create certain restrictions on your operations. But there is this point. What happens just now if there is any malpractice on the part of the surveyor and if his report is proved not to have been done in good faith?

Shri Sharma: Who is going to judge that?

Shri George Fernandes: Have there been instances where the report of the surveyor has not been accepted as a genuine report?

Shri Bhandari: No case of that kind has happened so far.

Shri George Fernandes: Sub-section 7 provides for action being taken against a surveyor if the Controller is satisfied that an approved surveyor or loss assessor has been guilty of wilfully making a false statement knowingly it to be false or of being knowingly a party to the settlement of claim in a fraudulent manner. You have not had any such cases so far.

Shri Bhandari: No.

Shri Humayun Kabir: You said that you yourself are not a technical man. From experience you have gained a lot of knowledge and you can assess. It takes quite a long time to gain such wide experience. Will it not be proper to have some qualifications prescribed before a surveyor is recognised?

Shri Sharma: We have no objection if certain procedures or examinations are prescribed. But the existing surveyors should be protected.

Shri Humayun Kabir: Even in medical profession a newcomer will not be allowed to practice without a Degree. Those who are practising for 15, 20 years, even though without qualifications, will be allowed to practice. If there is a successive assessment with an interval the findings may be different. Will it not be advantageous to have two assessors to do the work simultaneously, instead of having a second survey after some time?

Shri Sharma: It will not be possible to re-assess subsequently by a second surveyor. This is a fundamental matter to be considered by the Joint Committee.

Shri Humayun Kabir: If there is a dispute there should be two surveyors, one from your side and one from the other side and they should give a joint report. If there is no dispute, you are where you are.

Shri Sharma: I have said that having re-assessment after a lapse of time

will not be possible; it will neither be useful.

Shri Humayun Kabir: Even if there is a dispute?

Shri R. N. Sharma: Yes.

Shri S. S. Kothari: You are an organised association. Have you got a disciplinary committee to take any action against your surveyors in case they indulge in malpractices?

Shri R. N. Sharma: Unless this has been given statutory recognition it is not possible to enforce it.

Shri K. Suryanarayana: We are concerned with the interests of the policy holders or the general public. We want to avoid all malpractices, as far as possible, within our limits. We are doing our best to elicit information from you.

Shri Morarji R. Desai: I would like to ask a few questions. In the first place, anybody can be a surveyor, according to you. Is that correct?

Shri R. N. Sharma: Yes.

Shri Morarji R. Desai: It does not require any qualifications. Is it correct?

Shri R. N. Sharma: Yes, Sir.

Shri Morarji R. Desai: You say that experience is all right?

Shri R. N. Sharma: Yes.

Shri Morarji R. Desai: What is a surveyor supposed to survey? What exactly does he deal with?

Shri R. N. Sharma: The surveyor's job is to go into the cause of the accident or the fire, as the case may be. He looks into the matter, goes through the records of the insurer and all other relevant factors.

Shri Morarji R. Desai: And he reports as to what exactly is the loss. Is it so?

Shri R. N. Sharma: Yes.

Shri Morarji E. Desai: Does he also say whether it is accidental or deliberate act?

Shri E. N. Sharma: That is so. In the report he says that.

Shri Morarji E. Desai: This will require two things: firstly, he must have the capacity to find out whether this is an accident or whether it is deliberate. That cannot be said by anybody and everybody. Isn't it?

Shri E. N. Sharma: Yes.

Shri Morarji E. Desai: It is a matter of investigation. Is it?

Shri E. N. Sharma: Yes.

Shri Morarji E. Desai: Can anybody say only from the books that the loss is exactly so much?

Shri E. N. Sharma: Not anybody.

Shri Morarji E. Desai: But this will be 'anybody'. Therefore, anybody can be a surveyor.

How many members have you in your Association?

Shri E. N. Sharma: There are 50 to 60 members.

Shri Morarji E. Desai: You do not exactly know how many members are there in your Association?

Shri J. D. Gulshan: 42 members.

Shri Morarji E. Desai: How many Associations are there all over India?

Shri J. D. Gulshan: Three Associations.

Shri Morarji E. Desai: Only three?

Shri J. D. Gulshan: Yes.

Shri Morarji E. Desai: Only three Associations cover up several areas?

Shri J. D. Gulshan: We cover the North and there are two others.

Shri Morarji E. Desai: How many surveyors would there be?

Shri J. D. Gulshan: Around 180.

Shri Morarji E. Desai: Are there many cases in which things go to court even after the surveyors' report?

Shri Gulshan: 1 or 2 per cent of the cases go to court.

Shri Morarji E. Desai: Why is a surveyor's report necessary? Before the insurance company pays the loss, they will naturally ascertain it properly. Does not the insurance company do that by itself?

Shri Gulshan: They do not have inspectors.

Shri Morarji E. Desai: You are functioning as their inspectors for this purpose?

Shri Gulshan: As independent inspectors.

Shri Morarji E. Desai: How can you be independent if you function on their behalf?

Shri Gulshan: We are independent people and they appoint us to ascertain the exact position of the loss.

Shri Morarji E. Desai: When they appoint you they keep you on their panel and appoint you. That means that you are engaged by them. Would you not then look to the interests of the insurance company and not of the person who is insured?

Shri Gulshan: We look to the interests of both.

Shri Morarji E. Desai: But you are paid only by the company.

Shri Gulshan: But we have to make independent and fair assessment.

Shri Morarji E. Desai: That is the theory. But in practice can this be ensured unless there are safeguards? Is it not necessary to prescribe qualifications for surveyors?

Shri Gulshan: Yes, it is necessary.

Shri Morarji E. Desai: What qualifications would you suggest?

Shri Gulshan: A minimum experience of five or six years.

Shri Morarji Desai: Experience is a very nebulous term. If you can suggest something concrete, you can send it to us later on.

Shri Gulshan: We shall send it to you later.

Shri Morarji Desai: In order to make them independent, is it not necessary to license them so that the malpractices can be prevented?

Shri Gulshan: Yes, it is necessary.

Shri Morarji Desai: If licences are to be given then qualifications are to be prescribed. Once the people are licensed, is it necessary that you should be on the panel of the insurance company or it should be a panel provided only by Government from which the insurance company can draw?

Shri Gulshan: It suits us in both ways.

Shri Morarji Desai: It cannot be both ways.

Shri Gulshan: Government can make a penal of the approved surveyors and the insurance companies can select the surveyors for their services from that panel.

Shri Morarji Desai: You want that both liberties should be given. Should fees be prescribed for that?

Shri Gulshan: Any reasonable amount.

Shri Morarji Desai: If there is to be a fee for doing surveying, then should not uniform fees be provided according to the work required to be done?

Shri Gulshan: The fees will vary. For instance, for motor surveys we do not charge much, because those losses are very small.

Shri Morarji Desai: Should it not be properly regularised and put on a proper basis?

Shri Gulshan: It should be.

Shri Morarji Desai: Are there any surveyors who do some business of canvassing for the insurance company?

Shri Gulshan: I do not think so.

Shri Morarji Desai: Is that prevented.

Shri Gulshan: Yes, it is prevented.

Shri Morarji Desai: Is it laid down anywhere?

Shri Sharma: Even in our constitution we have laid down a condition for membership that he should not have any attachments to any insurance company in any form.

Shri Morarji Desai: That may be in your constitution. But should it not also be one of the conditions of the licence?

Shri Sharma: That should be there.

Shri Morarji Desai: Suppose you go to survey the loss of a company and you are a shareholder in it. Then, would you not be interested in inflating the amount?

Shri Gulshan: Certainly, the shareholder would be interested.

Shri Morarji Desai: Should it not be provided as one of the conditions that that surveyors should not go to assess the loss of that company?

Shri Gulshan: It should be provided.

Shri Morarji Desai: Therefore, you agree that it is necessary to provide licensing and not allow anybody to have the right to practice?

Shri Gulshan: Yes.

Dr. Antany: In the absence of any institution for training, would you agree that only those who have got two or three years' experience as surveyors should be admitted as surveyors?

Shri Sharma: Yes.

Dr. Antany: What is your opinion should be the minimum qualification for a surveyor to be brought on the

approved panel contemplated in the Bill?

Shri Sharma: We suggest that he may be a technical person, which is all the more welcome; but a minimum experience of five years should be a sufficient thing for a surveyor to be brought on the panel to be approved by Government.

Shri P. Ramamurti: How will he get the experience unless he works in that capacity?

Dr. Antany: What objection do you have to the losses over Rs. 20,000 being reassessed by another surveyor? Do you not think that if this provision is made, the original surveyor would be more cautious initially and it would avoid any further malpractice?

Shri Sharma: It is always open to have another reassessment. But reassessments are not being made generally for this reason. When the first surveyors goes there, he has got all the evidence available to him and he makes the survey and makes the assessment. Suppose he assesses the loss at, say, Rs. 1 lakh. The controller may think, I do not know on what basis, that the amount is too much, because he may think that there is some malpractice and so on. So, he may decide to send another surveyor; by the time the second surveyor goes there there will be a lapse of two or three months; when he goes there, he will not have all the relevant material available to him as was available to the first surveyor. So, he would only tell the party 'Here is the report of the first surveyor which has assessed the loss at Rs. 1 lakh. But that is agreeable to the controller of insurance. So, what is the amount that is to be paid. Then, he would pressurise the party. There will be no reassessment, but he will pressurise the party to accept a lesser amount. And he would put the figure at, say, Rs. 80,000. When the second surveyor's report comes, the loss would be assessed at Rs. 80,000. The result will be that the first surveyor would be discredited, in spite of the fact that he

was a man of integrity and he was honest and to the best of his best judgment he had assessed the loss at Rs. 1 lakh. We, therefore, suggest that this clause should be amended.

Dr. Antany: What is your precise objection to the clause relating to disqualifications of a surveyor?

Shri Sharma: We have no objection. We have only suggested that he should be given the right of appeal.

Dr. Antany: What are your suggestions to effectively check the alleged malpractices in the settlement of the insurance claims?

Shri Sharma: I think a suggestion has already come from Shri Morarji Desai that the surveyors be licensed and kept out of the control of the management.

Shri K. P. S. Menon: Are your association and other like associations registered?

Shri Sharma: Yes, under the Societies Registration Act.

Shri K. P. S. Menon: Are surveyors and loss assessors there in every part of the country in all States or only in some?

Shri Sharma: They are everywhere. All claims are surveyed by them, here and in foreign countries. No settlement is made direct between the insurer and the insured. Suppose the insured puts in a claim for Rs. 20,000. If the insurance company does the survey, that may not be acceptable to the insured. What is wanted is an independent agency to survey and assess the claim. I stress the independent character of this work.

Shri K. P. S. Menon. You said that in every case, irrespective of whether there is a dispute between the insurer and insured, there must be an assessment by the surveyor and loss assessor. Any special reason for that?

Shri Sharma: No. Somebody should intervene to assess the thing independently. Otherwise, I do not think it would be possible for the insurance

company to finalise the claim. It may take the help of paid inspectors for the purpose. If they do that, we have nothing to say:

Shri M. P. Bhargava: P. 3 of your memorandum, sec. 64 UM(8): You have suggested the addition of certain words after 'official gazette'. Does it fit in in 8 or 7? Your intention seems to be ut it in in 7. 8 deals with eligibility for re-inclusion in the list of surveyors and there it does not fit in—90 days.

Shri Sharma: We have no objection in regard to that.

Shri M. P. Bhargava: But where do you want to put it in. It does not fit in there.

Shri Sharma: It does fit in. Here it is said that the surveyor shall not be eligible . . .

Shri M. P. Bhargava: Disqualification is in 7 and eligibility for re-inclusion is in 8.

Shri Sharma: 7 speaks of his being disqualified and 8 says for what period. Section 7.

Shri R. D. Reddy: Do you have any apprentice and training course for surveyors?

Shri Gulshan: Yes, in Bombay.

Shri R. D. Reddy: In survey work and then being put on probation.

Shri Gulshan: Yes. We have fellowships where students can join and then pass the surveyors' examination.

Shri R. D. Reddy: You have got about 40 or so now. Do you take work by rotation or each man has to depend on luck or chance?

Shri Gulshan: Anybody can do any work.

Shri R. D. Reddy: So the Association does not assist members to get work?

Shri Gulshan: No

Shri R. D. Reddy: How do you admit them?

Shri Gulshan: We have got a screening committee in the Association.

Shri R. D. Reddy: Is there any case where after having admitted a member, you have eliminated him from your list?

Shri Gulshan: No, not so far.

Shri R. D. Reddy: What is the percentage of reports that are not accepted?

Shri Gulshan: One or two.

Shri R. D. Reddy: Are you approved by both parties before you are appointed?

Shri Gulshan: Only the insurance companies appoint us.

Shri R. D. Reddy: And your remuneration is paid by both, according to a share?

Shri Gulshan: By the insurance company only.

श्री राम चरण : अभी आप ने कहा कि फाइनेन्स मिनिस्टर साहब ने यह सजेसन दिया है कि जो सर्वेअर्स आफ लासेज हैं उनको जो लाइसेंस दिये जायें उनकी ए बी सी कटेगरीज बनाई जायें । जो ए क्लास के लाइसेंस होल्डर हों उनको हायर लासेज सर्वे करने के लिये दिये जायें और जो थोड़े नुक्सान वाले लासेज हों वह सी कटेगरी वगैरह को दिये जायें । मैं जानना चाहता हूँ कि इस तरह की कटेगरीज को आप स्वीकार करेंगे या नहीं ? आप ने अभी कहा कि जो अप्वाइंटमेंट होते हैं उनमें क्वालिफिकेशन वगैरह नहीं देखी जाती है । जिसे मर्ज हो दे दिये जाते हैं । ऐसी हालत में जब तक हम कटेगरी प्रेस्क्राइब नहीं करेंगे तब तक कैसे क्लासिफाई किया जा सकता है । मतलब यह है कि जब हम कोई आफिशल चीज सेट अप करते हैं ताकि प्रापरली क्लासिफाई किया जाये और उनके चार्जेज वगैरह प्रेस्क्राइब किये जायें, तो आप को कोई ऐतराज तो नहीं है ।

श्री शर्मा : जी नहीं ।

Shri George Fernandes: Do your members presently survey work given by Oriental and the general insc. section of LIC?

Shri Gulshan: Yes.

Shri George Fernandes: Any case where you are given work not by the insurance company but by the insured?

Shri Gulshan: No, the company does not accept that. There has been no case where assistance has been sought by the insured.

Shri George Fernandes: It is only the insurer that seeks your assistance?

Shri Gulshan: Yes.

श्री रामाबतार झास्त्री : अभी आप ने बतलाया कि पूरे देश के अन्दर लगभग 300 सर्वेअर्स हैं । मैं जानना चाहता हूँ कि उनमें से या जो आप लोग बैठे हुए हैं उनके लड़के भी क्या इंसुरेंस कम्पनीज में काम करते हैं ? अगर करते हैं तो कितनी कम्पनियों में ?

श्री रामाबतार झास्त्री : यानी उनकी संख्या बहुत कम होगी एक दो होगी । दिल्ली में किसी सर्वेयर का कोई लड़का या रेलेटिव नहीं है ?

श्री शर्मा : मेरे डायल से तो नहीं है ।

श्री रामाबतार झास्त्री : किसी भी शकल में नहीं हैं ?

श्री रामाबतार झास्त्री : अगर यह बिल जिस रूप में है, पास हो जाय और आपके मैमोरेण्डम की जो बातें हैं, यदि उनको इसमें शामिल न किया जाय, तो उसका आप सर्वेअर्स पर क्या इफेक्ट होने वाला है ?

Shri Sharma: We can only give suggestions to the hon. Members, and the Committee can give due thought to them.

Shri Sharma: With due respect, what I do feel honestly is that if the Bill as it is, is passed, it would comp-

letely defect the purpose, because you are not to work; and we know what work they do.

श्री रामाबतार झास्त्री : यानी आपकी सविस्तिज बहुत जरूरी हैं ।

श्री शर्मा : जी हाँ ।

श्री मृत्युञ्जय प्रसाद : आपने अभी थोड़ी देर पहले बताया कि आपके यहाँ कुछ एकजामिनेशनल्स होते हैं, ट्रेनिंग दी जाती है क्या आपने इसके लिये कोई कैरिकुलम फिक्स किया है ?

श्री शर्मा : जी हाँ ।

श्री मृत्युञ्जय प्रसाद : मैं चाहता हूँ कि आप इसके बारे में कुछ प्रकाश डालिये ।

श्री गुलशन : हमारा इंस्टीचूट तो 10 साल पहले कायम हुआ था, लेकिन अभी दो-तीन साल हुए हम ने एकजामिनेशनल्स शुरू किये हैं । वहाँ पर स्टूडेन्ट्स लिये जाते हैं, जो उस एकजामिनेशन को पास करता है, उसको सर्वेअर्स की किसी बड़ी फर्म में लाय-सेंसीयेट के तौर पर काम करना पड़ता है पाँच साल के बाद वह इण्डेपेन्डेंट सर्वेअर, करार दिया जाता है ।

श्री मृत्युञ्जय प्रसाद : मैं यह जानना चाहता हूँ कि जो एकजामिनेशन आप लेते हैं उसमें क्या बताते हैं इसका कुछ आइडिया वीजिये आपका बिजनेस बहुत विशाल है फायर का काम भी आप देखते हैं, मोटर्स का भी देखते हैं, मैरीन्स का भी देखते हैं, मैं जानना चाहता हूँ कि उनको क्या बतलाते हैं ?

श्री गुलशन : स्टूडेन्ट्स ट्रेन किये जाते हैं, उसके बाद उनके पेपर्स होते हैं जो सर्वेअर्स को भेजे जाते हैं, लेकिन पेपर्स इस बक्त मेरे पास प्रवेलेबिल नहीं हैं ।

श्री मृत्युञ्जय प्रसाद : मैं कैरिकुलम का रीनरल आइडिया चाहता था । मेरा

दूसरा सवाल यह है कि अभी आपने कई बार करण का जिक्र किया। मैं जानना चाहता हूँ कि आप लोगों के जरिये करण के कितने परसेन्ट केसेज सामने आये, जिन पर कोई ऐक्शन लिया गया। क्या दो-एक एक्जाम्पल बता सकते हैं। अगर आप नाम न लेना चाहें तो कोई मुजायका नहीं है, नाम न ले, चेयरमैन से रिक्वेस्ट कर सकते हैं कि उसको कान्फी-डेन्शल रखा जाय।

Shri Sharma: We have come here to forget the past and think of the future.

Dr. B. N. Antani: We want to know.

Shri Sharma: We would not be able to enlighten you on this issue. It is just a discussion around the table.

Shri Mrityunjay Prasad: Bazar talk without much of basis behind it. If we take it with what you were talking about, corruptions here and there, which would be more in future if the surveyors are not there, then, if you cannot give us certain examples or instances of certain cases, would it be correct for us to understand that you were talking without much basis of facts?

Shri Roshan: You might have recently read in the Blitz, a case regarding the Jupiter Insurance Co., which has been given to the CBI to investigate the claims. We as surveyors do not know what those companies are and their claims and what assessment has been done. We will not be able to tell you how it was done. Simply, from the market and the press, we come to know that certain companies have been indulging in rebating and to have money for extra rebating they must get money from the source of claims. To control those claims it is necessary that the surveyors' panel should be controlled which, as our Deputy Prime Minister has very rightly said, must be licensed. These are in common practice presently.

Shri Mrityunjay Prasad: I only wanted to know whether there has been any case where those cases have been initiated because of the help given by the surveyors or by others.

Shri Roshan: They will not be helped by the surveyors. They might have been pressurised to submit to the wants of the insurance companies.

Shri Balgovind Verma: You agree that the Controller should maintain a list of surveyors, but at the same time, you suggest that he should do it in consultation with the surveyors already existing.

Shri Roshan: We have suggested that there should be a representation of the surveyors on the advisory committee; at least one should be there. We do not say that the Controller should consult the surveyors for making a panel of surveyors. If our profession is represented, they might be able to put their point of view before the committee, and they will know what type of surveyors they are putting on the panel.

Shri Balgovind Verma: Then the man who will be appointed will be a qualified man.

Shri Roshan: Yes. I agree.

Shri Balgovind Verma: Then I think the Committee cannot judge the person to be appointed as a surveyor.

Shri Roshan: From mere application, it will not be possible to judge even the qualifications of the surveyors, until and unless one knows the background of the person or his reputation. By simply receiving an application, and considering the application, it is not possible, unless the person is called for a personal interview which will not be possible for the authority to do on an all-India basis.

Shri Balgovind Verma: I wonder very much if a responsible controller will not be knowing his job whom to appoint as such.

Shri Roshan: I am not saying that he does not know his job.

Shri Morarji Desai: If I have to select a surveyor, should I consult you for it?

Shri Roshan: No, Sir. I have only suggested that a member of this profession should be on the Committee.

Shri Morarji Desai: Because he belongs to the trade union of that professions why should I consult you? You are saying that you should be consulted in forming the panel. I do not think that would be right.

Shri Roshan: Representative on the advisory committee; not in the selection of surveyors.

Shri Morarji Desai: Advisory committee for what?

Shri Roshan: For selecting the surveyors.

Shri Morarji Desai: Why should one of you be selected for that purpose? Then he will put in his own man.

Shri Sharma: He will not be only person in the committee; there will be others.

Shri Morarji Desai: That is not a practical proposition at all. What you have got to safeguard is that the panel should be properly, objectively and honestly made. That is what you want.

Shri Sharma: We should be taken into confidence.

Shri Morarji Desai: That is where we have provided a qualification for competence.

Nobody except a licensee will be able to do this job.

Shri Beni Shanker Sharma: Is your association a regional one or an all-India one?

Shri Roshan: It covers the northern region—Delhi, Rajasthan, U.P. Punjab and Jammu and Kashmir. The All-

India association is at Bombay. We are affiliated to it.

Shri Beni Shanker Sharma: In page 2 regarding section 64UM(3) & (4), you have said that the provisions of these sections are impracticable and a little stringent. It says, the Controller may at any time in respect of any claim of the nature referred to in sub-section (2) call for an independent certificate from any other approved surveyor, etc. Your objection is "at any time" may give rise to so many difficulties. What a time would you suggest—3 months, 6 months?

Shri R. N. Sharma: It depends on the controller's office. For us normally it takes about 1½ months to submit our report. After that it depends on the controller's office.

Shri S. S. Kothari: If a re-assessment is made and the first surveyor has acted *bona fide*, why should you worry about the second surveyor?

Shri Morarji Desai: His main objection is, much time would have lapsed before a re-assessment is made and there will be no material evidence.

Dr. B. N. Antani: His objection is about loss of evidence.

Shri S. S. Kothari: You have an All-India Institute of Surveyors but it appears that institute is doing nothing—neither the qualifications have been prescribed nor is there any training course prescribed. Would you like an official institute to be established under the aegis of the Controller?

Shri Roshan: No, Sir. We want that the syllabus should be admitted and approved by the Government, so that it can be prescribed by the institute.

Mr. Chairman: On behalf of the committee, I thank you, gentlemen, for giving us your valuable views on the Bill.

Shri B. N. Sharma: Thank you, Sir.

(The witnesses then withdrew)

(The committee then adjourned to meet again at 14.00 hrs.)

(The Joint Committee re-assembled at 14.00 hours)

II Representatives of the Institute of Insurance Surveyors and Adjustors Limited, Bombay.

Spokesmen:

- (1) Shri V. N. C. Narichania—
Secretary
- (2) Shri R. C. Sheth—*Member*
- (3) Shri S. C. Mazumdar—*Member*
- (4) Shri V. P. Shah—*Member.*

(The witnesses were called and they took their seats).

Mr. Chairman: You should understand that whatever evidence you are tendering here and whatever memorandum you have submitted will become public documents and may be seen by others. But if you want to make any part of your memorandum or evidence confidential, you may indicate it so that it will not be made public but will be confined to Members of Parliament.

We have received your memorandum and now members of the Committee will seek clarification on some points that you have made. In the first page of your memorandum you have stated:

"Further, with a view to improve the standard of proficiency of the surveyors, this Institute has decided to introduce shortly training courses and will conduct examinations."

What sort of training courses do you want to start?

Shri Narichania: We are starting examination courses for training in survey line. For that purpose we have made an arrangement with the Federation of Insurance. The Institute to hold examinations on our behalf. The Examination Committee of the

Federation of Insurance Institute will comprise of the normal committee plus a few members from the insurance profession of surveyors. I can give you a copy of our syllabus.

Mr. Chairman: Will it be your private venture or it will take some sanction from somewhere?

Shri Narichania: It is a private venture of the Institute. Our Head quarters will be located at Bombay.

Dr. B. N. Antani: Are there any such institutions in some foreign countries? If so, have you compared your syllabus with theirs?

Shri Narichania: Yes, there is one institute in London—Association of Fire and Loss Adjusters. Now it has become a chartered body—Chartered Institute of Fire Loss Adjusters'.

Mr. Chairman: You have further stated that the membership of this institute will be divided into three classes, namely licentiate, associate and fellow. What do you mean by that?

Shri Narichania: In selecting members we put them in one of these categories based on experience in the trade and merit. Those who have an experience of four years will be admitted as licentiates, seven years as associates and ten years as fellows of the Institute.

Mr. Chairman: A short while ago a gentleman from the Insurance Surveyors and Loss Assessors came and said that there was no institute to train surveyors and that they had not prescribed any qualifications for the appointment of surveyors. Is your organisation something different from them or do you also carry out the same functions?

Shri Narichania: As far as our Institute is concerned, we have bye-laws and presented according to the said bye-laws we admit members to the Institute. We have three categories. Persons with four years' experience are admitted as licentiates; those with seven years' experience are admitted

as associates and those with ten years' experience as fellows. Besides this we also look into their background as a surveyor. If we have any adverse information about him we do not admit him as a member of the Institute. We use our discretion while admitting a member to our Institute.

Mr. Chairman: When you have to send someone for surveying or for assessing losses up to the extent of Rs. 10,000, do you send a licentiate, an associate or a fellow?

Shri Narichania: That would be entirely within the discretion of the insurance company whether for a particular amount of loss they should appoint a licentiate, an associate or a fellow.

Mr. Chairman: For any amount?

Shri Narichania: Yes.

Mr. Chairman: You have not fixed any limit for licentiates or associates.

Shri Narichania: No, we have not. The insurance company, having regard to the magnitude of the loss, decides whether a senior surveyor should be appointed or a junior surveyor or an amateur; that is, whether a fellow should be appointed or an associate or a licentiate. Sometimes insurance companies do appoint more than one surveyor on the same job if such a course is found necessary.

Shri M. P. Bhargava: Will you tell us something about the set-up of your Institute?

Shri Narichania: This institute was established in 1960. At that time its name was the All India Association of Insurance Surveyors and Adjusters Limited. We had thought of making it a professional body and of educating the people in our profession. The name "All India Association" did not fit in with these objects; so, we changed the name to "The Institute of Insurance Surveyors and Adjusters Limited". Our application is pending with the Registrar to drop the word 'limited' also and in future the name will

be "The Institute of Insurance Surveyors and Adjusters". The membership of this Institute today is on an all India basis and is about 65. Most of the senior surveyors throughout the country are members of the Institute. Of the 65 members, about 30 are fellows, 15 associates, 10 licentiates and 10 students.

Shri M. P. Bhargava: Have you ever approached the Government for recognition of this Institute?

Shri Narichania: We had thought of approaching Government for recognition but we thought that if we did some little more work, started examinations and showed what we were doing, it would be easier for us to obtain recognition from Government than approaching them without doing any work.

Dr. B. N. Antani: What is your syllabus?

Shri Narichania: First of all, we have elements of insurance for the licentiate examination. Then, we have general principles of surveying and elementary accounts. These are two compulsory papers. Then, according to the branch where a person wants to go, namely, fire, accident or marine, there are different sets of subjects and three subjects are to be selected from amongst them. Among them are principles and practice of fire insurance, measurement of losses of buildings, principles and practice of marine insurance, underwriters' practice and shipping, mercantile practice relating to marine insurance, principles and practice of accident insurance, motor insurance etc.

Dr. B. N. Antani: Have you any members from northern India, say, from Rajasthan, Punjab or UP?

Shri Narichania: Yes; we have them from all over the country. We have members from Delhi, Calcutta, Madras, Hyderabad, Bangalore, Raipur, Poona, Bombay and other places. Majority of the members is, of course, from Bom-

bay because that is the home town for insurers. Majority of the surveyors are members.

Shri M. P. Bhargava: Since surveyors are appointed by the insurance companies, will I be correct in assuming that you look more to the interest of the insurance companies than of the insured?

Shri Narichania: I would not put it that way. As far as the surveyors are concerned, their business is to see that the contract of insurance is observed correctly. As for the quantum, one has to look what is the real loss a person has suffered. He must go by that and not try to minimise the loss merely in the interest of the insurance company.

Dr. B. N. Antani: Can you cite any instance where surveyors' services have been requisitioned by the insured?

Shri Narichania: That is being done in very rare cases in India but in foreign countries there are different sets of surveyors, who are called company surveyors and party surveyors. As far as Indian conditions are concerned, there is only one set of surveyors. In very rare cases surveyors are called upon by the insured to present their case before the company surveyors.

Dr. B. N. Antani: In the present state of affairs do you not agree that there is room for apprehension or suspicion of your being only one-sided advocates, of the insurance companies rather than of the insured?

Shri Narichania: It has not been our experience so far. It may be one in a thousand cases where it may have occurred, but normally they (insured) have never challenged the surveyors so far.

Dr. B. N. Antani: But there is a danger.

Shri Narichania: There can be sometimes.

Shri K. Chandrasekharan: Would you like a survey to be conducted even in cases where there is no dispute between the insurer and the insured?

Shri Narichania: Naturally, we would not like that.

Shri K. Chandrasekharan: Would you like to have a provision in the Bill saying that instead of it being done by a single surveyor it should be done by a team of two surveyors?

Shri Narichania: If competent surveyors are appointed, there is no need for having two surveyors, but it might depend upon the type of the loss. If there is too technical a loss, possibly the surveyor himself would in consultation with the insurance company seek the assistance of technical man who can help him on the technical aspect of it. But the insurance matters will be looked after by the surveyors himself.

Shri K. Chandrasekharan: Assuming that persons of ordinary and reasonable competency are appointed, you would like to have only one surveyor and not two.

Shri Narichania: That is right.

Shri George Fernandes: Are there insurance companies which have surveyors on their own staff?

Shri Narichania: As far as fire surveyors are concerned, I do not think in Bombay there is any company having its own surveyors. But as far as marine and accident side is concerned, to my knowledge New India is the only company which employs its own surveyors.

Shri George Fernandes: That means, New India does not get its work done by other surveyors.

Shri Narichania: For motor, accident and marine, normally they do not. They may have their own limitation of small losses. I am not aware of it.

Shri George Fernandes: If the insurance companies, other than New India, were to decide to take on the survey job themselves, how would it affect

the interests of the insured and the insurer?

Shri Narichania: Then, possibly the insured may not have much confidence or faith in such surveyor. The surveyor employed by them is bound to take sides and look after the interest of the employer, that is, the insurer.

Shri George Fernandes: When an outside surveyor is engaged by an insurance company, it is the insurance company that makes the payment. The insured has nothing to do with the payment. He has only the satisfaction that this man is not an employee of the company though he is paid by the company.

Shri Narichania: That is true, but that does not mean that the surveyor is bound to look after the interest of the company in the assessment of loss. The surveyor only sees to it that the contract of insurance is completely fulfilled. That is the only interest that he looks after on behalf of the insurance company. But in the matter of assessment, he has to assess what exactly the loss is without regard to whether the insurance company has to pay more or less.

Shri George Fernandes: So, according to you, accepting that the insured person or firm has the confidence that a surveyor running his own firm, engaged by an insurance company, would be more objective and more impartial, there is no other reason why a company should not employ its own surveyors on its staff. It is a question of the satisfaction of the insured person.

Shri Narichania: The question is not only of the interest of the insured also. Sometimes, it might happen that there are so many co-insurers and there are several treaty insurers on a single policy. This is also a question which the insurance company should look after. In such cases, the assessment is made by independent surveyors.

Shri George Fernandes: Even then,

the surveyor will be paid by the insurance company.

Shri Narichania: Yes.

Shri George Fernandes: By which insurance company?

Shri Narichania: The insurance company which appoints him. If there are a number of co-insurers, each insurance company will pay the share of the loss and the survey fees.

Shri George Fernandes: Is the report that is prepared by the surveyor and submitted to the insurance company accepted as final or is it open to the insurance company to have its assessment made?

Shri Narichania: There is no finality about that report inasmuch as it is open to the insurance company to look into the report and, if they find that there is something wrong, they can take another assessment or do whatever they like. The surveyor makes only a recommendation. He is not to deliver a judgment finale.

Shri George Fernandes: Are these recommendations accepted generally?

Shri Narichania: 99.9 per cent, yes.

Shri George Fernandes: Are your members in Bombay doing the work of companies like the Oriental or the L.I.C.?

Shri Narichania: Yes.

Shri George Fernandes: Even after nationalisation of the L.I.C.

Shri Narichania: Yes.

Shri George Fernandes: Would you like the reports prepared by you or the certificates given by you to be termed as final by the companies? Would you like a statutory provision that the surveyors' report should be treated as final and that it should not be open to the company to subsequently re-examine or have its own settlement?

Shri Narichania: That will not be a correct position. Ultimately, the contract of insurance is to be discharged by the insurance company.

They must have their say in the matter. The surveyors' report should not be a final document.

Shri George Fernandes: You have stated in your earlier letter of 14th August, 1968 addressed to Mr. Rajgopalan, the Officer on Special Duty that your Institute was established in 1960 with the following objectives, *inter alia*:

"(b) to promote honourable practice and to repress mal-practices;"

What are these mal-practices in the trade which you find it necessary to repress?

Shri Narichania: The mal-practices that are generally found in any profession. There have been instances—who have been doing, I would not say—where the surveyors have on the recommendation of insurance companies assessed the losses to accommodate them. These sort of mal-practices do exist. But it is a rarity. If any member of our Institute is implicated in that, we have the provision to remove him from our membership so that our trade can become more pure and dignified.

Shri George Fernandes: Have you taken any such action since your Institute came into existence?

Shri Narichania: No reference has so far been made; no such complaint has been received against any of our members so far, from the members or from the trade.

श्री रामावतार शास्त्री : क्या आपका यह सर्वेयर्स इन्स्टीट्यूट अगल इंडिया आर्गेनाइजेशन है ?

श्री नारीचानिया : जी हां ।

श्री रामावतार शास्त्री : हिन्दुस्तान में सर्वेयर्स की कुल कितनी संख्या है ?

श्री नारीचानिया : यह कहना तो मुश्किल है लेकिन जहां तक मेरा ख्याल है, दो सौ, तीन सौ हो सकते हैं ।

श्री रामावतार शास्त्री : आपने बताया कि केवल 60 ही आपके मेम्बर्स हैं तो इसका क्या कारण है ?

श्री नारीचानिया : इसका कारण यह है कि जब तक इस इन्स्टीट्यूट को आफिशियल रिकग्निशन नहीं मिलता है तब तक हर सर्वेयर यही सोचता है कि इस इन्स्टीट्यूट का मेम्बर बन कर क्या करेंगे । If the Institute is recognised, we will be able to tell them that these are the advantages they get. They will get a certain status by the name of the Institute behind them and that will give them incentive to become members of the Institute.

श्री रामावतार शास्त्री : जो आपके 60 मेम्बर्स हैं क्या उनके रिलेटिव्ज इन्श्योरेन्स कम्पनीज़ में काम करते हैं ?

Shri Narichania: To my knowledge, there is none. None of their relatives are working in the insurance companies. There may be a third degree or fourth degree relations. But no close relations are working in the insurance companies.

श्री रामावतार शास्त्री : क्या आपकी नालेज में यह बात भी आई है कि सर्वेयर्स ने इन्श्योरेन्स कराने वालों के पक्ष में अपनी रिपोर्ट दी हो और इन्श्योरेन्स कम्पनी ने उसे मानने से इन्कार कर दिया हो ? यदि हां, तो इसका क्या परसेन्टेज है ?

Shri Narichania: During the last 25 years of my practice in this trade, I have not come across more than one or two instances. I do not know how far such complaints were true. I was told that in one or two instances, some things occurred. But the insurance company again called the party to explain that and the amount of loss was reduced. I do not say that the assessment was wrong. But it is possible that on a psycho-

logical effect, the insured may have to close the matter agreed to reduce the amount of loss.

श्री रामाबतार शास्त्री : आपने कहा है कि माल-प्रैक्टिस को आप भी और सभी लोग रोकना चाहते हैं अगर सर्वेयर्स के वर्तमान कार्य को समाप्त कर दिया जाये तो उससे माल-प्रैक्टिस बढ़ेगी या घटेगी, इस सम्बन्ध में आपके क्या विचार हैं ?

Shri Narichania: It is too far-fetched a thing to imagine.

Shri G. R. Patil: May I know the qualifications of the persons who have become the members of your Institute? Have you prescribed any qualifications?

Shri Narichania: At the moment, there are no academic qualifications prescribed. But we are intending to prescribe qualifications after our examinations have started and that examination will be one of the qualifications on which the membership will be open to a person in the profession. At the moment, there are no examinations. We have been admitting members on the basis of experience, good character and no adverse comments against them.

Shri G. R. Patil: That means today anybody can be a surveyor.

Shri Narichania: But they do require a little experience of the profession. A number of persons are entering the surveyors' profession.

Shri G. R. Patil: You have not prescribed any qualifications. What should be the qualifications of a surveyor if he is to be kept on record by the Controller?

Shri Narichania: At the moment, there are no examinations. The only course would be to admit persons on the basis of their experience and their connections with some insurance companies in the sense that they are working for more than a

couple of companies, not just one or two companies—they may be influenced by those one or two companies—and having connections with five or six companies. His experience, his knowledge and his integrity should be the standard.

Shri G. R. Patil: He should have the technical knowledge.

Shri Narichania: He should have an elementary knowledge of accounts. When big problems are there, normally, they would take the help of chartered accountants of technical person. But an elementary knowledge of accounts should be there.

Shri G. R. Patil: You have mentioned in your Memorandum that losses upto Rs. 2000 also should be got surveyed. What is the reason behind it. Why should it be brought down to Rs. 2000?

Shri Narichania: By fixing the limit of Rs. 20,000, you are giving a freedom that losses below that amount could be settled without a survey report. If the intention of the Government is to check mal-practices, then this limit should be brought down. Another reason is this. 99 losses out of 100 marine cargo claims and/or motor claim will be within the limit of Rs. 20,000; only a few losses would be above Rs. 20,000. If there is no check, then the mal-practices will increase and the object of the Bill will be defeated.

Shri G. R. Patil: When there is agreement between the insured and the insurers, what is the reason for referring the matter to the surveyor?

Shri Narichania: If the insured and the insurers can settle between themselves, then the surveyors do not come in the picture. It is only at the invitation of either party that surveyors come into the picture.

Shri Mrityunjay Prasad: You have clarified certain points. But I would like them to be further clarified. What

should be done is something quite different. Kindly tell me what is being done about appointment of surveyors. Suppose, for the sake of argument, I am able to persuade the Manager of an insurance company to accept somebody as a surveyor. Can he be appointed a surveyor straight-way or not?

Shri Narichania: It depends upon the management of the company. If the management is agreeable, then there is nothing to bar that.

Shri Mrityunjay Prasad. Thereafter, does he become a recognised surveyor—recognised by the other companies also?

Shri Narichania: Not necessarily, unless he produces a large amount of work. It depends upon his canvassing capacity.

Shri Mrityunjay Prasad: Then it comes to this that the surveyor also canvasses business for himself.

Shri Narichania: Naturally.

Shri Mrityunjay Prasad: He also produces proof that he has been doing a lot of survey business.

Shri Narichania: That is true.

Shri Mrityunjay Prasad: Therefore, he has to improve his survey business also—not only the time he spends in the profession but also the quantum of survey business . . .

Shri Narichania: Yes.

Shri Mrityunjay Prasad: Are the costs of survey related to the losses or the policy amount?

Shri Narichania: The survey fees not released with the policy amount at all. The survey fees depend upon the type of job the surveyor handles. In fixing his fees, he takes into account what labour he has put in, what time he has spent the complexity of the loss, how big is the loss and so on. There is also this consideration whether they are local losses or outside his home-town. Taking into

account all these things, he decides on his fees.

Shri Mrityunjay Prasad: In that case, would it at all be feasible—I do not say profitable—for an insurance company to have small claims surveyed in out of the way places where there are no local surveyors? You want the ceiling to be brought down to Rs. 2,000. Suppose there is a fire loss of Rs. 5,000 in a distant, out of the way place. Will it be feasible for an insurance company to have the claims surveyed?

Shri Narichania: Normally wherever the centre for insurance is there, are some surveyors who can look after the small jobs of Rs. 5,000 or Rs. 10,000. A senior surveyor from Bombay or Calcutta need not be sent therefor this.

Shri Mrityunjay Prasad: A senior surveyor must be charging a higher fee . . .

Shri Narichania: Naturally.

Shri Mrityunjay Prasad: Therefore, there is no fixed chart of fees. It differs from man to man . . .

Shri Narichania: Yes.

Shri Mrityunjay Prasad: Does it vary from company to company or does he have the same chart irrespective of the company?

Shri Narichania: A surveyor will have the same basic standard of charging fees, whether it is Oriental or some other small company; the same fees are charged, whether it is a small company or a big company.

Shri Beni Shanker Sharma: You have said that the objects of your Institute are to promote honourable practices and to suppress malpractices. You have also stated that, during the course of 8 or 9 years of your existence, you have not come across any case of malpractice and, therefore, you did not have to take any steps. Have you prepared and code of conduct for your members?

Shri Narichania: Yes; we have a code of conduct which is laid down in our bye-laws . . .

Shri Beni Shanker Sharma: You may please send a copy to us.

Shri Narichania: Yes, I will do that.

Shri Beni Shanker Sharma: As regards to section 64UM(1), you have suggested in your Memorandum, "add the words 'and/or adjusters' after the words 'loss assessors' wherever it occurs in the sub-section ". What do you mean to convey by this?

Shri Narichania: The difference is this. In western countries the word 'assessor' is normally understood as referring to a person who sits with the Magistrate to assist him on certain technical matters. In western countries where insurance is foremost, the word 'adjuster' is gaining momentum and the word 'assessor' is going out of use. In India, however, we are using both the words. Therefore, we have suggested that the word 'adjuster' be added there.

Shri Beni Shanker Sharma: Coming to section 64UM(3), you want deletion of sections 3, 4 and 5 altogether. Is it correct?

Shri Narichania: Yes. We feel that reassessment will be practically impossible because if it is going to take place after some time, there will be practical difficulties in the sense that the salvage i.e. damaged goods will not be available, a lot of evidence which one has to go through for reassessment will not be available. Therefore, the section will not serve any useful purpose.

Shri Beni Shanker Sharma: Sometimes there are some malpractices. How do we check them? Unless it is reassessed, how can we check malpractices?

Shri Narichania: For that my suggestion will be that a panel of more than one surveyor, say two or three surveyors, should be appointed to review the report of the original sur-

veyor—to go through the data which the original surveyor had collected and to give their opinion whether the assessment which has been done has been done properly or not. While referring the matter to the panel, the Controller must also give them the points on which he wants to have further information so that the panel can go into those details and try to find out from the books of the insured or from the records of the original surveyor how far these things have been properly done.

Shri Beni Shanker Sharma: Then I come to section 64 UM(7). Here it is said:

"If the Controller is satisfied that an approved surveyor or loss assessor has been guilty of wilfully making a false statement knowing it to be false or of being knowingly a party to the settlement of claim in a fraudulent manner, he may, after giving such surveyor or loss assessor an opportunity of being heard, remove his name from the list of approved surveyors and loss assessors . . ."

You want this to be suitably amended to provide the following:—

"When an accused surveyor a loss assessor/adjuster is heard, it should be by a committee which shall include representatives from the profession of approved surveyors, assessors or adjusters."

You want the case of the surveyor to be heard by a committee. At the same time you want an appeal. How do you justify both? How can you have both?

Shri Narichania: The right of appeal should be there. The Controller may have heard. Still, he should be heard by a committee of appeal and that committee of appeal should be constituted by different people altogether.

Shri Beni Shanker Sharma: Should the section be left as it is or should it give you the right to appeal further to the Central Government or to somebody.

Shri Narichania: Some committee of appeal should be there.

श्रीमती बिद्यावती चतुर्वेदी : मैं यह जानना चाहती हूँ कि आपका जो सर्वेयर्स का ट्रेनिंग कोर्स है वह गवर्नमेन्ट से या किसी और संस्था से मान्यता-प्राप्त है ?

दूसरे मैं यह जानना चाहती हूँ कि यह जो बिल आया है, यदि यह ऐसा ही पास हो जाये तो उससे आपको क्या कठिनाई होगी ?

Mr. Chairman: If this Bill is passed as it is, what would you think?

Shri Narichania: We have stated our views in our memorandum. One possibility is this. You know when question of appointment of surveyors under the Emergency Risks Insurance came, seniormost surveyors were left out and junior ones who had just started business were included. To avoid all these things, I suggest, a committee should be there who would take care of the election and approval of the members, and to help and advise the controller and the committee on those points.

श्री मान सिंह बर्मा : लोगों का यह कहना है कि सर्वेयर्स दोनों तरफ से लाभ उठाते हैं, कम्पनी से भी तनख्वाह लेते हैं और क्लेमेन्ट से भी पैसा लेते हैं और फिर क्लेम्स में भी गड़बड़ करती हैं, क्या यह सत्य है ? अगर यह सत्य है तो इस भ्रष्टाचार को रोकने के लिये आप क्या सजेस्ट करते हैं ?

Shri Narichania: My suggestion would be that while making the list of approved surveyors the controller should exercise diligence in making selection of those persons. It is not a sort of wide-spread corruption and it is not all surveyors make money

from insurance companies, as well as insured. There might be some people doing it. But you can't generalise that all surveyors are doing this.

श्री मान सिंह बर्मा : लेकिन ऐसा होता है ।

Shri Narichania: Human nature is there. It happens everywhere.

Shri S. S. Kothari: Your institute is in existence for 8 years. In practice you have not been able to establish an organised profession as yet at all. There are no qualifications and no training scheme and malpractices do exist.

Shri Narichania: Sir, as I have already said, we have framed syllabus and from April we will start training courses. So far as malpractices go, it is not within the jurisdiction of the Insurance Institute, unless he is a member of the institute we can't take any action. In order to bring better people in the profession the examination will be there, recognition to the institute will be there so that they have better status and more influence on the people who are in the profession.

Shri S. S. Kothari: In case where the controller feels that the surveyor has not properly done the work he can order resurvey? Are you against it and if so, why?

Shri Narichania: I have no objection but the question is resurvey could bring what results? Ultimately if the decision to resurvey is to take some time the insured may have destroyed the evidence or record. What he can do is to merely review his books of account and the original assessment report. It is just possible that there may be difference of opinion because result of survey is ultimately based on opinion. That opinion differs from person to person. The second surveyor may say that. It is 5,000 Rupees more or less. That sort of resurvey is not going to be of

a practical proposition. But where it is felt that heavy claim is made or mistake has crept in, a panel may be appointed which can review that report and can go into data collected from the insured by the surveyor, and can look into the books of the insured and see what could be done but I do not think whether that would also give you a very very clear picture on which controller can take a decision which may affect the original surveyor's report.

Shri S. S. Kothari: That will have a psychological check on the original surveyor. In case there is to be any malpractice, there will be a re-survey ordered, and he may be in trouble. That psychological feeling is there.

Shri Narichania: To that extent I would agree with you. It may have a psychological effect.

Shri S. S. Kothari: What is the basis for bringing down "20,000" to "2,000"? Please see your memorandum.

Shri Narichania: If 20,000 is the limit of most automobile surveys will go out of the jurisdiction of the approved surveyors.

Shri S. S. Kothari: They don't need to. It is a small claim.

Shri Narichania: 20,000 is not small claim in this country. It is quite substantial. The possibility is that automobile surveys will be out of the approved surveyors' list. There won't be any check. Regarding marine claims also, they may go out. Hardly the total loss for the motor or automobile will be 20,000 rupees.

Mr. Chairman: Will you refer to page 9 of your memorandum? There it is stated like this:

"In pursuance of the same objective to safeguard the interests of the insurers and also to reduce the work load on the office of the controller it is suggested that all

insurers should be directed to insist that all cargoes damaged in transit whilst in the custody of any carrier—sea, air, rail or road, should be surveyed by an approved surveyor or loss assessor or adjuster who is not an employee of the carrier concerned".

What is the present position today?

Shri Narichania: In some of these cases what happens is this. Regarding marine and transit losses the policies stipulate that survey will be carried out by representative of the carrier and that report should be submitted. If the object of the bill is to minimise and stop leakage of the losses and also to make available benefit to the insurance company then it is better that wherever it is possible and if approved surveyor is there he should undertake making the assessment and not the Railway inspector or Transport Companies' clerks or sea carriers staff who would merely very often write down the nature of loss which would ultimately devolve heavy eventuality on them. (Insurer)

Mr. Chairman: You know in every railway there are traffic inspectors.. When there is complaint they go and assess the loss. That is done in the presence of the person concerned. That is done on a competitive basis and the man accepts that.

Shri Narichania: The man accepts, but what about insurance companies? Many a time they have been asked to pay heavier losses.

Shri Suryanarayana: On page 5 of your memorandum, under section 64 UM(2), you have said that the ceiling of Rs. 20,000 is too high and this will defeat the very object of the Bill. You have suggested to bring it down to Rs. 2,000/-. I cannot understand that.

Shri Narichania: I just explained to you that if the main aim is to minimise losses and stop leakages, then the limit should be reduced to Rs. 2,000/- for the simple reason that marine claim or automobile claim hardly

reaches the figure of Rs. 20,000|. All these will be going outside the purview of approved surveyors and the losses will be suffered by the insurers and there will be leakages also.

Shri Suryanarayana: Insurance companies have their own people. You people are not technically qualified. What is the speciality about your report? The company may also appoint their own people. How is your report different from their report?

Shri Narichania: One aspect is forgotten. If approved surveyor is there, he will give a correct report on losses. If it is done by an employee, he may sometimes at the dictation of his boss, give inflated figures. If larger amount is paid, that will be used for malpractices.

Shri Suryanarayana: You are concerned only with giving a bona fide report. In what manner will you be a loser except in the matter of your commission?

Shri Narichania: It is not a question of individual surveyor losing anything. Our suggestion is made to stop leakages.

Shri Suryanarayana: You are not technically qualified.

Shri Narichania: He will be as an example automobile qualified surveyor.

Shri Suryanarayana: In what way your report will be different from any other report?

Shri Narichania: If claims upto 2,000 are surveyed by surveyors who are independent, they will be more faithful to the assessment rather than to the company.

Shri Suryanarayana: Would you agree to the suggestion that your fee will be paid through the Controller?

Shri Narichania: If there is no delay, yes. I do not think any surveyor has any objection to that if payment is made promptly.

Shri Suryanarayana: So far as I know, insurance companies are paying some advances.

Shri Narichania: They never give any advances. We submit our bills and payment is normally made in a couple of days.

Shri Suryanarayana: The Controller will give all the facilities to check up bills and will pay as early as possible. The surveyor should be a bona fide surveyor in the interests of consumer also. Suppose we propose that the surveyor's fees may be paid through the Controller, what is your reaction?

Shri Narichania: If the object is to stop any malpractice, I do not think Government is going to attain that by this process. If the surveyor is corrupt, even if he receives the payment through the Controller, he will continue to be corrupt. Government is unnecessarily undertaking more burden. That is the only result they will achieve.

Shri Morarji Desai: After all that you have said would you not recognise that to solve your problems specific conditions and qualifications may be prescribed for surveyors and licences may be given to them? Then there is no question of any panel or anything else and nobody is done any injustice. It will also ensure proficiency in the work.

Shri Narichania: A certificate of practice may be issued by the Department of Insurance Controller. That will ensure selection of good surveyors.

Shri Morarji Desai: Anybody can get a certificate.

Shri Narichania: Licences can be issued by the Controller to a proper person. Then it will naturally stop malpractices.

Shri Morarji Desai: Why don't you prescribe qualifications for surveyors and there can be regular conditions.

Shri Narichania: We have been trying to prescribe.

Shri Morarji Desai: What authority you have to do it?

Shri Narichania: We do not have any authority for general public.

Shri Morarji Desai: It is for the Government to prescribe conditions and issue licenses. Only under a licence can one work as a surveyor. Then there is no question of debarring anybody unless he has failed or done some malpractice.

Shri Narichania: What qualifications do you contemplate to prescribe?

Shri Morarji Desai: You can suggest.

Shri Narichania: A Surveyor must have undergone an examination on the lines of chartered accountant's examination...

Shri Morarji Desai: You need not answer the question here and now. You can certainly consider this and then suggest to us.

Mr. Chairman: You said that you are going to start a training centre for surveyors. In that training centre you can prescribe syllabus and train students.

Shri Narichania: We are going to take those students who come forward and give them training under senior surveyors so that they get sufficient practical experience. Besides that, on theory they have to pass an examination after undergoing the course.

Shri George Fernandes: You know there is a proposal on the part of insurance companies to set up a survey agency of their own. Do you know anything about that?

Shri Narichania: I am not aware of that.

Shri George Fernandes: If there is such a proposal, what is your reaction to that?

Shri Narichania: That may be economical to the insurance companies. But one has to examine how far they will operate on a healthy manner and how far they will have the confidence of the insured and how far it is going to stop leakage.

Shri George Fernandes: The Deputy Prime Minister asked you about the qualifications of the surveyors. In the case of marine cargo non-delivery, it is generally the port officer who makes the report. That is the final report and there the surveyor does not come in.

Shri Narichania: In the case of marine losses such as non-delivery it is not necessary for a surveyor to make a report. The certificate issued either by the shipping company or the shipping agent or by the port authority is accepted by the insurance company and on the basis of that claims are settled now.

Shri George Fernandes: It will be difficult to lay down any qualifications.

Shri Narichania: It will be futile for the Government to provide in the Bill that in all cases there should be a survey report. It will be waste of time and money to insist for a survey report in cases like non-delivery.

Certain classes should be excluded from the domain, of approved survey us because they may not be conversant with it.

Mr. Chairman: Thank you, gentlemen.

(The witnesses then withdrew)

The National Employers' Mutual General Insurance Association, New Delhi.

Spokesmen:

(i) Shri M. L. Pasricha—Manager for India

(ii) Shri V. P. Mehta—Branch Manager, Delhi.

(iii) Shri R. Mahadev—Office Manager, Bombay.

(The witnesses were called and they took their seats).

Mr. Chairman: Kindly introduce your members.

Shri Pasricha: I am M. L. Pasricha, Manager for India.

Shri Mehta: I am V. P. Mehta, Branch Manager, Delhi.

Shri Mahadev: I am R. Mahadev, Office Manager, Bombay.

Mr. Chairman: I want to bring to your notice that your evidence and your memorandum become public documents and can be seen by anybody and we publish it also. But if you have any objection to any part of your memorandum or any part of your evidence to be treated as secret, you will indicate during the course of the evidence what you want to be treated as confidential. That will be known only to the Members of Parliament, not to the outsiders.

Shri Pasricha: No, Sir. There is nothing to hide.

Mr. Chairman: Your whole case is summarised on page 3 of your memorandum.

Shri Pasricha: Yes, Sir.

Mr. Chairman: Up to what extent are you exempted at present?

Shri Morarji R. Desai: You have no deposit?

Shri Pasricha: We have deposits equal to any other.

We are exempted from the rates and terms and conditions of tariff.

Shri Morarji R. Desai: What is your net premium income?

Shri Pasricha: About 36 lakhs of rupees.

Mr. Chairman: In India?

Shri Pasricha: Yes.

Shri Morarji R. Desai: Why don't you deposit 20 lakhs?

Shri Pasricha: We are prepared to deposit 20 lakhs. We have exemption from tariffs.

Shri Morarji R. Desai: Why do you want exemption from tariffs?

Shri Pasricha: As we are a mutual organisation.

Shri Morarji R. Desai: But why should your tariff be different from others?

Shri Pasricha: It is for the benefit of the consumers. We do not want to retain anything for ourselves.

Shri Morarji R. Desai: Whom do you insure?

Shri Pasricha: All classes of persons.

Shri Morarji R. Desai: What does that mean?

Shri Pasricha: Mainly we do motor vehicle insurance. Our main portfolio is motor. From Government servants, civil servants . . .

Shri Morarji R. Desai: Only cars?

An hon Member: Also trucks?

Shri Pasricha: No trucks. Cars, motor vehicles, own goods carriers but not commercial.

Shri Morarji R. Desai: Not commercial.

Shri Pasricha: Not as much. There are only own-goods carriers or public transports, those belonging to public institutions, schools and colleges, medical institutions, but not public haulage vehicles as passenger buses plying on the road.

Shri Suryanarayana: Are you authorised to represent here before this Committee?

Shri Pasricha: Yes, Sir.

Shri Suryanarayana: On behalf of the London company?

Shri Pasricha: Yes, Sir.

Shri Suryanarayana: Did you consult your London office on this particular occasion? Is this memorandum prepared by you approved by them?

Shri Pasricha: Yes. It has their approval. It was submitted to them for their comments.

Shri K. Chandrasekharan: Under the Insurance Act no distinction has

been made in section 2 among mutual concerns or co-operative concerns or private sector concerns? You know?

Shri Pasricha: Yes.

Shri K. Chandrasekharan: There have been 19 amendments of the Insurance Act. Up till now you have not pleaded that you should be treated in a different manner.

Shri M. L. Pasricha: Under the existing Act, that is the parent Act, provision does exist for exemption. Under explanation to Section 64 (O) we are getting this exemption.

Shri K. Chandrasekharan: You are saying that this is a sort of differential treatment so far as mutual concern is concerned.

Shri M. L. Pasricha: Under the parent Act as it exists today we have been enjoying exemption. Because we are a mutual concern we have been pleading for that.

Shri K. Chandrasekharan: What exactly you want with regard to the proviso to Section 64 UC (1).

Shri M. L. Pasricha: The present proviso that exists under Sec. 64(UC) (1) where the Advisory Committee may grant exemption...

Shri K. Chandrasekharan: It is only for a temporary period of 2 years.

Shri M. L. Pasricha: I am going through the section line by line. Why we want an amendment to Sec. 64 (UC) is firstly it is in the hands of the Advisory Committee to grant exemption. Before the Advisory Committee could approve, it has to refer the case to the Central Government and after the Central Government has approved it, then they submit it back to the Advisory Committee and a decision can only be made by the Advisory Committee upto the extent which the Controller ratifies. Since every decision of the Advisory Committee is to have prior sanction of the Controller of Insurance or ratification by the Controller, it is submit-

ted that it would be a more efficient and streamlined procedure if the decision is left to the Controller of Insurance to exempt a particular insurance company, and he would be a more competent person to take such a decision. Secondly, this permission is sought to be different from the companies who form the absolute majority in the Advisory Committee that is, the tariff companies. It is only equitable and just that this request for permission under the proviso should be left entirely in the hands of the Controller of Insurance who can consider this in a detached and more unbiassed manner.

Shri K. Chandrasekharan: Would you like this mutual concern to be treated on par with the co-operatives?

Shri M. L. Pasricha: I do not know what the Co-operative Insurance Act says.

Shri K. Chandrasekharan: You know the working of the Co-operative Insurance company?

Shri M. L. Pasricha: Yes, I do. But ours is slightly different in a lot of ways, in their operations.

Shri K. Chandrasekharan: So far as the mutual companies are concerned you only know the insurance Act.

Shri M. L. Pasricha: Yes, Sir.

Shri K. Chandrasekharan: So far as co-operatives are concerned, they also come under the Co-operative Societies Act.

Shri M. L. Pasricha: That is right. But they do of course declare dividends. We do not.

Shri K. Chandrasekharan: Do you think there is any difference between the existence and the possibility of malpractices in co-operative concerns, mutual concerns and private sector concerns?

Shri M. L. Pasricha: We would not know, Sir.

Shri K. Chandrasekharan: You are not able to answer that question.

Shri M. L. Pasricha: I do not know, Sir.

Shri Morarji Desai: Would you suggest that the power of giving exemption should vest in the Central Government and not in the Advisory Committee? That is all that you want.

Shri M. L. Pasricha: Yes, Sir. The proviso as it exists now only gives permission in respect of rates to be different from what the Advisory Committee fixes. What we say is that perhaps this is all right for other companies who have been having their own rates different from those of the tariff companies. We do not operate in this manner in this country.

Shri Morarji Desai: But if it includes advantages and also the terms and conditions, then you will be satisfied?

Shri M. L. Pasricha: We will be satisfied, Sir. There is also a third point. This exemption would be limited in respect of particular categories of risks. That is in line 12 of page 41. We have explained it in detail in our memorandum. Any restriction on the categories of risks that an insurer should undertake would be highly harmful to the organisation. One can understand that if an insurer undertakes a new class of business, his financial strength has to be verified and additional deposits are required under the parent Act. Under the proposed amendment, the deposit of the insurer is fixed irrespective of the number of classes of business he may transact. It is not equitable or just to restrict his activities to any particular class or particular category. This would amount to discrimination.

Shri Morarji Desai: I do not think so. You are already getting benefits and advantages which you would not otherwise get.

Shri M. L. Pasricha: Advantages and benefits are enjoyed by the consumer.

Shri Morarji Desai: By the company more than the consumer. Otherwise you would not make profits.

Shri M. L. Pasricha: That is because of our selective under-writing. That is how we make a profit in respect of motor car insurance which other insurers do not. I have to submit a small note which has given the figures of our under-writing for the last 4 years.

Shri George Fernandes: Do you get any business from the Government of India or any of the State Governments?

Shri M. L. Pasricha: We do not get now. They do with the LIC.

Shri George Fernandes: Since the LIC came into being your business has dropped down.

Shri M. L. Pasricha: Yes, Sir.

Shri George Fernandes: You have just now distributed your views regarding Sec. 64 UC. Here you have also appended the business results for the last 4 years. Could you tell us the profits that were sent home during the last 4 years?

Shri M. L. Pasricha: Since 1965 no profits have been sent home.

Shri George Fernandes: Any particular reason?

Shri M. L. Pasricha: We have been investing here to increase our assets in India.

Shri George Fernandes: On paper the remittance of profits does take place. Any way the parent company's holdings in India are increasing. Have you sent any amount in 1964?

Shri M. L. Pasricha: In 1964, Rs. 2,59,000 was sent.

Shri George Fernandes: You say on page 2 of this memorandum of the first set.

"The N.E.M. has been operating in India for over 40 years as an independent office and since 1951 has been granted independent status and earnestly hopes that the above reasoning will be appreciated."

What is meant by independent status?

Shri M. L. Pasricha: This is explanation to Sec. 64 (O) of the parent Act.

Shri George Fernandes: You have also sent a copy of the Report and Accounts for 1967 of the parent company. Here the Chairman's statement on page 11 says:

"For the Parent Company conditions in the United Kingdom remained difficult. A full year's burden of the Selective Employment Tax had to be absorbed and the effect of inflation on claims settlements and repair costs caused concern."

Then, further down below the Chairman states:

"Approximately fifty per cent of our non-life business is now obtain overseas and I am happy to report that this made a most satisfactory contribution to the year's results."

In other words, the parent company apparently depends to a very large extent to show substantial profits on their overseas business.

Shri M. L. Pasricha: Yes, Sir. Over 50 per cent of the business is done overseas.

Shri George Fernandes: All the shareholders, the members, are the beneficiaries.

Shri M. L. Pasricha: Yes.

Shri George Fernandes: Your Chairman has stated that approximately fifty per cent of our non-life business is now obtained overseas and I am happy to report that this made a most satisfactory contribution to the year's results.

Shri Morarji Desai: Why not ask a specific question whether the profits made here are remitted to England?

Shri George Fernandes: I have already asked and got the reply. For the last years they have not done that.

Shri Morarji Desai: Before that they did send.

Shri M. L. Pasricha: We give additional benefits in the form of increased policy coverage.

Shri George Fernandes: In 1964 you sent home 2 lakhs and odd. Afterwards the profits have been added to the gross assets of the Company.

Shri M. L. Pasricha: Strengthening our resources in the company.

Shri George Fernandes: Who benefits—the coming generation of insureds?

Shri M. L. Pasricha: Even members of today get the benefit.

Shri George Fernandes: Some may not renew their policies with you.

Shri M. L. Pasricha: Some also come in.

Shri George Fernandes: So the new generation will stand to benefit. Ultimately the benefits are enjoyed by the new policyholders. But, here is an interesting note by your Chairman, Stanley Bell: on page 12 of your Report—Despite political troubles in certain territories, all our branches overseas have cheerfully gone about their business and made their contribution to our overall results. Does it refer to India also?

Shri M. L. Pasricha: I don't think he refers to India; he made the statement after considering the figures all over the world.

श्री रामावतार शास्त्री : हमारे मुल्क में आप की कम्पनी की ब्रांचिज कहां-कहां हैं ?

श्री एम० एल० पसरिचा : बम्बई, कलकत्ता, मद्रास, पूना, नागपुर, शिलांग चंडीगढ़, देहरादून, लखनऊ और बंगलौर में ।

श्री रामावतार शास्त्री : आप की तमाम ब्रांचिज में एम्पलाईज का टोटल नम्बर क्या है ?

श्री एम० एल० पसरिचा : 150 ।

श्री रामावतार शास्त्री : क्या आप के एम्पलाईज की कोई यूनियन है ? अपने एम्पलाईज के साथ आप के रिलेशन्ज कैसे हैं ?

श्री एम० एल० पसरिचा : बहुत अच्छे हैं । हमारे यहां कोई यूनियन ट्रबल नहीं हुई है । मेरा खयाल है कि अभी उनकी कोई यूनियन नहीं है, क्योंकि अभी तक इस बेसिस पर हमारे पास कोई नहीं आया है ।

Shri K. Suryanarayana: Your company is managed by the policy-holders and the benefits go to the policy holders. Barring motor insurance, have you distributed profits in respect of marine, fire etc.?

Shri M. L. Pasricha: We give increased coverage. For fire we follow tariff rates. There is no bonus on fire. It would be detrimental to the interest of industry if we were to give bonus. That would be amounting to cutting rates. It would in fact start a rate war or bonus war. We have to follow the rates terms and conditions which are registered with the Controller of Insurance.

Shri K. Suryanarayana: On non-tariff rates you are making profits. The Controller is probably not aware of all these things. The rates are not going to be enhanced for the benefit of companies. The idea is to bring

down all the premiums. Why not you meet the Controller and explain your points to him? You can represent to him about this fact that on non-tariff rates you are making profits.

Shri M. L. Pasricha: The Controller is aware of all these things.

Shri K. Suryanarayana: Whether it is a cooperative company or a capitalist company, everyone is asking the benefits in the interest of policy-holders. But the Controller is in charge of all these companies. He also wants to safeguard the interests of the policy-holders. Why don't you meet him and convince him about your points?

Shri M. L. Pasricha: In cooperative companies there is shareholding and they declare dividends. That is not the case with us.

Shri K. Suryanarayana: In spite of that you are not giving any benefits to the policy-holders.

Shri M. L. Pasricha: The positive incentive we give is greater coverage. In the case of motor policies . . .

Shri K. Suryanarayana: Leave that instance. All the companies are giving on motor policies. How many non-tariff companies are working in India?

Shri M. L. Pasricha: About 5 or 6.

Shri K. Suryanarayana: All of them are making profits, I think.

Shri M. L. Pasricha: We are the only company having re-insurance arrangements.

Shri Morarji R. Desai: You said that all the policy-holders are members of your Association. That is the distinguishing mark of your Association. Isn't it? All the Directors are from London though the Company exists here?

Shri Pasricha: We have not constituted a Local Board here.

Shri Suryanarayana: The existing policy holders will decide the fate of the ex-policy holders? What is the meaning of the General members? General body means just like our public meeting.

Shri Morarji R. Desai: I think this will have to be very seriously considered whether this should continue working on these terms, or not. This I must tell you very frankly. I did not realise this at all until today.

Shri Pasricha: It offers employment...

Shri Morarji R. Desai: Either you change your conditions.

Shri P. Ramamurti: You said that the premia that is collected in this country is the total profit for that year. During the last three years you have not remitted profits?

Shri Pasricha: No, Sir.

Shri P. Ramamurti: Have you made any investments out of the profits during this period in India? What are they?

Shri Pasricha: Investments made are approximately worth Rs. 44 lakhs.

Shri P. Ramamurti: What is the type of investment?

Shri Pasricha: Government securities Rs. 13 lakhs....

Shri P. Ramamurti: What is the total profit you have remitted to U.K. from the beginning up to this year?

Shri Pasricha: That figure is not readily available with us here. I can tell you later.

Shri Humayun Kabir: What is the figure for 1962, 1963 or 1964?

Shri Pasricha: For 1962, 2 lakhs 55 thousand.

Shri P. Ramamurti: What is the percentage of the premia for the Head Office expenses?

Shri Pasricha: It is book entry. Five per cent.

An hon. Member: What are the Head Office expenses?

Shri Pasricha: Supervisory staff is there.

Shri Mrityunjay Prasad: You said that you give rebate or additional advantage to policy holders out of the profits. But you have confined it mainly to motor insurance?

Shri Pasricha: Also fire. We give 10 per cent official cut.

Shri Mrityunjay Prasad: Does the insurance company give bonus?

Shri Pasricha: Yes.

Shri Mrityunjay Prasad: Secondly, as an insurance man you can give some suggestions as to what is the real difficulty, in running your show yourself without depending upon your Head office because you are the Manager for India...

Shri Pasricha: It cannot be denied, Sir, that UK certainly gives us a fair amount of technical advice, and on selection of business, etc.

Shri Mrityunjay Prasad: Then in that case, do you refer under-writing cases to your Head Office, or do you do that yourself? Approximately in how many cases you seek Head office guidance?

Shri Pasricha: Difficult cases are referred to the Head Office, as also the drafting of policies.

Shri Mrityunjay Prasad: But then you have confined your business to a very limited variety of insurance.

Shri Pasricha: Very limited class.

Shri Pasricha: About 10 per cent.

Shri Mrityunjay Prasad: That is the only thing which depends upon England. The rest you are managing.

Shri Pasricha: Yes. It is a fairly autonomous branch otherwise.

Shri B. S. Sharma: In reply to Dy. Prime Minister's question you stated that all your Directors are foreigners

and there is not a single Indian Director. I find that the Auditors are also foreigners for auditing the accounts of Indian branches. Can't you have Indian auditors for Indian branches.

Shri Pasricha: They are Indian auditors.

Shri B. S. Sharma: You have not mentioned it here. One thing more—are all the officers of the Indian branches Indians or foreigners?

Shri Pasricha: All are Indians in all the branches. It is completely Indianised.

Shri Morarji Desai: Let the money also remain here.

Shri Pasricha: It has been retained since 1964.

Shri Kothari: Why do not the Indian Policy holders share the benefits which accrue in the U.K. because all the Policy holders are at par.

Shri Pasricha: That is what is done.

Shri Kothari: Is there any instance when money has come from U.K. to this country for such distribution?

Shri Pasricha: When any investments are required and we do not have any money they do remit.

Shri Kothari: I am talking of the profits. I am not talking of investments. So, it is only one way traffic then.

Mr. Chairman: Thank you very much, gentlemen.

(The witnesses then withdrew)

श्री रामावतार शास्त्री : अध्यक्ष महोदय, एक प्वाइंट ऑफ ऑर्डर है ।

श्री शेरखान : सेलेक्ट कमेटी की मीटिंग्स में भी प्वाइंट ऑफ ऑर्डर होते हैं ?

श्री रामावतार शास्त्री : हां, हर जगह होते हैं ।

श्री शेरखान : मैं चेयरमैन की क्लियर चाहूंगा ।

सभापति महोदय : क्लेरिफिकेशन होगा, प्वाइंट ऑफ ऑर्डर नहीं होगा ।

श्री रामावतार शास्त्री : मैं आप का ध्यान दिलाना चाहता हूँ, कस जब विटनेसेज का काम शुरू हुआ और उनके रेप्रेजेन्टेटिव्स आये तो आपने कहा था कि मेल-प्रीक्टिसेज के अगर आप उदाहरण पेश करना चाहें तो पेश कर सकते हैं, वह चीज बाहर नहीं जायेगी । लेकिन मुझे आज बाहर खबर लगी कि उन्होंने एक कम्पनी का नाम लिया था, श्री गोयनका की कम्पनी का, उस कम्पनी के बारे में उन्होंने कहा था कि और बात बतायेंगे लेकिन यह खबर उनके मैनेजर को लग गई । हम में से ही किसी ने उनको खबर कर दी और वह पतुंच गये जिन्होंने बात पेश की थी उनके पास कि हमारा नाम या हमारी कम्पनी का नाम इस सेलेक्ट कमेटी में कैसे पेश हुआ । तो मैं जानना चाहता हूँ कि अगर इस तरह की बात होगी तो बहुत सारी इन्फार्मेशन जो सही मानों में हम क्लेक्ट करना चाहते हैं उसमें दिक्कत होगी और बहुत मुमकिन है कि जिन लोगों ने यहां यह बात कही थी किसी न किसी रूप में उनके ऊपर कोई कार्यवाही की जायेगी । यह मैंने आप के नोटिस में लाना इसलिए मुनासिब समझा कि आपके कहने के मुताबिक ही उन लोगों ने नाम डाइवल्ज किया था और आगे भी कर सकते हैं ।

सभापति महोदय : वह जो नाम डाइवल्ज किया था, उसको तो हम सीक्रेट रखेंगे । वह चीज बाहर नहीं जायेगी ।

श्री रामावतार शास्त्री : लेकिन वह तो बाहर चली गई । यही मेरा कहना है । यह बात उस इन्वियोरेंस कम्पनी के मैनेजर को मालूम हो गई । वह कैसे मालूम हो गई, यह आप पता लगायें ।

सभापति महोदय : हमी लोग कहेंगे तभी तो होगी ।

श्री रामावतार शास्त्री : हमी में से किसी ने कह दिया होगा जालान साहब को । यह बहुत सीरियस बात है । इस तरह से तो हम लोग ठीक तरह से काम नहीं कर सकेंगे और जो ड्यूटी है उसको पूरा नहीं कर सकेंगे ।

श्री जार्ज करनेबीज : अध्यक्ष महोदय, प्रश्न यह है कि कल यहां कुछ कम्पनियों का नाम लिया गया था तथा उनकी घोर से जो कार्यवाही चलती है, उसकी जानकारी यहां पर दी गई थी। कल ही रात को एक व्यक्ति को, जो इन कर्मचारियों में एक प्रमुख व्यक्ति है, उनको उनकी कम्पनी के मैनेजर ने फोन किया और यह कहा कि कई वर्षों से हम लोगों का इतना अच्छा रिश्ता रहते हुए भी आप ने हमारी कम्पनी का नाम क्यों लिया, इसका नतीजा आपके लिये अच्छा नहीं होगा। हो सकता है कि यह मामला यहीं तक रुक जाय, लेकिन हम अ पसे यह प्रार्थना करना चाहते हैं

सभापति महोदय : इस को यहीं पर रोक दीजिये, इसके बारे में फिर डिस्कस करेंगे।

Indian Insurance Companies Association, Bombay (Representing the entire General Insurance Industry in India composed both of Indian and non-Indian companies)

Spokesmen:

- (i) Mr. D. Hammond Giles, *Chairman Overseas Insurances' Association.*
 - (ii) Shri P. U. Patel, *Chairman Special Advisory Committee.*
 - (iii) Shri K. P. Mody, *Chairman Indian Insurance Co. Association, Calcutta.*
 - (iv) Shri Himmatlal V. Gandhi, *Vice-chairman, Special Advisory Committee.*
 - (v) Shri S. K. Desai, *Technical Adviser.*
 - (vi) Shri E. K. Srinivasan, *Chairman Indian Insurance Co. Association, Madras.*
 - (vii) Shri C. M. Teliwala, *Chairman Indian Insurance Co. Association, Bombay.*
 - (viii) Shri G. V. Kapadia, *Technical Adviser.*
- (Witnesses were called in and they took their seats)

Mr. Chairman: The evidence that your tender is likely to be published and it may be published in the newspapers also. If you want any part of your memorandum or evidence to be kept confidential, you may indicate it, but even then it is likely to be made available to Members of Parliament.

Shri Patel: We have no objection if it is treated as public.

Mr. Chairman: If you would like to add to the points mentioned in your memorandum you may do so.

Shri Patel: With your permission I would like to read out a short note which would highlight the important points.

Mr. Chairman: That would come out when questions are asked. At that time you can elucidate the points.

Shri S. S. Kothari: Is it the practice for insurance companies to purchase shares of new industries or new companies which have been floated, and if so, how will the provisions of this Bill affect such investment?

Shri Patel: There have been quite a few concerns started in recent years; these companies are potential growth stocks, but under the conditions of the Bill as they stand today, we cannot go in for these investments because the period stipulated is 7 years out of the immediately preceding 8 or 9 years. If the period is shortened, we can certainly avail ourselves of this opportunity.

Shri S. S. Kothari: Cannot the 25 per cent provided for investment in unapproved securities or investments be used for the purpose of buying shares in new companies?

Shri Patel: Yes, we are permitted to invest 25 per cent in unapproved investments. But that would not be adequate in the case of a large number of insurers. It is all right in the case of very large companies, but in the case of the majority of insurers, that limit of 25 per cent would not meet the situation.

Shri S. S. Kothari: Do you have any suggestions in this regard?

Shri Patel: We have suggested the shortening of the qualifying period to 3 years, three out of the immediately preceding 4 or 5 years.

Shri S. S. Kothari: Why should not the commission on marine and fire business also be reduced to bring it on a par with the commission on other business, say 5 per cent or 4 per cent or 3 per cent? I think that that would bring about a healthy atmosphere in the trade.

Shri Patel: Actually, there is all the case for it, but we did not refer to it specifically because the Bill has left that untouched. As you know, marine business is notoriously unprofitable and so is motor business because of the conditions existing today. There is all the case therefore for reducing the rates of commission payable on that business also.

Shri S. S. Kothari: Would the commission on the slab basis envisaged in the Bill be workable?

Shri Patel: There are so many difficulties. Let me give one illustration. Suppose there is a textile mill. It is customary for people to place this business with half a dozen or a dozen different companies through different agents. The insurance policy is not a constant document because it is subject to so many changes because of changes in rates of premia, changes due to so many other reasons; and so endorsements have to be passed throughout the year and the quantum of premium fluctuates. The result is that unless the first 12 months are over, we cannot possibly find out the net premium on that particular risk. At the same time we cannot pay the agent his commission till his *pro rata* share is also ascertained. The whole process would take something like 14 to 15 months before an agent could be paid.

Shri S. S. Kothari: It takes 14 to 15 months?

Shri Patel: In the case of these big risks, endorsements have to be passed every now and then, and the total sums insured keep on fluctuating, and the total premium keeps on fluctuating. Since there are two slabs, a commission of 10 per cent in one slab and 5 per cent on the next slab we shall have to collect information from all the insurance companies sharing in that particular risk, and ascertain the *pro rata* share of every agent, and then only we can determine the commission payable. Obviously it will take anything more than 12 months.

Shri S. S. Kothari: Would you like a uniform basis, a single slab, whatever figure Government might decide upon, say 5 per cent or 6 per cent for all classes of insurance?

Shri Patel: We would welcome a flat rate of commission and not a slab basis.

Shri S. S. Kothari: Assuming that Government accept the idea of a board of insurance at what stage would you like that to exist, at the appellate level or at the controller's level?

Shri Patel: We would like the Board of Trade to be associated from the start.

Shri S. S. Kothari: Not the board of trade but the board of insurance.

Shri Patel: Yes, a board of trade or insurance or whatever you may like to call it, composed of very senior officers. We would like the controller before taking any weighty decision to consult his colleagues on that board, have their approval and then act, so that we shall feel that mature consideration has been given before a particular decision is arrived at. Therefore, it is essential that it should start from the beginning.

Shri S. S. Kothari: Would it be on the lines of company law board?

Shri Patel: The company law board is concerned only with payment of remuneration of the principal officer and that is all that it does so far as the insurance industry is concerned. But the board that we visualise is a

board which would deal with everything, with anything arising out of sections 34 to 34H or any other section of the Act. But I am mentioning these sections specifically because they deal primarily with the powers of the Controller of Insurance.

Shri Kothari: Would you favour a blanket provision making applicable to LIC all the provisions applicable to general insurance?

Shri Patel: That seems to be the only solution. We are working in the same market and it is absolutely necessary that LIC so far as its general department is concerned must be subject to the same rules and regulations and limitations that we are subject to. That alone can promote healthy growth.

Shri Kothari: The DPM says that they will apply.

Shri P. Ramamurti: There is no exemption given in the Bill.

Shri Kothari: If the Board of Insurance is there, do you still have objection to the Controller's powers as envisaged in the Bill?

Shri Patel: The powers of the Controller are far too wide, and in certain cases, go beyond the existing practice, so far as the banking law is concerned. In cl. 37, sec. 110E, certain sections which would apply to LIC are mentioned but others are not.

Shri Morarji Desai: What are the other things not applying?

Shri George Fernandes: What is your difficulty about 110E?

Shri Patel: Certain sections which apply have been mentioned while sections 34G, 40A, 40C, 101A & B are not mentioned.

Shri P. Ramamurti: A reading of that section shows that it does not mean that the other sections are not applicable.

Shri Morarji Desai: LIC is absolutely under the control of Government whereas you are not. Therefore, you have to be brought under this control. But LIC is all the while under greater control than you, even

in spite of this. You are not under that degree of control. LIC has no advantage over you in this matter at all.

Shri Balgovind Verma: There is a general apprehension among the general public that malpractices are going on in insurance business and in order to eliminate undesirable practices, regulate the business, restrict voting right, regulate investments, confer powers on the Controller to ensure sound and healthy functioning of the business, the Bill has been brought forward. Still you say in your memorandum that unless basic modifications are made, it would be difficult for insurance to play its rightful role in the development of the country. You also say that certain measures envisaged here would hamper you from doing service. How have you arrived at this conclusion?

Shri Patel: We are entirely one with Government in placing the insurance industry on healthier lines. But take the powers sought to be vested in the Controller. First, the management of an insurance company or the board of directors, who are responsible for its working, would have no power to grant any increment or to appoint anyone or to terminate the service of a specified category, while it will be open to the Controller to remove anyone, appoint anyone without also assuming the functions of an administrator. The board is rendered so powerless that it has no right to recognise merit, to terminate the employment of a disobedient employee. Such a board cannot function efficiently.

Secondly in the matter of claims, the Controller is empowered to fix a sum smaller or larger than what is to be paid after the receipt of the surveyor's report. If the Controller is given this power, the insurers cannot act with proper initiative. It would be very difficult for them in day to day transactions to take the initiative to settle claims for fear that somebody else will intervene. Then again, claims are paid all the world over in certain

circumstances on an *ex gratia* basis; where there may be some doubt as to the company's liability to pay a particular claim, in order to avoid litigation and so many things, it may make *ex gratia* payments. If such a payment is made after this Bill is passed and if the Controller has the right to say 'No, you have done something wrong', there will be an atmosphere of doubt and hesitation and the insured will suffer because settlements will not be quick.

Shri Balgovind Verma: Firstly, you fear undue interference from the Controller in your activities; secondly, you think that he may remove any director as he likes. I wonder whether this will happen as you envisage. The Controller will act on his own judgment. He will not be interfering in your day to day working unless he is sure that something has gone wrong. If he finds that one or two directors are not acting as per rules, he has every right to remove them. What is the objection?

Shri Patel: After all, this is all there in black and white in the statute. The possibility of the powers being misused by someone cannot be completely ruled out. We have nothing against any particular individual, but we cannot expect good Controllers in perpetuity. We are concerned with the institutions and the powers that are there.

Shri Balgovind Verma: Why only see the dark side? Why not see the bright side also?

Shri Patel: We are being realistic.

Shri Balgovind Verma: Does it mean Government are very unrealistic?

Shri Patel: I cannot say that.

Shri Man Singh Varma: In your memorandum, on page 5, in regard to clause 17, section 37A(2), you say that the remuneration of the insurer cannot be guaranteed. You mean that you have no objection if an employee gets much less than what he was getting before?

Shri Patel: That is not the submission of the entire industry. That is a submission perhaps by somebody else from Calcutta.

Shri Man Singh Varma: Don't you represent the whole industry?

Shri Patel: We are here on behalf of all the associations in India, including the Overseas General Insurance Association. That is a memorandum submitted by those in Calcutta, I believe.

Shri Beni Shanker Sharma: You represent all the insurance companies in India. Will you let us know what is the capital invested by all these companies and what is the average annual premium that you get in India?

Shri Patel: The average annual premium, according to the latest estimate, is about Rs. 78 crores to Rs. 80 crores.

Shri Beni Shanker Sharma: Including the overseas companies?

Shri Patel: Yes; including that, it would be of the order of Rs. 80 crores.

Shri Beni Shanker Sharma: I would like to have the figures separately for the Indian companies and the overseas companies. You may send them later on, if you do not have them now.

Mr. Giles: The overseas companies have Rs. 20 crores of the total market.

Shri Beni Shanker Sharma: You have complained vehemently against the powers given to the Controller and perhaps according to what you have said, even Tughlak would have been ashamed to assume those powers. In reply to the question put by my friend Shri Kothari, you have said that you will be satisfied if there is a Board of Insurance Industry. Would you like the Controller to be controlled by that Board of Insurance Industry, or, should it be only like an advisory body?

Shri Patel: I would not use the word "control."

Shri Beni Shanker Sharma: You would like him to be guided.

Shri Patel: He would be guided by the advice of very senior colleagues on that Board.

Shri Beni Shanker Sharma: According to you, what should be the constitution of that Board?

Shri Patel: There is no exact parallel. There is a Board of Trade in the United Kingdom; it deals with so many other things besides insurance. What we have in view is the constitution of a Board of Insurance composed of very senior and experienced officials of Government.

Shri Beni Shanker Sharma: Would you like a representative of the trade to be associated with that Board?

Shri Patel: If the Government so desire, we should very much welcome it.

Shri Beni Shanker Sharma: As regards the deposit of Rs. 2 million, you have suggested that it should be one million. So far as we are concerned, we are against monopoly and, at the same time, we do not like that the power should be concentrated in a few hands. Do you think that if this two million is retained, the power will be concentrated in a few hands and the smaller companies will go out of business?

Shri Patel: Yes, Sir; because the present position, as you know, is that it is 1,50,000 and 3,50,000 which is suddenly stepped up to 10 lakhs. According to the Government it is being stepped up to 20 lakhs. I know that it is payable over a period of years by instalments but it would certainly cause very great hardship to certain companies who are operating very efficiently and economically and who are the strength to the Indian insurance market. This deposit business is a sort of deterrent. If I do not deposit a certain sum of money, I cannot do insurance business. Originally, the sum was much smaller; in 1950, it was fixed at the present level. In the case of smaller, medium-sized companies, 10 lakhs may give strength and may go for the protection of the policy-holder, but for the big institutions 10, 20 or 30 would not make any difference. It will not improve the solvency of a very big insurer. At

the same time, it would create difficulty for the other people and it will not solve this question.

If I put it in the right way, in the United Kingdom and in a country where much bigger risks are undertaken, very much higher premium is under-written, the requirement of capital is £ 1,00,000 and a margin of £ 50,000, and at the old rate of about Rs. 13 a sterling, it would be in a sense a sum of Rs. 20,00,000, both combined. That is why we suggest a deposit of Rs. 10 lakhs and a solvency margin of Rs. 10 lakhs.

Shri Beni Shanker Sharma: You are speaking for the bigger companies, which brings us to the question of amalgamation. If a company is not able to function properly and not able to deposit the required money, that company shall have to be amalgamated with another company. In the present Bill, there is no provision for the consent of the transferee company or the transferor company. Would you like that both the transferee and the transferor companies should voluntarily unite or otherwise?

Shri Patel: Voluntarily, two people combining, there can be no objection whatsoever. But here is a situation where somebody is being forced on somebody else. That means a good company will suffer as a result. It would be easier perhaps to cancel the registration of an insurer who is unable to meet his obligation, but that amalgamation should be resorted to only when a company is unable to meet those liabilities. That company, if it is amalgamated with a good company, would spoil the position.

Shri Beni Shanker Sharma: The Controller has the power to ask any company to take in some other company which is a weak company. If the transferee company is not agreeable, what remedy will you suggest? That company cannot go on. That is evident. That company has got to be amalgamated with some other company with which it could carry on?

Shri Patel: My submission is that keeping that company alive will not be a very great help to the market.

Shri Beni Shanker Sharma: Everybody has a right to exist.

Shri Patel: We do not mind that they should exist, but the amalgamation part of it would worsen the position.

Shri Beni Shanker Sharma: What will be your alternative suggestion?

Shri Patel: Cancel the registration; if it is not acceptable, then the Government can take it over.

Shri Beni Shanker Sharma: As regards clause 4—application of section 6A—sub-section (7), which says that where the total paid-up holding of any person in the shares of a company exceeds five per cent of its paid-up capital where that person is a banking company or an investment company, or ten per cent of its paid-up capital in any other case, he shall dispose of the excess holding of shares within three years from such commencement and so on, what is your reaction to it? We are restricting your voting right, and at the same time, we ask you to dispose of the excess shareholdings.

Shri Patel: Our reaction is very plain and simple. If the voting rights are restricted, keeping the shareholdings undisturbed would not do much harm, but what is more, the people who have shares with them would find it extremely difficult to unload the shares on the market which is not insurance conscious. Without achieving much, we would be creating a difficult position for these people.

Shri Beni Shanker Sharma: What motive do you think Government had in putting this ceiling on excess holdings?

Shri Patel: Government's objective is dispersal of economic power. But benami shareholders can always be created. The solution is not so simple.

Shri Mrityunjay Prasad: Amalgamation affects the employees very much. Suppose a company which is to be amalgamated is not doing well because of its mismanagement like exceptionally high salaries being paid to the employees. The transferee company might be paying much lower scales to its own employees. The emoluments are guaranteed according to this present amendment. How to integrate the two groups of employees so that there may not be any heart-burning?

Shri Patel: The relative section protects only those who are covered by the Industrial Disputes Act and not those who get very high salaries. The transferee company is under no obligation so far as highly paid officials are concerned. Suppose there is a company B with which company A is to be amalgamated. The scales of pay may be different in the two companies. B may be running efficiently and yet find it difficult to comply with section 40C. There are certain measures prescribed for those who do not comply with section 40C. If a company which complies with section 40C with great difficulty is called upon to look after another company and its employees, that would create hardship.

Shri Mrityunjay Prasad: You said that if a company is not doing well and if no company is prepared to accept it, Government should accept it. In what way should it be done?

Shri Patel: Just as Government is creating corporations to take over sick units of certain industries, in this case also Government can devise ways and means of taking over such companies by forming corporations.

Shri Mrityunjay Prasad: There is a suggestion that surveys should not be automatic in cases of claims below Rs. 20,000. What is your view?

Shri Patel: We fully appreciate the reasons which have made Government put in this provision. There is only one thing to which objection can be taken so far as claims below Rs. 20,000 are concerned. That is, payment of

fees to other persons is barred. That would create practical difficulty. Suppose there is an accident or fire 200 miles away and there is no approved surveyor in the vicinity. Something will have to be done to cover such cases. We are prepared to render an account to the controller, but payment of some remuneration should be allowed in such cases.

Shri Mrityunjay Prasad: Do you want any special qualifications to be fixed for your agents?

Shri Patel: Yes. We have been agitating for that for a long time. Actually that is the root cause of all the trouble. Some educational qualification must be there, so that he can render proper service to his clients.

Shri Mrityunjay Prasad: Have you any objection to the insurance executives being treated as public servants?

Shri Patel: We are a trading organisation just like any other trading organisation and we are subject to the Indian Penal Code. Why should we be singled out for this treatment?

Shri Mrityunjay Prasad: In the LIC, everybody is treated as a public servant. You should be at par with LIC.

Shri P. Ramamurti: The Bill prescribes certain approved investments and it gives you freedom to invest 25 per cent of your investible funds in free investments, that is, investments according to your own desire. What would be your reaction to restricting the freedom of such free investment to 10 per cent?

Shri Patel: Now this legislation is on the lines of the one relating to Life Insurance Corporation, where the limit is 15 per cent. But that is a different matter because the amount involved there is big. Relatively speaking, our amounts are small. We have to play our part in a growing economy. We have to take advantage of the market conditions whereby we would benefit by investing in good stocks. In the case of several companies this 25 per cent would be a

very small amount; it would not be a very big amount.

Shri P. Ramamurti: In the case of some companies it would amount to some crores. The total investible funds of all the companies put together amounted to Rs. 150 crores last year out of which 40 per cent is kept for reserve.

Shri Patel: May I say that you are referring to assets? The available funds would be only of the order of Rs. 60 crores. I agree that there are some companies which have large funds, but we have to prescribe a uniform rule for all companies.

Shri P. Ramamurti: Suppose we prescribe a percentage and also a ceiling limit of, say, Rs. 25 lakhs?

Shri Patel: In the present stage of the Indian capital market I doubt whether we would be rendering a real service to the economy by prescribing such a limit.

Shri P. Ramamurti: With regard to re-insurance, suppose the Bill through an amendment prescribes that there shall be no re-insurance with a foreign company except in the case of marine insurance, where Indian companies have not done sufficient business and there are all kinds of risks and that in the case of all other types or risks re-insurance shall be only with Indian companies, what would be your reaction?

Shri Patel: The position is that even today foreign markets are not willing to accept our marine business. Secondly, we ourselves have made a serious attempt to cover as much as possible of the risks internally but we have found that it is not practicable. The volume of our business has gone up so much that it is not just possible to absorb the entire business. We have to go abroad for covering our risks. Here I may mention that even a country like the United States, where the insurance risk is worth billions and billions of dollars, they pay premium worth many million dollars to the international market be-

cause they could not absorb them. So, we have got to go to the international market. If we try to retain everything in this country, perhaps we would burst. Because, so many industrial complexes are coming up. Our risk today is not confined to just Rs. 50 crores or 60 crores. Tata Steel, Telco and other big companies have invested so much money and we cannot retain all the risk in this country because of the limitation of our resources. We wish to, we would like to, but we cannot just do it.

Shri P. Ramamurti: You were saying that the powers granted to the Controller of Insurance are far in excess of those granted to the Reserve Bank over banking companies. Could you clarify it?

Shri Patel: So far as we are aware, the Reserve Bank deals with the Board of Directors or principal officers of banks. In our case, the Controller goes down to a Secretary or Accountant, under-writer and so on. So, we said that it is going a little too far.

Shri K. Suryanarayana: You have suggested in your memorandum qualifications for agents. But you have not suggested any qualifications for surveyors. Do you not agree that the surveyors should have some technical qualifications?

Shri Patel: They must have, because it is a highly technical subject. But some of the present surveyors have been working for 20 or 25 years. They may not have a first class technical qualification but by usage, custom and practice they have been able to carry on and they would be on par with other technically qualified persons. But if it is a question of prescribing qualifications, they should no doubt be technical qualifications because these people have to deal with intricate business of assessing and surveying.

Shri K. Suryanarayana: Some of the non-tariff companies are getting bigger profits even though their pre-

mium is less. In fact, some of the foreign companies have asked us to reduce the tariffs. What is your view on that?

Shri Patel: The foreign companies deal with only a very small portion of the Indian premium income. They cater to a very limited clientele. Actually, non-tariff companies use our own tariffs and then allow a certain discount. If we allow a market of our size to go non-tariff, it would be inviting disaster. Everybody will compete so frantically that the Indian insurance industry will go to pieces.

Shri K. Suryanarayana: Out of the profits earned by the foreign insurance companies in India how much are they investing here and how much are they taking to their country?

Shri Giles: I do not think I have full details of that. Under the Reserve Bank Regulations we have, of course, to keep premium income reserve of 40 per cent and outstanding loss reserve and reserve for income-tax. It is only when we have retained for all that in the country that we can remit outside the country. So, a very substantial amount must be retained here. I guess it may be in the region of Rs. 10 crores.

Shri K. Suryanarayana: In which industries do the foreign insurance companies invest money in India?

Shri Giles: Foreign insurance companies have got quite substantial investments in Indian insurance companies. In fact, they have been instrumental in building up the Indian insurance companies for a considerable time. In addition, of course, they have many other investments which are partly in government investments and partly in the private sector in equity shares, in some cases loans and debentures.

Shri K. Suryanarayana: In page 50 of your memorandum you have suggested some alteration in the composi-

tion of the committee. Are you prepared to suggest some members from certain classes like agriculture, trade and industry? Would it not be beneficial to your industry?

Shri Patel: In our case the position is different from banking. I do not see how it is going to help insurance companies in their actual operations.

Shri K. Suryanarayana: The Government's first concern is to look after the interests of the policyholders; then only comes smooth running of the insurance companies. We too are interested in the policyholders mainly. Most of the commodities are coming from the rural areas but they do not find a representative on the advisory committee. The farmers do not know the a, b, c of tariff and simply pay the premium as asked. That is why I suggested the agent's qualification also. Government has proposed to avoid these malpractices that up to Rs. 1 lakh Business there should be no agent or something like that. But we want representatives of the policyholders on the advisory committee so as to look to their interests.

Shri Patel: This rate-making is a highly technical subject. Statistics and data are maintained by us and are reviewed periodically by us. In the light of changed or changing experience decisions are taken.

As to the reference to 8 Indian members and 6 non-Indian members on the advisory committee, we have submitted that because of the changed conditions there should be some re-adjustment in the representation.

As regards the representation of policyholders on this advisory committee, which is a very highly technical committee, while one may not mind somebody else being associated with it one has to examine first the implications of such a move as to whether it will do any good to the gentleman concerned or to the insurance company concerned or to the industry. It

is a business for the specialists. That is why these representatives are there from all over the country. They get together periodically and regulate the rates. Now the Controller of Insurance is the chairman of this advisory body and no change can be effected without his approval. So one can be sure that a close examination will be made and the interests of the insured or the policy-holders will not suffer.

श्री रामावतार शास्त्री : क्या आप यह मानते हैं कि जनरल इन्स्योरेंस इंडस्ट्री में मेल-प्रीक्टिस दिन प्रति दिन ज्यादा बढ़ती जा रही है ?

Shri Patel: I do not know what answer I can give. Even under the existing Act, which has been amended so often since 1950, the Controller is having vast powers. If people were guilty of those malpractices, it is legitimate to suppose that they would have been hauled up by the Controller. I am aware of such persons having been hauled up.

श्री रामावतार शास्त्री : आप को याद होगा कि सन् 1962 में उस समय के फाइनेंस मिनिस्टर और प्राइम मिनिस्टर और फाइनेंस मिनिस्टर श्री मोरारजी देसाई ने यह मेल-प्रीक्टिस और दूसरी गड़बड़ियों को देखते हुए यह चेतावनी दी थी कि अगर आप लोग अपने कारोबार को ठीक नहीं करेंगे तो फिर जनरल इन्स्योरेंस का राष्ट्रीयकरण या नेशनलाइजेशन करना होगा। उसके कहने के बाद उस इंडस्ट्री में कुछ सुधार हुआ है या नहीं हुआ है ? आपकी इस बारे में क्या राय है ?

Shri P. Ramamurti: Your contention is that it was never bad.

Dr. B. N. Astani: Do you want an implied admission on their part?

श्री रामावतार शास्त्री : आप ने अपने मैमोरेण्डम के फर्स्ट पेज पर यह कहा है :

"It is feared that certain measures of control as detailed in

the Bill would hamper the resilience of the companies in giving quick service and also would hamper their day-to-day functioning."

कम्पनियों पर और ज्यादा कंट्रोल हो इसका आप विरोध कर रहे हैं। कंट्रोल को रिलैक्स करने की आप मांग कर रहे हैं। कंट्रोलर आफ इश्योरेंस की भी पावर्स का आप विरोध कर रहे हैं तो क्या यह बात नहीं है कि यह सिर्फ कहने के लिये आप कह रहे हैं क्योंकि अभी तक आपके डाइरेक्टर्स सुप्रीम पावर में हैं, आप की असोसियेशन के आफिस बिजनेस ज्यादा पावर बील्ड करते हैं और सुप्रीम समझे जाते हैं अब इस बिल के द्वारा जो उनकी पावर्स पर भ्रुकुश लगाया जा रहा है, उन्हें कब्र किया जा रहा है और उस कंट्रोल का आप विरोध कर रहे हैं तो क्या आप ऐसा नहीं समझते हैं कि इसके होने से जो मेल-प्रीक्टिससेज हैं और जिन्हें कि दूर करने में बहुत सक्सेसफुल नहीं हो रहे हैं, उसमें इससे सहायता मिलेगी और काम की एफिशिएंसी बढ़ेगी ?

Shri Patel: We are one of the most highly regulated industries in this country. The Insurance Act has given very wide powers to the Controller of Insurance. As regards the other part of it, we have put up this plea not because we are worried about somebody encroaching on our powers. After all, our powers are very small. We are looking at it from the standpoint of the entire insurance industry, which is a service organisation, whether we shall be in a position hereafter to render that quick and proper service which is the due of an insured. I have my doubts whether we shall be able to do so. We shall not be able to discharge our responsibility to our satisfaction or to the satisfaction of the insured. Of course, the Controller has the power to ask for all the details even today, but if this power is given then every insured will keep on writing letters to the Controller saying that he is not satia-

fied and that the issue should be re-opened. Thus there will be no end to the process.

Shri Morarji Desai: May I ask if you started this business only for service? Was that at all the idea with which the business started? The business started for making profits. Service is only a secondary part of it.

Shri Patel: Every industry makes profit while rendering service. In our case the accent is on service because insurance has nothing else to offer.

Shri Morarji Desai: Insurance has something to offer and more to take. It does not offer that something to everybody but it takes something from everybody and offers it to a few. Therefore what is the service that you render?

Shri Patel: The basis of insurance is that.

Shri George Fernandes: You are the chairman of the special committee on general insurance.

Shri Patel: Yes.

Shri George Fernandes: Under what circumstances was this committee set up?

Shri Patel: The committee was set up in the Indian Merchants' Chamber Hall after the Congress Working Committee had passed a certain resolution. One of the ten recommendations was the possible nationalisation of general insurance business. At that time the insurers got together and appointed this committee.

Shri George Fernandes: The objective of the committee was to campaign against nationalisation.

Shri Patel: I will not put it like that. The objective was to give a clear picture to the entire public of the role the insurance has to play.

Shri George Fernandes: Do you think the objective has been served to a great measure?

Shri Patel: So far as I am aware, Government has decided to have this Bill instead of nationalisation.

Shri George Fernandes: The objective has been served upto a point.

Shri Patel: It is not upto me it is not a question of my objective.

Shri George Fernandes: Are you, as the Chairman of the Committee, satisfied that the Committee has served a useful purpose?

Shri Patel: I can only say I have done my best.

Shri George Fernandes: The Committee represents the entire general insurance industry. Are the Orientals and LIC General Insurance Branch members of this Committee?

Shri Patel: They are members of a different sector. We are talking of the private sector.

Shri George Fernandes: That means the Memorandum that is submitted by the Committee on behalf of the entire general insurance industry in India is a misnomer.

Shri Patel: I would'nt say that. After all, the LIC is in a different sector and the Orientals are a subsidiary of the LIC.

Shri George Fernandes: It is general insurance.

Shri Patel: Yes; I cannot deny or dispute that.

Shri George Fernandes: My question is very simple. This Memorandum becomes a part of this Joint Committee's documentation papers. The Memorandum says that it is submitted by the Committee on behalf of the entire general insurance industry. That is not quite correct.

Shri Gandhi: The Orientals are a member of the Indian Insurance Companies Association, Bombay which is part of this General Insurance Special Committee.

Shri George Fernandes: Thank you. That is what I wanted to know. Aris-

ing out of what Mr. Gandhi has said, I take it that the Orientals are also making a contribution towards meeting the expenses of the Special Committee.

Shri Gandhi: No, Sir.

Shri George Fernandes: Indirectly. Since it is the Bombay branch of the Indian Insurance Companies Association, it makes a contribution towards that. Since the Bombay Branch is a member of the Special Committee, I take it that the Orientals make a contribution.

Shri Gandhi: No expenses of this Special Committee have been paid by any Association.

Shri George Fernandes: Now, this is a point which upsets all of us. The Statement of Objects and Reasons of this particular Bill says:

"With a view to promoting the development of general insurance business on sound lines and to eliminate undesirable practices in the business, this Bill provides for more effective supervision and control over insurers."

It is signed by Shri Morarji Desai, the Deputy Prime Minister. Have there been many cases of such undesirable practices which are now sought to be eliminated.

Shri Patel: I do not know.

Shri George Fernandes: My hon. friend, Mr. Ramavatar Shastri asked you a question to which you made a very interesting reply about the Controller having adequate powers and all that and not any Companies having been prosecuted for indulging in mal-practices.

Shri Patel: Some Companies had been prosecuted in the past, some years back. I cannot say that. This was not so. But what I said was that the Controller of Insurance has sufficiently wide powers to haul up anybody who is recalcitrant. What I said was that I do not know of such persons being hauled up. I do not know

whether the Controller took the initiative or it was certain other people who took the initiative.

Shri George Fernandes: For instance, the C. B. I. could have taken the initiative, not the Controller. You know the Anand Insurance Company was convicted for falsification of accounts?

Shri Patel: Yes.

Shri George Fernandes: The licensing of the United General Insurance Trust (India) was cancelled.

Shri Patel: Yes.

Shri George Fernandes: You also know that there was a prosecution against the Home Insurance Company Ltd. which is a member of the American Foreign Insurance Association.

Shri Patel: I do not know anything about that.

Shri George Fernandes: In the Parliament itself, the then Deputy Minister of Finance, Mrs. Tarkeshwari Sinha, once alleged that the New Asiatic Insurance Company of the Birlas had resorted to manipulations and falsification of accounts and even forgery. Serious allegations were made on the floor of the House by the then Deputy Finance Minister.

Shri Patel: What am I supposed to say?

Shri George Fernandes: I only want to find out whether you are aware of these things.

Shri Patel: I have heard them only.

Shri George Fernandes: Your grievance is that the Controller of Insurance is an ineffective man that, whatever his powers, he does not take action which he should take and allows the police or other agencies of the Government.

Shri Patel: It is not upto me to criticise the Controller. I have not criticised him. I will not do that. What I said was that it is upto the

Controller to take action is so called for.

Shri George Fernandes: How much overseas business have the Indian Insurance Companies done?

Shri Patel: The gross total will be about Rs. 13.93 crores.

Shri George Fernandes: Yesterday, we heard the representatives of the employees in the Insurance Companies and they said that there should be employees' participation in the management of insurance companies. I am sure you will not welcome nationalisation. That is what the Memorandum says and it says that even certain measures of control as detailed in this Bill would hamper the resilience of the insurance companies in giving quick service and will also hamper their efficient functioning. Would you welcome the suggestion of having employees' participation in the management?

Shri Patel: That is a very large issue. It is not something on which I can speak with authority.

Shri George Fernandes: My question is whether a worker on the board of directors of the general insurance company would find favour with the management.

Shri Patel: We are not certain what contribution the gentleman would make. I find it difficult to answer.

Shri George Fernandes: There is a new provision concerning surveyors that is being introduced. Here, it is proposed that if the report given by one surveyor does not find favour with the Controller of Insurance, he can ask another surveyor to give another finding. Do you have much objection to this proposal?

Shri Patel: It is for the Controller to obtain a report. Our objection is to the other aspect of it, about reducing the amount or increasing the amount of claim. Otherwise, it is always open to the Controller to get another assessment.

Shri George Fernandes: Just now you have powers whether to accept the report of the surveyor or not to accept the report of the surveyor.

Shri Patel: Normally, the surveyors make report without prejudice. If we are satisfied that it is in accordance with the terms and conditions of the policy, naturally, the claim is paid.

Shri George Fernandes: Or would you throw that report aside and make your own settlement?

Shri Patel: He is a professional adviser; he is an assessor. The ultimate decision, of course, has to be taken by us.

Shri George Fernandes: We have the Mutual Insurance Companies apart from the private sector insurance companies. There is one foreign company which operates. You have cooperative insurance companies also. The representatives of these companies have been trying to make out a case that they should be treated separately on a different level from the general insurance companies. What are your views?

Shri Patel: There is no reason why any exception should be made in the case of one insurer only.

Shri George Fernandes: Have the General Insurance Companies been making any donations to political parties?

Shri Patel: They are mentioned in the Balance Sheet; when ever such donations are made, they have to be mentioned in the Balance Sheet.

Shri George Fernandes: Mr. Giles, may I know how many overseas insurance companies are operating in this country?

Shri Hammond Giles: 59 companies, but I should like to explain that some of these companies are subsidiaries of parent companies also operating here, about 16 groups altogether.

Shri George Fernandes: Do you have here the figures of profits which these companies have been sending back home?

Shri Hammond Giles: I do not have those here. They are available in the Indian Year Book, 1967.

Shri George Fernandes: You have, in your Memorandum, on page 2, said on investment of assets that non-Indian companies have built up very substantial assets in India which, in many cases, far exceed any amounts which might be regarded as covering their liabilities. Can you tell us how they were able to build such large assets which far exceed their liabilities?

Shri Hammond Giles: This has been done in some cases by bringing money into the country for investment. I had earlier estimated the assets here as Rs. 10 crores; now I find from the Indian Year Book, 1967, that it is Rs. 22½ crores. These cover statutory liabilities, and in addition to that, we have not remitted what we are permitted to remit because, in the interest of Indian economy, we wanted to invest in the industry here.

Shri George Fernandes: Please refer to section 27B, Clause 11, where there is a prohibition on loans to be obtained on the assets. You have said that the prohibition that is going to be placed on bank borrowings could mean the unhappy necessity of releasing large investments at a short notice in a market where transactions on such a scale might not be possible without considerable financial loss. Could you elaborate this?

Shri Hammond Giles: Suppose there is a claim for a substantial amount. No company will keep the money in cash readily available. Much of this might be reinsured in market and it takes time to recover it from re-insurers. Nevertheless, the insurer wants money to put him back into the business. Therefore, the original company would have to disinvest in order to produce hard cash. Accord-

ing to the present wording of the Bill, it cannot borrow against its investments. It might have to sell investments in depressed market. So, all that we seek here is, as a temporary stop-gap, for the bank to allow us to overdraw their account where we are collecting from re-insurers.

Shri R. D. Reddy: You have said that, when voting rights are restricted, it will not be necessary to compel any person to sell his excess shares. Is it on account of the fact that he will not be able to get a fair price in the market?

Shri Patel: Apart from that, if a person has an excess holding, once his right to dominate the company is limited, the excess holding will not do much harm; what is more, he will suffer a loss.

Shri P. Ramamurti: No. By this, somebody else is deprived of his positive votes. Suppose you hold shares carrying 15 per cent voting rights and you are allowed to vote upto 5 per cent and the rest 10 per cent, you are not allowed to vote. If shares carrying those 10 per cent voting rights were in the hands of somebody else, there would be positive votes in their hands and those positive votes might be against you. So, to that extent, you are restricting it; you certainly gain by this.

Shri Patel: As I have submitted earlier, the distribution of share-holding is on a voluntary basis.

Shri R. D. Reddy: Please refer to the explanation under section 6A. In a public limited company over and above 10 per cent are taken into account for aggregation whereas in a private limited company the entire thing is taken into account for aggregation. Don't you think that this distinction will result in some hardship to certain persons?

Shri Patel: By and large, for the majority of the insurers, it should not cause any material hardship.

श्री शेरखान : आप का जो मेमोरेण्डम है उस के पेज 9 पर डिपाजिट्स के सिलसिले में जो सजेसन है जिस में डिपाजिट्स को 2 मिलियन तक बढ़ा दिया गया है, उसके ऊपर आप ने जो सजेस्ट किया है वह कहां तक मुल्क के मुफाद के लिये या इन्श्योरेंस को सक्सेसफुल लेवेल पर चलाने के लिये ठीक रहेगा ?

श्री क० पी० मोदी : वह डिपाजिट्स छोटी कम्पनियों के लिये ठीक नहीं रहेंगे ।

श्री शेरखान : डिपाजिटर्स एमाउंट 1 लाख 50 हजार से 2 लाख पचास हजार था, अब वह 2 मिलियन तक प्रोवाइड किया गया है मौजूदा बिल में । उसके ऊपर आप ने प्राबजेकशन किया है कि 10 से 12 टाइम राइज ठीक नहीं है । तो किसी चीज को बढ़ाने के लिये अगर 12 टाइम राइज हो सकता है तो उस में आप खुश नहीं हैं ? क्यों आप इस चीज को ऐक्सेप्ट नहीं करते ?

श्री क० पी० मोदी : इसका जवाब हम दे चुके हैं । डिपाजिट 20 लाख कर दिया जायगा तो छोटी कम्पनियां उतना रुपया जमा नहीं दे सकेंगी और मार्केट से चली जायेंगी ।

श्री शेरखान : छोटी कम्पनियों को रहने देने के भी आप हक से हैं ?

श्री क० पी० मोदी : जो कम्पनी अच्छा काम करती हैं उनको हटाने में कोई फायदा नहीं है ।

श्री शेरखान : अच्छाई को अगर आप मानते हैं तो उसी के लिये अगर 20 लाख डिपाजिट किया जा रहा हो तो वैसी सूरत में आप का यह प्राबजेकशन किस हद तक ठीक होगा ?

श्री क० पी० मोदी : जो छोटी कम्पनियां हैं वह इतने रुपये जमा नहीं दे सकेंगी और उनको काम बन्द कर देना होगा ।

श्री शेरलाम : कम्पनी का काम तो रुपया जमा कर के किसी न किसी बिजनेस में लगाना है तो यह भी तो एक बिजनेस ही है जो इन्श्योरेंस कम्पनियों को करना है। इस लेबल पर आप इसको ऐक्सेप्ट करें तो किस हद तक यह चीज आप को ऐक्सेप्टेबल होगी ?

श्री जे.पी. मोदी : उनके पास इतनी रकम नहीं है कि वह जमा दे सकें और अभी वह इतनी कैपिटल रेज नहीं कर सकते।

Shri N. K. Somani: Some of us view with great degree of concern the powers which are sought to be invested in the controller's office. You have given some general comments about the powers. I would like to ask a few questions. Is it within your knowledge that similar powers have been given anywhere in the world—in any other country where insurance is in operation, and secondly, would you like to enumerate some of the more offensive powers which are being given, which you consider absolutely out of proportion and not likely to serve any purpose which ought to be deleted or removed altogether?

Shri Patel: Such powers are not given anywhere else. I cannot say much beyond that. As regards the other powers to which we take objection one, as I said, is the actual day-to-day working, management of an insurance company where the controller would be right in the picture. I cannot grant an increment to a specified category of officers. I cannot appreciate his work. And the explanation to that section says, remuneration including any perquisite, any amenity. Secondly I cannot appoint or terminate a specified category of employees. I can't also appoint without the approval of the Controller. On the other hand the controller can go and sack any one and appoint any one. These powers are far wide. These powers would

make the day to day administration extremely difficult and no board of directors would care to act under such circumstances.

Shri N. K. Somani: I would like you to comment on certain allegations or some such thing against your industry or profession. Out of the investible funds and free funds that are available to you for free investment some of the companies have made certain shady deals to the advantage of companies of their own associates. Would you like to comment on the degree of this kind of operation? I might quote an instance. Market value of certain shares around Rs. 1/2 were bought by an insurance company from its investible funds at 7 or 8 rupees. They sold to another person belonging to the same group at a much lesser price. I would like to know whether this is a matter of common occurrence or what?

Shri Patel: I would say, a very rare occurrence. I hear about it for the first time.

Shri N. K. Somani: Has the controller any power under this bill in respect of such questionable deals?

Shri Patel: He has power.

Shri N. K. Somani: For 75 per cent of the funds you can do as you like.

Shri Patel: There is a section like this. If the controller considers any investment unsuitable or undesirable he can dispose it off notwithstanding anything else. That power he has.

Shri N. K. Somani: We welcome the view that there should be educational qualification and some sort of expert knowledge before one can become an agent. What has been your experience in this regard?

Shri Patel: There are two ways of looking at it. They may not have very much experience, say for 15 years or 20 years, but if they are definitely experienced, and they are put in there.

Shri N. K. Somani: Will you prepare a list of names of such agents whose commission income from you is beyond a certain limit?

Shri Patel: We supply the particular to the controller's office.

Shri N. K. Somani: I wish to ask something regarding the proposed application of the Bonus Act to your industry. What is your special reason to ask exemption or to continue this *status quo* in this respect?

Shri Patel: Ours is the only industry or business whatever you call it; we work subject to statutory limitation under cost. The industry as a whole have been paying a decent amount by way of bonus year after year.

Shri N. K. Somani: Can you specify the quantum?

Shri Patel: It varies from 1 to 3 months. The normal practice is 2 months in some cases.

Shri N. K. Somani: Subject to controller's sanction.

Shri Patel: Sanction of Government. We have to write to Central Government and they have to sanction payment of bonus—considering what is reasonable and all that, having regard to the circumstances of particular cases.

Shri N. K. Somani: In the event this applies to you, what is going to be controller's function, *vis-a-vis* this one....

Shri Patel: That will lead to lot of useless litigation. That is already going on.

Shri N. K. Somani: Shri Fernandes referred to certain instances a little while ago and I would also like to refer to those cases. The mal-practices that are quoted, are they infinitesimal or generally prevalent what?

Shri Patel: It is not for me to offer my comments on any industry. But I am certain that the information is completely exaggerated.

Shri N. K. Somani: Do you think the proposed legislation will induce foreign companies to enlarge their activities? Would they henceforth contribute to the insurance field?

Shri Giles: The companies will continue to serve the Indian market as they have done in the past and I see no difference because there are companies which are Indian companies. They cater to the same market. They continue to serve.

Shri N. K. Somani: Thank you.

Shri K. Chandrasekharan: I would like to know whether the profits of all these 16 groups of companies, 59 companies in all, are taken outside of the headquarters where the companies are situated. Net profits are taken to the foreign places where these companies are incorporated.

Shri Giles: Any amount remitted must go to head office. I don't know of any case where it is paid to another country. Not all services have been transferred overseas. Otherwise we would not have this fairly substantial excess of free assets over and above what is required to be kept in the country.

Shri K. Chandrasekharan: In some of the foreign owned companies there is not even one single Indian in the Director's board . . .

Shri Giles: How many are Indian national, I am not able to say, but as far as overseas companies are concerned, it is our intention to have advisory board here and I am quite certain that that Board will include Indian nationals.

Shri K. Chandrasekharan: Is there any director's board of a foreign-owned company operating in this country which has at present an Indian on its director's board?

Shri Hammond Giles: I am not able to answer that question.

Shri K. Chandrasekharan: In the companies about which you know personally, there are no Indians in the Directors' Board?

Shri Hammond Giles: That is so.

Shri K. Chandrasekharan: No distinction is now made in the provisions of this Bill with regard to the mutual insurance, cooperative insurance, the general insurance department of the LIC and the overseas insurance. If controls have to be there, I hope it is your view as well as the view of the Committee that all these companies—Indian-owned companies, foreign owned companies, mutual, cooperative and the general insurance department of the LIC—should be treated on a par?

Shri Patel: That is so.

Shri K. Chandrasekharan: There is no provision in the Insurance Act at present by which a top executive of an insurance company can be treated as a public servant for the purposes of Chapter IX. You said that even otherwise, the provisions of the Indian Penal Code will apply to every Indian citizen. In a large measure it is correct. But the top executive of an insurance company, if he is to be deemed as a public servant the provisions now contained in 110E would be necessary.

Shri Patel: The proposed section refers to all the employees, not only to the principal officer. It should be all employees or none.

Shri K. Chandrasekharan: Have you got anything to state by way of apprehension regarding the fair rates of premium that will be imposed by the Controller in the exercise of his power and also in regard to the nature and details of the directions that will be made by the Controller in regard to investment?

Shri Patel: About the rate-making part of it, we have no worries at all. After all the Controller will proceed

on the basis of the data that is available and it will be a very scientific approach.

Shri K. Chandrasekharan: You are of the view, I think, that surveyors, assessors and adjusters should come in only if there is a dispute between the insurer and the insured and that they should all be qualified people.

Shri Patel: Surveyors come in not only when there is a dispute. Almost in every case they come unless the claim is very, very small or unless there are special circumstances. Otherwise almost every case is examined by them.

Shri K. Chandrasekharan: In other words, whenever the claim is large, you treat it as a disputed claim?

Shri Patel: Dispute does not start because the amount is big or small.

Shri K. Chandrasekharan: Are you of the view that qualifications should be prescribed for surveyors and assessors?

Shri Patel: Yes.

Shri K. Chandrasekharan: So far as the existing surveyors and assessors who have been in the field are concerned, do you think that a certificate of their practice from the insurance department will be a suitable qualification?

Shri Patel: Yes.

Shri K. Chandrasekharan: Are you aware of cases of insurance companies, especially, the top executives, employing their relations and ex-employees as prominent agents?

Shri Patel: Anybody, under the law as it stands, can be appointed.

Dr. B. N. Antani: As I am aware of the limitation of time, I shall be very brief. I shall first put to you an omnibus question. In the preface or preamble of your memorandum you have unequivocally accepted the objective of the legislation and therefore you are quite prepared, as an

organisation, to cooperate with the Government in achieving that objective provided the hardships or, to an extent, harassments or partial elimination of the smaller businesses are avoided?

Shri Patel: You have put it so beautifully that I cannot try to improve upon it.

Dr. B. N. Antani: As far as your complaints with regard to the Controller are concerned—that great man who, you visualise, with all his powers, can do and undo things which God cannot do—would you be satisfied if an appeal is provided against his decision? You have complained in your memorandum that there is no provision for appeal and therefore, according to you, it will be very undemocratic. Would you be satisfied if an appeal is provided against his decision?

Shri Patel: Our submission is that Government should constitute a permanent appellate tribunal.

Dr. B. N. Antani: Would you be satisfied if the Board of Insurance comprises of persons nominated by the Central Government from among their own senior officers and others and if the Controller will be subject to their guidelines?

Shri Patel: We should be very happy.

Dr. B. N. Antani: With reference to the Advisory Board—you have said something about the Chairman—would you be satisfied if a provision is made for the appointment of a Vice Chairman out of the representatives of the Indian insurance?

Shri Patel: Not necessary.

Dr. B. N. Antani: My last question is about agents—my friend here was very bitter about it. Would you like the agents to have some qualifications before they enter the trade? If so, what are the qualifications that you suggest?

Shri Patel: Primarily it will be a matter of educational qualifications. He should particularly know the technical knowledge.

Dr. B. N. Antani: With no family nepotism or favouritism?

Shri Patel: Certainly not.

Shri Suryanarayana: Why don't you introduce no-claim bonus?

Shri Patel: No country has yet done this.

Shri Suryanarayana: Is there any difficulty? We want your opinion. You are heavily losing on the accident side whereas you are getting profit on fire business. Therefore, why not you introduce this scheme?

Shri Patel: The whole thing is not on all fours. In the case of motor car, the size of loss is very small.

Shri Suryanarayana: According to balance sheets, you are losing in that particular business. You are making profits only on 'Fire'. You are not giving any bonus to the policy-holders.

Shri Patel: That is because of the annual trading average. But we are helping the policy-holders by way of reduction in premia.

Shri Suryanarayana: I am asking you to consider the proposal to be given to the Controller of Insurance or to Government to give a no-claim bonus to the fire policy-holders. Will you do it?

Shri Patel: Sir, it is very difficult to consider that proposal.

Shri George Fernandes: Your colleagues in the memorandum have suggested that the Advisory Committee which is to be set up as per the draft Bill provide for 8 members from Indian Insurers and six of the overseas insurers. If that particular clause is modified so as to make it 10 for the Indian insurers and four of the overseas insurers, would you subscribe to that?

Mr. Hammond Giles: We support that.

Mr. Chairman: Thank you very much.

(The witnesses withdrew)

Indian Merchants' Chamber, Bombay.

Spokesmen:

- (i) **Shri Pratap Bhogilal—President**
- (ii) **Shri J. H. Doshi—Vice-President.**
- (iii) **Shri R. M. Desai—Member**
- (iv) **Shri C. L. Gheevala—Secretary.**

(The witnesses were called in and they took their seats)

Shri Pratap Bhogilal: May I make a few observations on the memorandum which we have already submitted? This is just to supplement that memorandum.

Mr. Chairman: Whatever is given in your memorandum should not be repeated here. If you have any additional points to make, you may do so. Put one thing that I should make it clear to you. That is all those papers and evidence that you tender are supposed to be public documents. But, if you want to have anything to be kept secret, you may indicate that in the course of your evidence. Otherwise that will be open to publication.

Shri Pratap Bhogilal: Yes, Sir. May I just say a few words?

Shri S. S. Kothari: Please do not read that out. If you want to make certain points, you may do so.

Shri Pratap Bhogilal: First of all, let me thank you and the Members of the Committee for giving us the opportunity to appear before you and tender our evidence.

The first and most important point that we would like to make is in connection with the powers that have been given to the Controller of Insurance.

Mr. Chairman: Everything will come out when members put to you questions.

Shri Pratap Bhogilal: Then, you may put questions to us.

Shri Chandrasekharan: On page 6 of your original memorandum—not the one which you have just now distributed to us—under clause 17, you have not questioned the motive of sponsors of this Bill in regard to amalgamation. You have also stated that the objective of the Bill is praiseworthy. The only detailed suggestion that you have made is about the transferee companies. You say their views should prevail. We think that it will be enough if the transferee companies' views on the question are also considered. It is not proper to say that the transferee companies' views should prevail. It shall be enough if the transferee companies' views are considered. What do you say to this?

Shri Pratap Bhogilal: In our view that is not enough because we feel that if a company is to be merged with another company, all the pros and cons of that company would be considered by the transferee company and since they are to take over the assets and the liabilities, their views should prevail.

Shri Chandrasekharan: May I just tell you that in the Banking Companies Act there is a provision regarding the amalgamation and there is no provision that the transferee banking company's views on the question should prevail. The provision in regard to amalgamation contained in the Banking Companies Act has worked very soundly. What is your experience in this regard as a big business man?

Shri Pratap Bhogilal: You must treat the banks and insurance companies on a different footing. One is essentially a credit institution and the other is more or less in the nature of any other trading institution and/or like the service institute. The same test should not be applied to both the institutions.

Dr. Antani: With regard to the Controller's powers, you have in your memorandum, suggested for the constitution of a Board and that he should be subjected to the guidelines of such a Board. Beyond that, you have also observed that no provision for appeal against the decision of the Controller, is to be provided. Now what sort of appeal would you like? Would it be an appeal to the Court or would it be the formation of a constitutional appellate body?

Shri Pratap Bhogilal: First of all, may I tell you that so far as our preliminary remarks are concerned, they were in the nature that we thought viz. that the Board should be enough to provide guide-lines. But, on reconsideration we have felt that the Board should have the power to control. The power that are sought to be given to the Controller are so wide and extensive that such powers should given to any single individual. I am not casting any reflection on any individual whatsoever. It is not fair to give such powers to him for an industry like the insurance.

Secondly, so far as the appeal is concerned, we won't prefer a quasi-judicial body and not an appellate body absolutely managed by only executives.

Shri George Fernandes: Mr. Bhogilal, do you have any of the general insurance companies as Members?

Shri Pratap Bhogilal: Yes, Sir. I think most of the general insurance companies are Members.

Shri George Fernandes: They have the opportunity to make representations. First the Insurance Companies Association and then the Indian Merchants Chamber.

Shri Bhogilal: So far as the Indian Insurance Companies Association is concerned, they will probably give from the insurance angle. The insurance affects the general trade as well as the industry. I think the two representations should not be mixed up into one.

Shri George Fernandes: You know the Tariff Advisory Committee that is to be set up as proposed in the Bill consists of the Controller of Insurance, a senior officer of the office of the Controller and six representatives of the insurance companies incorporated elsewhere. In your memorandum you have said this should be changed and 75 per cent of the members should be from the Indian Insurers. The Indian Insurers themselves have said that they should have 10 and the Overseas people should have 4. The Overseas has accepted that proposal before you came to give evidence here. Since you are representing the interests of people other than insurance companies, don't you think that you should suggest that this Advisory Committee should also consist of interests of the trade other than the general insurance companies' interests.

Shri Bhogilal: I do not think that it is necessary because after all it is merely a question of evaluating the risks and in that respect I think the insurance themselves are more concerned or more capable of rather than we ourselves. After all these are actuarial calculations and it would not be fair for us to say that we should interfere in these matters.

Shri George Fernandes: If you refer to page 40 of the Bill, clause 64UC (1) says:

"The Advisory Committee may, from time to time and to the extent it deems expedient, control and regulate the rates, advantages, terms and conditions that may be offered by insurers in respect of any risk or of any class or category of risks, the rates, advantages, terms and conditions of which, in its opinion, it is proper to control and regulate, and any such rates, advantages, terms and conditions shall be binding on all insurers."

You see these are not only actuarial calculations, but much more.

Shri Bhogilal: It is really working out the tariff and in that aspect the actuarial calculations play a large part. As far as we know if in any particular insurance the general trade or industry is dissatisfied we have always an opportunity to represent and if our point of view is reasonable, it is always considered.

Shri George Fernandes: In the general insurance business the assessors or the surveyors play a very vital role. They invariably assess every claim the companies refer to them. Now the surveyors and the assessors through their organizations in the country based in Bombay, Delhi and Calcutta have represented that their representatives should be on this Advisory Committee. What is your reaction to that request?

Shri R. M. Desai: They have to assess it only and they have not to fix the rates. They are not really concerned with this particular aspect of the matter and they should not be associated with this body in fixing the terms and conditions and rates.

Shri George Fernandes: Since Mr. Bhogilal said that your Chamber has members from among the insurance companies and since you also in your memorandum said that the restrictions now sought to be introduced are really harsh, I take it that you know the background in which this Bill has come before Parliament. You must be aware that way back in 1962 the Deputy Prime Minister had actually warned the insurers that if they do not behave, they will be nationalised. During the last six years has there been any improvement in the behaviour of these companies?

Shri Bhogilal: By and large I think the Indian insurance industry has developed very well and I do not think that the trade and industry in general have any real complaints against the behaviour or the way the insurance companies do function. In so far as claims or any other matters,

supposing we feel that the tariff rate of a particular thing is high, we have taken up the matter and we have found that they have acceded to our request also.

Shri George Fernandes: Yesterday the employees' representatives from the insurance companies suggested that they should have some say in the running of the general insurance companies. They have proposed that participation in management should be offered to them also on the Board of Directors. How will you accept that suggestion?

Shri Bhogilal: I would strongly oppose that. The managerial functions are different and they should be exercised by the management alone.

Shri George Fernandes: I thought that your Chamber accept the participation in management.

Shri Bhogilal: Participation in management is different from participation in industry.

Shri George Fernandes: Oriental of the LIC has been functioning in the general insurance business. How are they functioning? Are you satisfied with it?

Shri Bhogilal: I think they are functioning in competition with other insurance companies. I do not think we have any real complaints about their functioning except that we have some times pressures of placing business with them.

Shri George Fernandes: The service which the Oriental which is a general insurance company, gives to its clients is very good?

Shri Bhogilal: It is comparable with any other insurance company.

Shri George Fernandes: It means that a public sector insurance company also can operate well.

Shri Bhogilal: Provided they have to compete with somebody. If they are monopolies as the LIC, the functioning may be different, it may not be the same.

Shri George Fernandes: Have you got any special complaint about LIC?

Shri Bhogilal: I do not think we should answer this question. Our individual experiences may be different.

Shri George Fernandes: For that matter, the Air India, or the Indian Airlines or the STC which has an illustrious private sector man at the head of the administration . . .

Shri Bhogilal: I do not think this is the forum to answer this question.

Shri George Fernandes: Thank you.

श्री : राधेश्वर शर्मा : आप ने अपने मेमोरेण्डम में जो बातें कही हैं उनसे ऐसा लगता है कि जो बिल के सैलियन्ट प्वाइंट्स हैं आप ने उनका विरोध किया है। लेकिन आप ने कोई अल्टर्नेटिव सजेशन नहीं दिये हैं कि ऐसा करने से बिल के प्रोजेक्टिव ऐचीव होंगे। क्या इसका यह मतलब समझा जाय कि जो इश्योरेंस ऐक्ट, 1938 है उसको ही आप कायम रखना चाहते हैं, और चाहते हैं कि इसका बिल पास न हो ?

Shri Bhogilal: What we have stated is: what is the objective in bringing this Bill? We have also said that by and large we are not dissatisfied with the insurance services that we are having to-day. Therefore, the main objections to the Bill that we have taken are in regard to such features which we feel may defeat the very objective of the Bill that you have.

Shri Ramavatar Shastri: That is the main thing.

Shri Bhogilal: We have not opposed everything that has been suggested. We have suggested some amendments.

We are not saying that the Controller should not have some of the powers, but for him to have the power to appoint or dismiss any clerk or Secretary would defeat the very purpose of insurance. Insurance is a service and the loyalty of the staff should be really to the company and to the insureds. If the loyalty is divided then the very purpose of insurance would be upset.

Shri Ramavatar Shastri: What about monopoly of power?

Shri Bhogilal: There is no monopoly in insurance business. There are so many companies competing with each other.

Shri Ramavatar Shastri: I am talking about the power in the hands of those exercising the managerial power.

Shri Bhogilal: There is no monopoly there also. Such powers are exercised generally by all managements, not only in insurance managements.

Shri K. Suryanarayana: Some insurance companies have suggested that some qualifications should be prescribed to the agents before we give licences.

Shri Bhogilal: We agree with that suggestion that the agents should have some educational qualifications, and also some understanding of the general insurance business.

Shri K. Suryanarayana: Have you got any surveyors' association as a member?

Shri Bhogilal: No.

Shri K. Suryanarayana: Do you feel that some qualifications are to be prescribed for the surveyors also?

Shri Bhogilal: By and large, the surveying companies staff are having necessary qualifications to survey the claims properly.

Shri K. Suryanarayana: The surveyors themselves who appeared before the Committee accepted that they have no qualifications, but they have experience. But, here, do you suggest certain minimum qualifications for your Branch Managers, Inspectors etc.?

Shri Bhogilal: From my own experience of Insurance company with which I work, I have found that they are not people without qualifications, they have plenty of experience. Before they reach the stage of Branch Manager, they gain experience of insurance over years.

Shri K. Suryanarayana: An agent from a poor village may not have any education because of lack of educational facilities in rural areas. But, in urban areas there are people without any qualifications who earn so much commission as Insurance Agents.

Shri Desai: The main thing required in insurance business is understanding of the business; an agent has to sell business. If qualifications are provided, it will help getting more business.

Shri N. K. Somani: You have made certain suggestions against arming the Controller's office with unnecessary and disproportionate powers. Is it within your knowledge or within the knowledge of your Chamber whether any such equivalent or similar powers have been vested in similar office anywhere in the world?

Shri Bhogilal: Not to our knowledge.

Shri N. K. Somani: Or in any other socialist country?

Shri Bhogilal: I don't have experience with socialist countries.

Shri N. K. Somani: In U. K.

Shri Bhogilal: Not to my knowledge.

Shri N. K. Somani: The deposits are sought to be raised from the existing level of 2 to 3 lakhs to a minimum

of 2 million rupees. For some companies it would be a steep rise. It may go against some of the smaller companies in spite of their being efficiently and honestly run.

Shri Bhogilal: We have already said that 2 million rupees is too high. Even in a country like England, where the business is quite large, the minimum is 50,000 pounds. We have suggested that the minimum should be one million rupees.

Shri N. K. Somani: Would you like a graduated scale?

Shri Bhogilal: Yes.

Shri N. K. Somani: What are your views about the application of Bonus Act to the insurance industry? Should it be exempted from the application of this Act?

Shri Desai: The insurance industry is controlled by a section limiting expenses; the bonus forms part of the expenses. The Controller and the Government would take all the matters into consideration before they give sanction or approval for a particular amount of bonus to be given to the staff. If this is introduced now—the application of Bonus Act—there is likelihood of breaching Section 40C. Another reason is that it is very difficult for the revenue accounts to be split up into Indian business and foreign business. Mostly Indian business is covered by the Bonus Act.

Shri N. K. Somani: Most of the companies are paying bonus in consultation with the Controller's office. I think the accounts are kept separately under Indian and Overseas heads.

Shri Desai: The net account shows both foreign and Indian revenues; separate account is not there for foreign business.

Shri N. K. Somani: You would like the *status quo* to be maintained. There should be moral pressures from

the Controller's side to pay reasonable bonus; nobody should sit in judgment of the profit each company is making.

Shri Desai: Yes.

Shri N. K. Somani: What do you think is going to be the ultimate and long term effect of this legislation to general economic development both from foreign investors' point of view as also from Indian Industrialists' point of view?

Shri Bhogilal: The main object should be to promote business . . .

Shri Beni Shanker Sharma: As regards investment, clause 11 of the Bill provides that 35 per cent of the premia should be invested in approved securities. You want that it should be increased to 50 per cent?

Shri Bhogilal: We have not suggested any percentage increase. We want it to be left flexible as it is today.

Shri Beni Shanker Sharma: Would you tell us what is the return on approved securities, and what is the return you expect from unapproved securities. Return in terms of percentage?

Shri Bhogilal: Unfortunately, I do not have any idea of the figures. Probably, Mr. Desai might be able to say something.

Shri Beni Shanker Sharma: You can send it later.

You agree with the principle of the Bill to develop business on sound lines and also to curb undesirable activities. You know what are undesirable activities. What are your suggestions to prevent that malpractice?

Shri Bhogilal: I know there is a lot of talk about this. Now, to what extent does this prevail, it is very difficult to say. It is generally said; I have no experience myself in this matter. But it is generally said so.

Shri Beni Shanker Sharma: You know this practice is prevalent. If such instances come across, what would you suggest?

Shri Bhogilal: If it is so really, then the question should be that whatever rebate is given should be given directly to the insurer and that insurance premium should be reduced.

Shri Balgovind Varma: How are you people, i.e. the Indian Chamber of Commerce, concerned with this Bill?

Shri Bhogilal: After all, we have to deal with insurance companies all the time. Otherwise, we will not be able to exist.

Shri Balgovind Varma: The powers vested in the Controller are very stringent and he will have power of appointment and fixing the return. The Managing Director also has power to remove some persons. It will create a fear in the minds of those who are in charge. Don't you think that it would create a healthy influence also?

Shri Bhogilal: I do not think so. So far as the controlling of the appointments and remuneration of the chief executive is concerned, I see there is nothing wrong. But so far as all the rest of the personnel of the insurance company is concerned, I think it would create a bad effect on the morale of the officers.

Shri Balgovind Varma: Will not this fear psychosis deter them from indulging in malpractices which they are doing now?

Shri Bhogilal: With due respect, I don't think, Sir, that there are malpractices by the staff.

Shri Balgovind Varma: This is the general feeling of the people.

Shri Bhogilal: I don't think it is correct, Sir. If you think so, then you can lay down some qualifications.

Shri Balgovind Varma: You suggest that there should be a Board consisting of persons having knowledge in this line, to advise?

Shri Bhogilal: Yes, Sir.

Shri Balgovind Varma: Do you think that this Board should consist of representatives of insurance companies?

Shri Bhogilal: It is not necessary. What I suggest is that it should be a fairly small Board consisting of officials and non-officials who have knowledge of the insurance matters.

Shri Balgovind Varma: Would you not mind if there are some officers on the Board, appointed by Government?

Shri Bhogilal: That will not serve the purpose. I think the non-officials should be there too.

Shri S. S. Kothari: Are you aware of some insurance companies investing in new companies?

Shri Bhogilal: Yes, Sir. And it is necessary that they do.

Shri S. S. Kothari: Do you think that the restrictions which are envisaged in the Bill would adversely affect the amount of money that would flow there?

Shri Bhogilal: It would. Also, the provision that investments in preference ordinary shares of a public limited company would be prohibited unless the company had declared dividend for the five years immediately preceding, or for at least five out of the six or seven years immediately preceding, will come in their way. They are growth companies.

We would like it to be as flexible as possible. Until now we do not think there is any serious misuse of this. Insurance companies do function also for the benefit of shareholders.

Mr. Chairman: I think all your intentions have been brought out.

Shri Bhogilal: There are only one or two more points I would like to emphasize. On page 3 we have made some mention in regard to non-Indian companies. There is a little amendment in the original memorandum. The last sentence of paragraph 2 on page 3 reads: "Again, the non-Indian companies should be required to maintain in India an amount at least equal to their total liabilities..." It should be "total accrued liabilities".

The second point is that the solvency test for performance and the solvency test for winding up are two different things. Simply because a solvency test says that it is not fully met, it should not necessarily follow that the company is insolvent. It is not solvent. It is solvent only when it is not in a position to meet the liabilities. It is something very serious.

Shri George Fernandes: You drew pointed attention to page 3: "the non-Indian companies should be required to maintain in India an amount at least equal to their total liabilities to policy-holders."

Shri Bhogilal: My suggestion was accrued liabilities instead of total liabilities.

Shri George Fernandes: Why are you making such a suggestion?

Shri Bhogilal: Because the total liability is one thing and accrued liability is in regard to claims arising out of the business that is outstanding.

Mr. Chairman: Thank you, gentlemen.

(The witnesses then withdrew)

(The Committee then adjourned).